

MarketWatch

5 big hurdles to repealing Obamacare

Why 'repeal and replace' is easier said than done

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Repeal and replace. Repeal and replace. That's how Donald Trump outlined his game plan for Obamacare so often during the campaign that his supporters can be forgiven for thinking the law is now all but toast.

"If Trump has any kind of a mandate at all, it is to repeal Obamacare," says Michael Cannon, the director of health policy studies at the Cato Institute.

Unfortunately, it won't be so easy. Like it or not, Obamacare, or something similar, may well be around for a while.

"Repeal and replace is easier said than done," says Jonathan Weiner, professor of health policy and management at the Johns Hopkins Bloomberg School of Public Health. "I believe they will scale it back, but I don't believe they will bring it to the ground."

Trump has such momentum. What could possibly get in his way? Here are his five main hurdles.

1. The Affordable Care Act, the formal name of Obamacare, has already been around long enough that a lot of people have too much to lose if it goes away. They vote. They lobby. They make campaign contributions. The Republicans who Trump needs to throw out the ACA know this. So many of them will be reluctant to help him out.

"Republicans are sensitive to the fact that a lot of people got coverage under the ACA, and they are constituents in Senate and House districts," says James Capretta, a health care policy expert at the American Enterprise Institute.

Many of them vote Republican, says Dean Baker, co-director of the Center for Economic and Policy Research.

There's political precedent for anti-Obamacare bluster turning into mild reform, points out Ken Jacobs, chair of the UC Berkeley Center for Labor Research and Education. Kentucky Gov. Matt Bevin, a Republican, campaigned like a lion against Obamacare to help win votes. But then he turned into a kitten once in office, toning down the rhetoric and settling for tweaks to the law.

2. Given that people on average spend about \$10,000 a year on health care in the U.S., according to the Centers for Medicare and Medicaid Services, and there are about 20 million people in

Obamacare, it's pretty easy to see that the law sends billions of dollars a year to companies that run hospitals, offer insurance, and sell drugs. They, too, will protest any changes that hurt them.

"There are a lot of industry stakeholders who stand to lose quite a bit. Black ink could turn to red ink overnight," says Martin Gaynor, professor of economics and health policy at Carnegie Mellon University's Heinz College.

This helps explain the sharp post-election declines in the shares of hospital and insurance companies like Tenet Healthcare THC, -0.28% Community Health Systems CYH, -1.52% LifePoint Health LPNT, -5.12% Universal Health Services UHS, -1.99% AmSurg AMSG, +0.25% Envision Healthcare EVHC, +0.48% Mendax MD, -0.96% AAC Holdings AAC, +12.84% WellCare Health Plans WCG, +2.60% Aetna AET, +0.02% Molina Healthcare MOH, -4.21% and Centene CNC, -7.22%

It's true that, in contrast, drug companies like Pfizer PFE, -2.25% Merck MRK, -1.15% Johnson & Johnson JNJ, -0.86% Mylan MYL, +0.14% Biogen BIIB, -1.72% Amgen AMGN, -1.86% Gilead Sciences GILD, -2.33% Celgene CELG, -1.30% Seattle Genetics SGEN, -0.84% and Incyte INCY, +0.26% did well on the Trump victory news. But that's because he and fellow Republicans will be less aggressive about pushing back on pricing than Hillary Clinton and the Democrats.

3. Then there's the man himself. Trump is often all over the place on issues, and health care is no exception. At various points in his career he's spoken out in favor of parts of Obamacare, and supported a single-payer (government) system. "He may have a mandate, but his devotion to repealing Obamacare is certainly questionable," says the AEI's Cannon.

4. There's potential economic fallout as well, says Jacobs. The health care sector has been one of the biggest sources of new jobs for years. Cutting back on health care spending by eliminating Obamacare would no doubt cut into this job growth and therefore could hurt the economy.

5. Underlying all of this is the sheer math behind how legislation works. Our representatives in Congress can block bills via filibuster, essentially endless talking. Lawmakers in the Senate, for example, need 60 votes to overcome this, and the Republicans don't have that kind of voting power.

Sure, Trump and Republicans have a few smart bombs they could use to sink Obamacare, with no help from anyone else.

1. They can use budget reconciliation bills to block funding that supports ACA subsidies, points out Dennis Scanlon, professor of health policy and administration at Pennsylvania State University. This would send premiums skyrocketing, and essentially scuttle the program.

2. Trump could halt appeals of a court ruling in favor of a Republican legal challenge to Obamacare funding. This too would up costs of the ACA either to insurance companies or the insured, and scuttle the program.

But he's probably going to be reluctant to use any of these smart bombs, because of the potential backlash from the health care industry and the insured.

To keep these groups happy, Trump's best bet will be to repeal and replace at the same time. He needs a plan on hand that can substitute Obamacare as soon as it is eliminated. "People will accept repeal if there is a reasonable replacement that accompanies it," says Paul Ginsburg, a health-care expert at the Brookings Institution.

What might a replacement plan look like? Trump says his Obamacare "fix" will include greater broader tax deductions for premiums, the use of more health savings accounts (HSAs), and an increase in interstate competition among health insurers to bring down prices.

The problem with Trump's plan is that it doesn't contain a lot of details, says David Bahnsen, chief investment officer of The Bahnsen Group, which is part of HighTower, a wealth management firm.

Fortunately for Trump, Speaker of the House Paul Ryan (R-Wisc.) has staked out territory as the Republicans' health-care geek. Trump will likely defer a lot of the reform planning to him, says Bahnsen.

Given the reform policies outlined by Ryan, and other Republicans, any Obamacare replacement plan would likely keep a key ACA component: barring insurers from blocking or penalizing people for pre-existing conditions, as long as people stay insured continuously, says Bahnsen. This means the mandate to get insurance would have to stay to bring in revenue from relatively healthy people to offset "adverse selection" of insurance plans by people with pre-existing conditions. So would some type of subsidies, possibly in the form of vouchers, tax credits and HSAs. Full time, regular employees would get deductions for premiums.

But some of the rules on what must be covered would be watered down. And fewer of the previously uninsured might still have health insurance or at least subsidized health insurance, although the absence of a specific proposal means that's somewhat speculative.

"My guess is they do repeal it, and replace it with something that may end up looking a lot like Obamacare," says Baker. "They could call it the Health Prosperity Act."