



## **Obama supporters worry a Romney victory will kill parts of healthcare law**

By Sam Baker – October 25<sup>th</sup>, 2012

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The prospect of a Romney presidency is making some supporters of President Obama's healthcare law increasingly nervous.

Romney has a narrow edge over Obama in national polls, and has closed the gap or taken the lead recently in several key swing states. As his chances of winning have seemed to improve, his plans for the Affordable Care Act are getting a closer look.

"Yeah, I'm nervous," said Tim Jost, a Washington and Lee University law professor who strongly supports both Obama and the healthcare law.

Romney has vowed to repeal the Affordable Care Act (ACA). But because that would require 60 votes in the Senate, he has also said he would issue "waivers" and executive orders to weaken the law as much as possible on his own.

Romney said during Monday's debate that he would reverse the healthcare law "as much as humanly possible." Asked whether that was a tacit acknowledgement that all-out repeal is unlikely, Romney's campaign said he was simply reiterating that he would do what he could as president while working with Congress on repeal.

Jost said his concern for the future of the healthcare law is part of what motivated him to donate to Obama's campaign. A Romney administration probably would be able to at least slow down the law's implementation, Jost said. Romney's Health and Human Services Department might start missing deadlines or dragging out rule-making processes.

"So I'm concerned, and I don't think people are very aware of" how much damage Romney could do, he said.

Michael Cannon, a healthcare analyst at the libertarian Cato Institute who strongly opposes the healthcare law, said he's not sure how much a President Romney could do on "day one." Cannon is also still skeptical about Romney's commitment to repeal — a question that dogged him throughout the Republican primary.

"He may decide to tack to the center on ObamaCare ... you never know with this guy," Cannon said.

But if Romney sticks to his guns, he might be able to start with one of Cannon's top priorities: eliminating insurance subsidies in the federally run insurance exchange. The ACA sets up exchanges in each state, with a federal fallback in states that don't act on their own.

Most people who are able to use the exchanges will get a subsidy from the federal government. The IRS has said it plans to administer those subsidies in both the state-run and federal exchanges. But Cannon says that's illegal, and subsidies should only be available in state-based exchanges.

If a Romney administration took the time and effort to reverse the IRS's policy, it would wreak havoc on the insurance marketplace.

"The moment the president says, 'I'm not going to do that, kill that rule,' panic sets in — insurers say, 'Whoa, wait a minute, we can't work under these conditions,'" Cannon said.

He's hoping that some centrist Democrats could be persuaded to revisit the Affordable Care Act if a change from the administration, or rising premiums, forces their hand.

"There are ways to approach ObamaCare, ways to try to move the needle so that you change votes in Congress," Cannon said.

Democrats seem poised at the moment to hold on to their Senate majority, even if Romney takes the White House. Incumbent Democrats Claire McCaskill (Mo.) and Bill Nelson (Fla.) appear safe, and Democratic challengers in North Dakota, Indiana, Arizona and Massachusetts are in surprisingly strong position with only about two weeks left until Election Day.

That means Republicans probably won't rack up the 60 seats they would need for a straightforward repeal vote. If they win even a one-seat majority, they could attempt to repeal parts of the law through the budget process known as reconciliation.

But reconciliation is a complicated process that couldn't be used to repeal the whole law. And the mess of remaining provisions could cause chaos and rising premiums that would dwarf even the most pessimistic estimates of the existing law.

If Democrats keep the Senate or Republicans shy away from reconciliation, the ball would still be in Romney's hands. There's not much he could do about straightforward rules like the policy requiring insurers to cover people with pre-existing conditions, but the federal exchange remains a possible target.

The Affordable Care Act doesn't explicitly set aside any funding for the federal exchange; HHS is cobbling together money from other programs and tapping a general implementation fund. The lack of direct funding could help Romney starve the federal exchange — if he wants to.

"Will he divulge where the money has been coming from?" asked Cannon. "Will he stop spending money on that? Or will he keep spending money on that because his buddy Mike Leavitt thinks they're such great things, and by the way, he makes money off them?"

Leavitt, a former HHS secretary, is leading Romney's transition team. He runs a consulting business that has helped states plan to set up their exchanges.