



GOP Touted Pre-Existing Conditions Rules as Reason to Support Health Bill

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March 24, 2017

Sen. Ted Cruz and House Freedom Caucus chairman Rep. Mark Meadows have called on Republicans to roll back Obamacare's insurance mandates in the American Health Care Act. These include blanket requirements for coverage of those with pre-existing conditions: Insurers are prohibited from denying insurance to those who want it and are prohibited from charging individuals of a similar age different premiums based on their health history. Because these regulations, in tandem, incentivize younger and healthier people to forgo coverage until they need it and force companies to cover individuals at a loss, there is concern they drive up the average cost of premiums and create significant affordability issues for everyone in the market.

Wrote Cruz and Meadows in the *Wall Street Journal* last week: "First, we must lower insurance premiums. Nothing matters more. The current House bill would not achieve this, because it doesn't repeal all of ObamaCare's insurance mandates. ... We must abolish ObamaCare's mandates immediately; Americans need relief from higher premiums and cannot wait until 2020 or beyond." Debate of the issue continued into Thursday, ahead of a vote on the AHCA that eventually was postponed to Friday late afternoon. "Addressing pre-existing conditions has always been a requirement for any replacement plan that HFC would support," Meadows told Bloomberg News. But according to CNN's Phil Mattingly, Ohio representative Pat Tiberi, a Ways & Means Republican and top leadership ally dating to the years of House speaker John Boehner, said the Affordable Care Act's "Title One regs, a big component of what the Freedom Caucus is asking for now, are not in play." The first title of Obamacare includes the insurance mandates of concern to Cruz, Meadows, and their fellow conservative opponents of the American Health Care Act.

Those lawmakers and many policy experts have insisted that such regulations could be included in a "reconciliation" bill of the AHCA's type, which is being used because of its privileged vote status in the Senate but also limits the legislation to budget-related matters. Repeal of Obamacare's regulatory provisions in this process, then, would seem to face an insurmountable procedural hurdle—such has been the conventional wisdom among many top Republicans. But the Cato Institute's Michael Cannon insisted to THE WEEKLY STANDARD this shouldn't be an issue. Cruz and Meadows have echoed as much: "We cannot give voters a procedural excuse for

why we couldn't get the job done. Some have argued, incorrectly, that [a Senate restriction] precludes repealing these insurance mandates through the reconciliation process." Sen. Mike Lee, a Cruz ally, said he gathered from the Senate's chief parliamentary officer that "there's no reason why an Obamacare repeal bill necessarily could not have provisions repealing the health insurance regulations."

All this, however, misses a significant point. House speaker Paul Ryan has asked curious individuals to read about his party's bill at readthebill.gov. On that website, there are "8 Need to Know Facts about the AHCA." Number three is this:

“Prohibits health insurers from denying coverage or charging more money to patients based on pre-existing conditions.”

Provisions that do this are already in law; the health bill doesn't touch them. Top Republican brass has talked repeatedly about retaining the "popular" aspects of the ACA in any replacement strategy. Take it from President Trump himself after Election Day:

“Just days after a national campaign in which he vowed repeatedly to repeal President Obama's signature health care law, Donald J. Trump is sending signals that his approach to health care is a work in progress.

Mr. Trump even indicated that he would like to keep two of the most popular benefits of the Affordable Care Act, one that forces insurers to cover people with pre-existing health conditions”

So popular, in fact, that 87 percent of Americans "support maintaining Obamacare's protections for those with pre-existing conditions," according to a CNN poll. In lieu of such "protections," conservatives have their own ideas for aiding this class of consumers, like the establishment of high-risk pools to supplement health costs. The House bill actually makes \$10 billion available to states annually for such programs in the medium term, about one-third to one-half less than what scholars James C. Capretta and Tom Miller advocated in a policy paper for *National Affairs*. (Capretta and Miller argue that "[i]f these programs are to function properly, they must therefore be well funded.")

But the policy implications aside, it's politically difficult, if not impossible, to argue why the government should remove or alter widely embraced pre-existing conditions restrictions as they're currently in law. The AHCA's backers haven't yet tried in the first place.