

WebMemo



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Repealing Obamacare and Getting Health Care Right

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Americans want health care reform—but not the reforms put in place under the Patient Protection and Affordable Health Care Act (PPACA). The new law moves America's health care system in the wrong direction, transferring vast powers to Washington bureaucrats who will control the dollars and decisions that should be in the hands of individual patients and their families. It is no surprise that most Americans continue to oppose the new law and that clear majorities want it repealed. A recent Rasmussen poll, for example, found that 53 percent of likely voters favor repeal.¹

Repeal. Congress must repeal the new law. Congress cannot build sound market-based health care reform on the PPACA foundation, which is utterly incompatible with a health care system based on consumer choice and free markets.

Beyond the unprecedented mandates, new taxes, massive entitlement expansion, unworkable and costly insurance provisions, and its failure to control costs,² the new law concentrates enormous power in the U.S. Department of Health and Human Services (HHS). It creates a giant network for the federal micromanagement of health plans, benefits, insurance markets, and unprecedented intervention into the details of health care financing and the delivery of medical care.³

The early result is a veritable flood of controversial rules and regulations, administrative decisions, and guidelines directly affecting the lives of millions of Americans. This regulatory regime, administered

by unelected bureaucrats, is even more onerous because of the fundamental flaws of the hastily enacted legislation itself, including undefined provisions and unrealistic timeliness. Those with the knowledge, access, and influence with the Administration are more likely to obtain exemptions than those who are not so fortunate. The new law allows the HHS Secretary to apply the provisions of the law and to enforce it as she sees fit, thus granting the Secretary the right to determine winners and losers.

Keeping Up the Pressure. While working to achieve full repeal, Members should continue to focus on the failures and consequences of the new law, block its implementation at every opportunity, and exert strong oversight over the implementation process.

Block. The most straightforward approach to blocking the new law is for Members of Congress to stop funding for key provisions. For example, they could prohibit funding from going toward the Internal Revenue Service for enforcing the individual mandate.

In addition, Members should also look at triggers or other mechanisms to stop or delay key provisions from going into effect. This should include reliance

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on the Congressional Review Act,⁴ a law enabling Congress to block or halt onerous rules and regulations before they do damage to businesses or other sectors of the health care economy.

Oversight. A new Congress should also pursue fair, open, and thorough hearings on the implementation of the new law. With its rush toward passage of the new law in March, Congress left numerous questions unanswered, and these issues have broad implications for employers, employees, states, doctors and hospitals, and other key players in the health care sector of the economy.⁵

For example, the Administration's use of waivers and exemptions from its own rules deserve scrutiny; so does the impact of the law on state budgets, the workforce, and the overall economy. In addition, Congress should conduct a robust review of the regulatory process itself, the main engine through which much of the law is being enforced and finalized.

Getting Health Care Reform Back on Track.

There are many policy options Congress should consider, after repeal of PPACA, to begin moving the system in the right direction and put the country on the right path toward market-based health care change that gives people better choices and allows them to take account of the price and value of health care. For example, Congress should:

- Provide individual tax relief for all persons purchasing private health insurance, regardless of where they work;
- Eliminate barriers to individuals purchasing health care coverage that best suits their personal needs across state lines;

- Allow employers to convert their health care compensation from a defined benefit package to a defined contribution system;
- Promote new group purchasing arrangements based on individual membership organizations and various associations, including union, fraternal, ethnic, and religiously based groups;
- Improve consumer-directed health options (such as health savings accounts, health reimbursement arrangements, and flexible spending accounts) that encourage greater transparency and consumer control over health care decisions;
- Extend rational pre-existing condition protections in the non-group health insurance markets for those with continuous creditable coverage, thus rewarding responsible persons who buy and maintain coverage;
- Set up a fair competitive bidding process to determine government payment in traditional Medicare fee-for-service and Medicare Advantage programs;
- Review Medicare rules and regulations and eliminate those that unduly burden doctors and patients, such as the restriction preventing doctors and patients to contract privately for medical services outside of the traditional Medicare program;
- Encourage the states to set up mechanisms such as high-risk pools and risk transfer models that help lessen the problems of individuals who are difficult to insure;
- Expand states' ability to develop consumer-based reforms that enable states to customize solutions for their citizens;

1. Rasmussen Reports, "Health Care Law: 53% Favor Repeal of Health Care Law, 46% Say Repeal Likely," October 25, 2010, at http://www.rasmussenreports.com/public_content/politics/current_events/healthcare/health_care_law (October 28, 2010). For more health care poll tracking, see Real Clear Politics, "Obama and Democrats' Health Care Plan," at http://www.realclearpolitics.com/epolls/other/obama_and_democrats_health_care_plan-1130.html (October 28, 2010).
2. For examples of the consequences of the new law, see "Side Effects" series at <http://blog.heritage.org/category/health-care>.
3. See John S. Hoff, "Implementing Obamacare: A New Exercise in Old-Fashioned Central Planning," Heritage Foundation Backgrounder No. 2459, September 10, 2010, at <http://www.heritage.org/Research/Reports/2010/09/Implementing-Obamacare-A-New-Exercise-in-Old-Fashioned-Central-Planning>.
4. For more information on the Congressional Review Act, see <http://www.archives.gov/federal-register/laws/congressional-review> (October 28, 2010).
5. It is worth noting that the 111th Congress, controlled by Democrats, held no oversight hearings.

- Strengthen premium assistance in Medicaid to enable young families to obtain private health insurance coverage;
- Improve patient-centered health care models for those on Medicaid;
- Increase federal and state efforts to combat fraud and abuse in Medicaid, including tightening eligibility loopholes in Medicaid for long-term-care services;
- Encourage personal savings and the development of a robust private insurance market for long-term-care needs;
- Make the ban on taxpayer-funded abortion permanent and government-wide and extend a similar permanent policy to ensure protection of the right of conscience among medical providers and personnel; and
- Stop new tax increases and promote tax cuts that would expand private insurance coverage and grow the economy.

The Right Way Forward for America. After repeal of PPACA, Congress should pursue targeted policy solutions that address practical problems faced by millions of Americans in a step-by-step and fully transparent legislative process. This would move the health care system in the right direction.

In the end, fundamental policy issues must be tackled to achieve lasting health care reform. These include promoting personal control through tax equity, ensuring portability of health insurance, fixing financially troubled and underperforming government health care programs, and engaging in a federal–state partnership to address the particular challenges faced by very different states.⁶ These elements are at the core of transforming today’s health care economy into one where individuals and families can control their own dollars and make their own decisions.

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6. See The Heritage Foundation, “Solutions for America: Getting Health Care Reform Right,” August 17, 2010, at <http://www.heritage.org/Research/Reports/2010/08/Getting-Health-Care-Reform-Right>.