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Here's How Trump Can Get Congress To Repeal And Replace Obamacare

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President Trump's first negotiation with Congress over repealing and replacing Obamacare did not go well. He got no help from Democrats, and was unable to bring together the GOP's moderate and conservative factions.

Yet President Trump can force Republicans and Democrats back to the negotiating table, and get a bill that keeps his promises to fully repeal Obamacare and to protect people with preexisting conditions. Trump can do this by simply undoing the illegal actions by his predecessor, which he has also already promised to do.

Obama's Illegal Bailouts Should Be The First To Go

President Barack Obama created several illegal bailouts to keep Obamacare from cratering—and Congress from repealing it—before he left office.

The first was a bailout for members of Congress and their staffs. Obamacare forced them out of their federal-employee health plans the day the law took effect. President Obama bailed them out by ignoring that provision. He let them stay in their health plans and forced taxpayers to contribute up to \$12,000 toward the premiums of those illegal health plans.

This bailout took a ridiculous turn when the Obama administration declared Congress to be a small business. Starting in 2014, Obamacare allowed members and staff to get coverage through the Exchanges. At that point, the only way to keep the money flowing was to enroll Congress in one of Obamacare's small-business Exchanges. Federal law prohibits employers with more than 100 workers from participating in small-business Exchanges. Congress, which employs thousands, got an exemption.

President Trump can end this illegal taxpayer bailout via executive order—a move that 92 percent of voters support. When Congress has to live under Obamacare, Democrats and Republicans will join hands to deliver immediate relief for the American people.

If Trump finally implements that \$12,000 pay cut for members and staff, Congress could reinstate it by legislation. But the Constitution would prohibit that pay increase from taking effect until after the next election. So in effect, there would be a congressional pay raise on the ballot in 2018.

Trump Should End Obama's 'Cost-Sharing Subsidies'

A second bailout concerns “cost-sharing subsidies” the Obama administration provided to insurers in the Exchanges. The Obama administration admitted Congress never appropriated funding for these subsidies, yet started sending billions of dollars to insurance companies anyway. The House of Representatives sued the administration in federal court. A federal judge ruled this bailout “violates the Constitution” and ordered it to stop.

Armed with a court order, President Trump should end this illegal bailout. Insurance companies and members of Congress from both parties and all ideological stripes would return to the negotiating table, eager to strike a deal that stabilizes insurance markets.

A third bailout concerns another \$3 billion the Obama administration illegally diverted from the U.S. Treasury to insurance companies.

Insurance Companies Should Return Unlawful Payments

Obamacare's “reinsurance” program collected money from nearly every American covered by a health insurance plan. It then earmarked some of the funds for insurers participating in Obamacare's Exchanges, and the rest to the U.S. Treasury. The U.S. Government Accountability Office, a non-partisan federal watchdog agency, found the Obama administration illegally diverted funds earmarked for the Treasury to insurance companies instead.

Armed with the GAO report, President Trump can stop the diversion of funds and demand that insurance companies return unlawful payments they have already received, giving insurers and members of Congress even more reason to negotiate.

Ending these insurer bailouts would not destabilize insurance markets. Obamacare is destabilizing insurance markets, and these illegal bailouts are destabilizing the rule of law. By ending these bailouts, Trump can uphold his oath to the Constitution and force Congress to put an end to the instability Obamacare has created in health-insurance markets.

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