

Washington Power Has Shifted. Here's How the ACA May Shift, Too.

Changes could curtail Medicaid expansion, raise the uninsured rate, weaken patient protections and increase premium costs.

November 25, 2024 By Stephanie Armour, Sam Whitehead , Julie Rovner and KFF Health News

President-elect Donald Trump's return to the White House could embolden Republicans who want to weaken or repeal the Affordable Care Act, but implementing such sweeping changes would still require overcoming procedural and political hurdles.

Trump, long an ACA opponent, expressed interest during the campaign in retooling the health law. In addition, some high-ranking Republican lawmakers — who will now have control over both the House and the Senate — have said revamping the landmark 2010 legislation known as Obamacare would be a priority. They say the law is too expensive and represents government overreach.

The governing trifecta sets the stage for potentially seismic changes that could curtail the law's Medicaid expansion, raise the uninsured rate, weaken patient protections, and increase premium costs for millions of people.

"The Republican plans — they don't say they are going to repeal the ACA, but their collection of policies could amount to the same thing or worse," said Sarah Lueck, vice president for health policy at the Center on Budget and Policy Priorities, a research and policy institute. "It could happen through legislation and regulation. We're on alert for anything and everything. It could take many forms."

Congressional Republicans have held dozens of votes over the years to try to repeal the law. They were unable to get it done in 2017 after Trump became president, even though they held both chambers and the White House, in large part because some GOP lawmakers wouldn't support legislation they said would cause such a marked increase in the uninsured rate.

Similar opposition to revamping the law could emerge again, especially because polls show [the ACA's protections are popular](#).

While neither Trump nor his GOP allies have elaborated on what they would change, House Speaker Mike Johnson said last month that the ACA [needs "massive reform"](#) and would be on the party's agenda should Trump win.

Congress could theoretically change the ACA without a single Democratic vote, using a process known as “reconciliation.” The narrow margins by which Republicans control the House and Senate mean just a handful of “no” votes could sink that effort, though.

Many of the more ambitious goals would require Congress. Some conservatives have called for changing the funding formula for Medicaid, a federal-state government health insurance program for low-income and disabled people. The idea would be to use budget reconciliation to gain lawmakers’ approval to reduce the share paid by the federal government for the expansion population. The group that would be most affected is made up largely of higher-income adults and adults who don’t have children rather than “traditional” Medicaid beneficiaries such as pregnant women, children, and people with disabilities.

A conservative idea that would let individuals use ACA subsidies for plans on the exchange that don’t comply with the health law would likely require Congress. That could cause healthier people to use the subsidies to buy cheaper and skimpier plans, raising premiums for older and sicker consumers who need more comprehensive coverage.

“It’s similar to an ACA repeal plan,” said Cynthia Cox, a vice president and the director of the Affordable Care Act program at KFF, a health information nonprofit that includes KFF Health News. “It’s repeal with a different name.”

Congress would likely be needed to enact a proposal to shift a portion of consumers’ ACA subsidies to health savings accounts to pay for eligible medical expenses.

Trump could also opt to bypass Congress. He did so during his previous tenure, when the Department of Health and Human Services invited states to apply for waivers to change the way their Medicaid programs were paid for — capping federal funds in exchange for more state flexibility in running the program. Waivers have been popular among both blue and red states for making other changes to Medicaid.

“Trump will do whatever he thinks he can get away with,” said Chris Edelson, an assistant professor of government at American University. “If he wants to do something, he’ll just do it.”

Republicans have another option to weaken the ACA: They can simply do nothing. Temporary, enhanced subsidies that reduce premium costs — and contributed to the nation’s lowest uninsured rate on record — are set to expire at the end of next year without congressional action. Premiums would then [double or more](#), on average, [for subsidized consumers](#) in 12 states who enrolled using the federal ACA exchange, according to data from KFF.

That would mean fewer people could afford coverage on the ACA exchanges. And while the number of people covered by employer plans would likely increase, an additional 1.7 million uninsured individuals are projected each year from 2024 to 2033, [according to federal estimates](#).

Many of the states that would be most affected, including Texas and Florida, are represented by Republicans in Congress, which could give some lawmakers pause about letting the subsidies

lapse.

The Trump administration could opt to stop defending the law against suits seeking to topple parts of it. One of the most notable cases [challenges the ACA requirement](#) that insurers cover some preventive services, such as cancer screenings and alcohol use counseling, at no cost. [About 150 million people](#) now benefit from the coverage requirement.

If the Department of Justice were to withdraw its petition after Trump takes office, the plaintiffs would not have to observe the coverage requirement — which could inspire similar challenges, with broader implications. A recent ruling left the door open to legal challenges by other employers and insurers seeking the same relief, said Zachary Baron, a director of Georgetown University's Center for Health Policy and the Law.

In the meantime, Trump could initiate changes from his first day in the Oval Office through executive orders, which are directives that have the force of law.

"The early executive orders will give us a sense of policies that the administration plans to pursue," said Allison Orris, a senior fellow at the Center on Budget and Policy Priorities. "Early signaling through executive orders will send a message about what guidance, regulations, and policy could follow."

In fact, Trump relied heavily on these orders during his previous term: An October 2017 order directed federal agencies to begin modifying the ACA and ultimately increased consumer access to health plans that didn't comply with the law. He could issue similar orders early on in his new term, using them to start the process of compelling changes to the law, such as stepped-up oversight of potential fraud.

The administration could early on take other steps that work against the ACA, such as curtailing federal funding for outreach and help signing up for ACA plans. Both actions [depressed enrollment](#) during the previous Trump administration.

Trump could also use regulations to implement other conservative proposals, such as increasing access to health insurance plans that don't comply with ACA consumer protections.

The Biden administration walked back Trump's efforts to expand what are often known as short-term health plans, disparaging the plans as "junk" insurance because they may not cover certain benefits and can deny coverage to those with a preexisting health condition.

The Trump administration is expected to use regulation to reverse Biden's reversal, allowing consumers to keep and renew the plans for much longer.

But drafting regulations has become far more complicated following a Supreme Court ruling saying federal courts no longer have to defer to federal agencies facing a legal challenge to their authority. In its wake, any rules from a Trump-era HHS could draw more efforts to block them in the courts.

Some people with ACA plans say they're concerned. Dylan Reed, a 43-year-old small-business owner from Loveland, Colorado, remembers the days before the ACA — and doesn't want to go back to a time when insurance was hard to get and afford.

In addition to attention-deficit/hyperactivity disorder and anxiety, he has scleroderma, an autoimmune disease associated with [joint pain and numbness](#) in the extremities. Even with his ACA plan, he estimates, he pays about \$1,000 a month for medications alone.

He worries that without the protections of the ACA it will be hard to find coverage with his preexisting conditions.

"It's definitely a terrifying thought," Reed said. "I would probably survive. I would just be in a lot of pain."

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