



## **GOP Obamacare repeal could hinge on Cruz plan**

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July 15, 2017

WASHINGTON - Once a fringe player in the U.S. Senate, Ted Cruz has taken center stage as one of the pivotal figures in the Republican effort to repeal the Affordable Care Act, aka Obamacare.

It's been a long journey.

The latest version of the contentious Republican health care bill still faces many lingering doubts from the right and the left. But Cruz's "Freedom Option" to allow insurers to sell cheap, bare-bones policies alongside heavily regulated Obamacare plans has emerged as a potential game-changer.

Hailed on the right as a much sought-after marketplace reform, the Cruz amendment has run into stiff resistance from Democrats and some Republicans who see it as an end-run around popular consumer safeguards, including protections for pre-existing medical conditions.

Cruz calls it a compromise. But among the skeptics is Iowa U.S. Sen. Chuck Grassley, a senior Republican in the Senate, who called it a potential "subterfuge."

The Medicaid rollbacks in the Republican bill also remain a major sticking point, particularly for GOP moderates from states that expanded the poverty program under Obamacare.

But Cruz has chosen to focus - like a "laser," he says - on the regulatory front that most excites conservatives: Obamacare's insurance requirements for comprehensive "essential benefits" such as doctor visits, prescription drug coverage, pregnancy and childbirth, and mental health services.

Cruz's prescription: Allow insurers that sell plans that comply with Obamacare dictates to also sell lower-cost plans that cover less. He calls it "the key to bringing Republicans together and getting repeal passed."

Critics, including the main lobbying group for insurance industry, say that while Cruz's plan sounds like a compromise, it would actually mean the end of the Obamacare insurance marketplace - and some suspect that's his real motive.

"We know how this will play out," Houston Democratic U.S. Rep. Gene Green said in a House floor speech Thursday. "Healthy people would pick the skimpier plan and sicker people would enroll in the more robust plan. ... Separating the sick and healthy will drive up costs and essentially lead to a death spiral."

### *A lesser evil*

Cruz has acknowledged this market segmentation, calling it "an understandable policy concern." But he argues that in exchange for healthy people getting lower premium costs on his "freedom plans," he's willing to accept direct taxpayer health care subsidies for the poor, the old and the sick - including money to help insurers cover the costs.

Some analysts see this as a sea-change in conservative ideology, considering that House Republicans have gone to court to challenge the legality of Obamacare's subsidies to insurance companies. Kentucky U.S. Sen. Rand Paul, a Republican who opposes of the GOP health care bill, called them "an entitlement for insurance companies."

But despite the right's aversion to government aid, some conservatives have bought into the idea of direct taxpayer subsidies as a lesser evil than Obamacare's system of cross-subsidization between young and old within the insurance markets.

Appearing on ABC's "This Week," Cruz called the current system "wildly unfair."

Cruz, working alongside Utah Republican Mike Lee, has helped sell his plan by offering conservatives another bone: The expansion of tax-exempt health savings accounts to cover insurance premiums as well as out-of-pocket costs.

Health savings accounts, known as HSAs, have long been the preferred GOP route to tax reform and lower health care costs. Cruz has won plaudits from conservative backers for adding them to the equation in the current health care bill.

Democrats have been less sanguine, noting that tax-preferred savings do little for families that struggle to get by and pay little or no federal taxes. But between middle- and upper-class tax incentives for premiums, and direct subsidies to cover those on the bottom rungs of the economic ladder, Cruz calls it a "win-win for everybody."

For Cruz, this positioning represents some uncharacteristic compromises.

Jason Pyle, vice president for legislative affairs at FreedomWorks, a conservative advocacy group, called Cruz's move "a step in the right direction."

But to influential conservative Brent Bozell, chairman of ForAmerica, Senate Republicans' embrace of taxpayer-funded subsidies for insurance companies represents a sellout of their promise to repeal Obamacare.

"They effectively have embraced Obamacare," he said.

### *Making compromises*

Nevertheless, by bringing along many of his fellow conservatives, Cruz's proposal could give Senate leaders some breathing room on the right.

Along with the sharp reductions in planned Medicaid spending, some analysts say Cruz's measure could save the health care bill, even if GOP leaders have been forced to retain many of Obamacare's higher taxes on the wealthy.

"Yes, the compromise is spending lots more than before to purchase compromises, but that is how Obamacare was passed in the first place," said Peter Ferrara, a senior policy analyst at The Heartland Institute, a free-market think tank.

Shoring up the conservative base, however, could expose moderate Republicans, particularly swing votes like Sens. Lisa Murkowski of Alaska, Dean Heller of Nevada, Susan Collins of Maine, Rob Portman of Ohio and Shelley Moore Capito of West Virginia.

Capito's office released a statement Friday saying she still has "serious concerns" about the Medicaid provisions." The Congressional Budget Office is analyzing the changes in the latest GOP bill, including the Cruz amendment.

The CBO's estimate of the GOP's last Senate health care bill projected that it could result in 22 million more Americans dropping off the insurance rolls, most of them people who are currently on Medicaid.

The Republican bill also took a hit last week from two powerful interest groups, AARP and America's Health Insurance Plans, which tore into Cruz's provision to offer alternative plans that don't have to cover pre-existing conditions.

"Allowing health insurance products governed by different rules and standards would further destabilize the individual market and increase costs for those with pre-existing conditions," the insurance lobby said in a policy paper.

Cruz argues that his plan would preserve guarantees for pre-existing conditions in the Obamacare exchanges. But industry experts, echoing Green and Grassley, said such coverage would be cost-prohibitive in parallel markets dividing young and old.

"Such protections ... only work if there is broad participation to assure stable markets and affordable premiums," AHIP's analysts wrote.

### ***Open to change***

Cruz's backers counter that allowing companies to sell plans off the federally regulated Obamacare exchanges could make private insurance affordable to people who now rely on the Medicaid expansion.

Liberals are skeptical.

Holding a narrow 52-seat majority, Senate Republicans have little room to spare to pass their bill. In a reflection of the conservative-moderate divide, Paul and Collins already have signaled their opposition, though for different reasons.

Counting on Vice President Mike Pence as the tie-breaker in a potential 50-50 vote, Senate Majority Leader Mitch McConnell is on the precipice. He now has to count on the cooperation of both wary moderates and Cruz, the tea party upstart who once accused him of lying on the Senate floor.

Playing an unaccustomed insider role, Cruz has spent the past five months quietly working with other Republican senators of varying stripes to forge an agreement that can get at least 50 votes.

Some analysts say that to the extent that he can help deliver conservatives, he can inoculate himself and the party's right flank should the health care bill fall to the opposition of moderates. And if it passes, it likely will be regarded as a victory for Republicans and President Donald Trump, even if it falls far short of the goal of repealing every last vestige of Obamacare.

Still struggling for votes to move the bill forward this week, GOP leaders have promised that they're still open to change.

"We're going to have an open amendment process," said Texas U.S. Sen. John Cornyn, McConnell's chief vote counter. "So long as senators have the energy to stay on their feet and offer amendments."

At the center of it all will be Cruz, whose amendment has become a rallying point for conservatives who want to dismantle former President Barack Obama's legacy health care law.

"If ever there was a litmus test about whether a politician supports Obamacare, the Cruz amendment is it," said Michael Cannon of the libertarian Cato Institute, writing in *The Hill*.

"Any politician who voted against Obamacare ... or campaigned on repealing it ... but opposes the Cruz amendment is flip-flopping."