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‘Obamacare’ ruling poses GOP challenge

By Stephanie Kirchgaessner in Washington

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Republicans may be salivating at the prospect of the Supreme Court overturning “Obamacare” in just a few weeks. For Mitt Romney, however, a decision against all or part of the healthcare law would immediately pose a challenge: he would have to put forward his own plan to tackle America’s healthcare crisis.

Already there are signs of divisions among Republicans in Congress about how they ought to react to a victory in [the Supreme Court](#) if the judges strike down [President Barack Obama’s healthcare law](#). Mr Romney, who is the de facto head of the party as the presumptive presidential nominee, will have to set the agenda for his party’s response.

Most Republican lawmakers agree that if the ruling, which will be released in June, [found all or parts of the law to be unconstitutional](#), it would be a triumph for them and devastating for the president.

“If the chief legislative accomplishment is found to be unconstitutional, it will be a tremendous blow to the image of competence in the White House,” said Michael Steel, a spokesman for John Boehner, Republican Speaker of the House.

But many are also grappling with the fact that overturning the law would eradicate certain benefits that are popular among voters. These include a provision that allows parents to keep adult children on their insurance plans until the age of 26 and one that protects patients with pre-existing conditions from being denied health coverage.

The White House has argued that the mandate in the Affordable Care Act that [forces all citizens to buy health insurance](#), which is at the heart of the high court deliberations, is economically necessary if insurance companies are to accept patients with pre-existing conditions.

John Barrasso, a Republican senator from Wyoming, who is leading the party’s policy discussions on the issue, says there is “uniform agreement” that if the entire bill is not struck down, Republicans will first focus on repealing the remainder of the law.

Republicans have proposed other ways of reforming healthcare that were not in “[ObamaCare](#)” but would be at the centre of their own healthcare overhaul. They generally support restrictions on medical malpractice suits and proposals that would allow individuals to buy insurance across state lines. But interviews with conservatives in Washington who are at the centre of the policy debate show that some Republicans would also want to revive some of the more popular provisions of Mr Obama’s law – and there is little agreement on that.

Ed Haislmaier, of the conservative Heritage Foundation, believes that a few uncontroversial provisions of “ObamaCare” would have to be re-enacted if the whole bill was overturned, such as policy that creates a regulatory pathway for the approval of biosimilar drugs at the Food and Drug Administration and changes to reimbursement policies for Medicare, the federal insurance programme for the elderly.

Then there is the question of what to do about Americans with pre-existing medical conditions who would be covered under Mr Obama’s plan.

Mr Barrasso says: “We need to find a way that people with pre-existing conditions can absolutely still get insurance and for children under 26.”

But Mr Haislmaier says doing that without the individual insurance mandate would be difficult. “In terms of politics, that will be the challenge,” he says.

Michael Cannon, from the libertarian Cato Institute, warns against any attempts to engage in “government planning of healthcare”, including the expansion of “supposedly” popular provisions. He argues, if the law was overturned, resurrecting protections for patients with pre-existing conditions would be wrong.

The differing views underline that Republican leaders, including Mr Romney and Mr Boehner in the House, will face a tough time smoothing differences between mainstream and more libertarian factions of the party.

“The bottom line for Republicans is, don’t focus on coverage [for the uninsured], focus on reducing costs and expanding individual freedom,” says Dean Clancy of FreedomWorks, a Tea Party activist group in Washington. “We are especially concerned that ObamaCare could be plucked from the ash heap of history if Republicans push for some sort of universal healthcare tax credit scheme [to expand coverage].” Some top Republicans have endorsed such an approach.

Bill McInturff, a Republican pollster, says Mr Romney will ultimately have to set the “tone and dialogue” for how the party moves forward but that the passage of the law has already changed the parameters of the debate over healthcare.

“If the entire law is overturned, there are now popular provisions that will be the building blocks for the future [and] there will be pressure to keep those things in place,” he said.

