



Everything old is new again? The latest round of health policy proposals reprises existing ideas

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Forget “repeal and replace,” an oft-repeated Republican rallying cry against the Affordable Care Act.

House Republicans have advanced a package of bills that could reduce health insurance costs for certain businesses and consumers, partly by rolling back some consumer protections. Rather than outright repeal, however, the subtler effort could allow more employers to bypass the landmark health insurance overhaul’s basic benefits requirements and most state standards.

At the same time, the Biden administration seeks to undo some of the previous administration’s health insurance rules, proposing to retighten regulations for short-term plans.

Health policy experts aren’t surprised. Most of the GOP policy ideas have long drawn Republican support, have raised concern from Democrats about reduced consumer protections, and could fall under the theme: Everything old is new again.

Association Health Plans. Self-insurance. Giving workers money to buy their own individual coverage instead of offering a group plan. These are the buzzwords and, ultimately, revolve around one issue, said Joseph Antos, a senior fellow at the American Enterprise Institute, a Washington, D.C.-based think tank. “The real problem is the rising cost of health care. Always has been,” he said. And that problem, he added, is larger than the proposed solutions.

“It’s not clear that this kind of an approach would substantially help very many people,” Antos said.

The latest round of rules and legislation comes as the ACA — passed in 2010 — is now cemented in the system. More than 16 million people enrolled in their own plans this year, and millions more are getting coverage through expanded Medicaid in all but 10 states, leading to an all-time-low uninsured rate.

But even with enhanced subsidies for ACA health plans, initially approved in the American Rescue Plan and extended through 2025 by the Inflation Reduction Act, some people still struggle to afford deductibles or other costs, and employers — especially small ones — have long wrestled with rising insurance costs and the ability to offer coverage at all.

So, what is on the table in Washington? First, a caveat: Little is likely to happen in an election year.

While the Biden administration’s proposed regulations on short-term plans are likely to go into effect, either this year or early next, the GOP’s House-passed legislation — dubbed the CHOICE Arrangement

Act, for Custom Health Option and Individual Care Expense — is unlikely to win favor in the Democratic-controlled Senate. If Republicans were to retake the Senate and White House, though, it illustrates the health policy direction they could take.

Here are the broad issues on the radar:

From the President's Desk: Limits on Short-Term Policies

These types of plans have been sold for decades, often as a stopgap measure for people between jobs.

They can be far less expensive than more traditional coverage because short-term plans vary widely and “run the gamut from comprehensive policies to fairly minimal policies,” said Louise Norris, an insurance broker who regularly writes about health policy.

The plans don't have to cover all the benefits required of ACA plans, for example, and can bar coverage for preexisting medical conditions, can set annual or lifetime limits, and often don't include maternity care or prescription drugs. Despite notices warning of such policies' limitations, consumers may not realize what isn't covered until they try to use the plan.

Concerned that people would choose this option instead of more comprehensive and more expensive insurance offered through the ACA, President Barack Obama's administration set rules limiting the policy terms to three months.

President Donald Trump's administration loosened those rules, allowing plans to again be sold as 364-day policies, and adding the ability for insurers to renew them for up to three years. Now President Joe Biden, whose representatives have called such plans “junk insurance,” proposes reining those in again, restricting policies to four months, at most.

The Biden proposal cites estimates from the Congressional Budget Office and the Joint Committee on Taxation that about 1.5 million people are enrolled in such plans.

Michael Cannon, director of health policy studies at the Cato Institute, a Washington, D.C.-based libertarian think tank, decried the proposed rule in an opinion piece published by The Hill. He wrote that the Biden proposal removes an important lower-cost alternative and could leave some consumers facing “sky-high medical bills for up to one year” if their policies expire between open enrollment periods for ACA plans.

The real fight comes down to defining “short-term,” said John McDonough, a professor of public health practice at the Harvard T.H. Chan School of Public Health in Boston, who worked on the original ACA legislation.

Progressives and Democrats support the view that “short-term” should end after four months and “then people go into an ACA plan or Medicaid,” he said. “Republicans and conservatives would like this to be an alternative permanent coverage model for folks, some of whom legitimately know what they are getting and are willing to roll the dice.”

Association Health Plans, Self-Insurance, and Other Workplace Issues

Meanwhile, the House-passed CHOICE Arrangement Act, among other things, would allow more self-employed people and businesses to band together to buy Association Health Plans, which are essentially large group plans purchased by multiple employers.

These can be less expensive because they don't have to meet all ACA requirements, such as covering a specified set of benefits that includes hospitalization, prescription drugs, and mental health care. Historically, some also have had solvency issues and state regulators have investigated claims of false advertising by certain association plans.

Another piece of the legislation would help more small employers self-insure, which also allows them to bypass many ACA requirements and most state insurance rules.

Both proposals represent a "chipping away at the foundation edges of the ACA structure," said McDonough.

The package also codifies Trump-era regulations allowing employers to provide workers with tax-free contributions to shop for their own insurance, so long as it is an ACA-qualified plan, a benefit known as an individual coverage Health Reimbursement Account.

The CHOICE Arrangement Act "will go a long way toward reducing insurance costs for employers, ensuring that workers continue to have access to high-quality, affordable health care," said Rep. Tom Cole (R-Okla.) in prepared remarks as the bill went before the House Committee on Rules in June.

Giving workers a set amount of money to buy their own coverage allows employees to choose what works best for them, supporters say. Critics warn that many workers may be unprepared to shop and that the effort by some employers might prove discriminatory.

"Firms may find strategies to shift sicker workers to HRAs, even with guardrails in the legislation meant to prevent this," according to a blog post from the Center on Budget and Policy Priorities.

Not so, said Robin Paoli, executive director of the HRA Council, a nonprofit advocacy organization whose members include insurers, employers, and other organizations that support such individual accounts.

Employers have some discretion in choosing which groups of employees are offered such accounts, often based on geography, but cannot create a group made up solely of "people over 65, or a class of sick people," said Paoli. "The rules absolutely prohibit discrimination based on age or health condition."

The other two ideas — associations and the self-insured proposal — have drawn opposition from the National Association of Insurance Commissioners, which wrote to House leaders that the package "threatens the authority of states to protect consumers and markets" because it affects the ability of states to regulate such plans.

Current law allows businesses in the same industry to band together to buy coverage, essentially creating a larger pool that then can, theoretically, wield more negotiating clout and get better rates.

The House legislation would make changes to allow more self-employed people and businesses that aren't in the same industry to do the same.

Some policy experts said expanding access to association plans and self-insurance to smaller businesses might adversely affect some workers by drawing healthier people out of the overall market for small-group insurance and potentially raising premiums for those who remain.

"The big picture of what these bills do is allow [employers and] insurance companies to get out from under the ACA standards and protections and offer cheaper insurance to younger and healthier employee

groups,” said Sabrina Corlette, a researcher and the co-director of the Center on Health Insurance Reforms at Georgetown University.

But attorney Christopher Condeluci, who worked with GOP lawmakers in drafting the legislation, takes a different view. The entire GOP package, he said, represents “improvements to the status quo” that are needed because small businesses and individuals are confronting “health costs continuing to rise” and “out-of-pocket costs continuing to increase.”