

# Chance To Pass Free-Market Health Reform Just Ahead For GOP

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The pending U.S. Supreme Court ruling on ObamaCare coupled with a small provision buried in the law could give Republicans in the new Congress the opportunity to power-boost free-market health reform.

The high court will hear arguments, likely in March, on whether the Obama administration had legal authority to allow tax subsidies to flow through the health insurance exchange established by the federal government.

Health insurance guru Robert Laszewski of Health Policy and Strategy Associates told a Cato Institute forum recently it would be "a crisis ... a terrible mess" if the court were to strike down the federal exchange subsidies.

He says 36 states would be forced to quickly create their own exchanges (no easy task) or else cause millions of people to lose their (heavily subsidized) health insurance.

If the Supreme Court were to decide that the law actually means what it says — subsidies are available only "through an exchange established by the state" — as many as 5 million people in the 36 states relying on the federal exchange would suddenly lose their subsidies.

But that doesn't mean they have to lose their insurance. The court decision could instead open the door for the new Congress to offer new alternatives.

Congress could quickly throw out a safety net for the millions of people who are currently getting subsidized coverage in federal exchanges. Many of them lost their private coverage because it didn't comply with ObamaCare and were thrown into the exchanges.

Eighty-six percent are getting subsidies for their expensive ObamaCare-mandated coverage. They cannot be left high and dry. Congress could give the court the space to throw out the illegal tax credits by promising a safety net to the millions who would lose their subsidies and likely their insurance.

## Need Flexibility

Political leaders and policy experts across the political spectrum have long supported providing refundable tax credits to help the uninsured get coverage.

But in providing its own extravagantly complex version of these subsidies, ObamaCare created a mountain of regulations that suffocate competition and require people to purchase coverage that is much more expensive than most would have chosen for themselves.

Congress could structure the subsidies in a way that gives consumers much more flexibility and choice of benefit structures to better fit their insurance policies with their pocketbooks.

There surely would be bipartisan support for extending subsidies to those who would otherwise lose coverage, and it would be difficult for President Obama to veto the bill and be responsible once again for people losing their health insurance.

And another opportunity for positive change is contained in a three-page provision of the law that so far has received little attention.

Section 1332 of the ACA provides for a "Waiver for State Innovation." Sen. Ron. Wyden, D-Ore., demanded the provision to give states a giant waiver from ObamaCare's mandates so long as they have a plan to get to the same level of coverage with no net increase in costs to the federal government.

For governors clamoring for more control, 1332 could provide them an opportunity to escape the worst of ObamaCare and gain new freedom and flexibility. Section 1332 also is an insurance policy to return power to the states no matter which party controls the presidency after the 2016 elections.

Vermont already is gearing up to use Section 1332 to create a single-payer health care system. Newly elected and re-elected governors could use it to boost consumer choice and competition in their health insurance markets.

If consumers were empowered to make their own choices with better incentives, transparent prices, and flexibility with benefits, then genuine competition — not ObamaCare's fake choices — would flourish, giving people countless options we can't even imagine today.

We can have better health care that is more accessible to millions more people if we let the miracle of the free market unleash creative solutions.

ObamaCare was foisted on the American people, and it is becoming more unpopular as more and more people are impacted by it. The latest CBS News poll shows only 36% support the law and 55% oppose it, a 19-point deficit.

### **Fear Is Still Real**

With numbers like these, the political process will demand change. When Democrats jammed ObamaCare into law on a strictly partisan basis and against the will of a majority of Americans, they interfered with how major political change evolves.

Pollster Daniel Yankelovich says that public opinion on major policy questions progresses through predictable stages, from dawning awareness of a problem, to a growing sense of urgency, wishful thinking, discovering that tough choices must be made, and finally to weighing those choices and making responsible judgments.

For all of its massive flaws and the pain it has caused, ObamaCare has put the American people through a searing educational process. People are smarter now.

They continue to be frightened about government power over their health care. They now realize that they aren't going to get their health care for free, and it likely will cost them even cost them more. They also see that government giving them choices can actually mean fewer of the choices they want.

Wishful thinking has crashed into reality. Americans were lied to, with fantastical promises that if you like your plan you can keep your plan, if you like your doctor you can keep your doctor, your family will save \$2,500 a year on premiums, we're going to reduce the deficit and get to universal coverage, and so forth. They have been burned, and surveys show they want a more targeted approach to reform.

This moment is an opportunity for conservatives to touch the core values of Americans with new and realistic solutions.

Backers of ObamaCare want Americans to think they can get health care only if their deeply flawed law stays in place. In fact, people would get better health care at a lower cost with fewer strings attached if states and ultimately consumers are making decisions about what they need and can afford.

A court decision and the 2017 state waiver option could provide the pathway.