2014 Payroll Fact Sheet

PPACA Alternative Reanimated-By Scott Wooldridge

With more than 8 million insurance exchange enrollees now on the books, some have suggested the battle over Obamacare is nearing an end. President Obama certainly hopes so.

But with the 2014 mid-term elections looming, some Republicans are pressing ahead with the fight over health care reform. The Patient Protection and Affordable Care Act is expected to be a major campaign issue this summer and fall.

For these GOP candidates, who believe that Obamacare is an unacceptable and unsustainable expansion of government, “repeal and replace” remains a rallying cry.

Problem is, “repeal” seems fairly unrealistic at this point and just what might “replace” provisions that foes see as most offensive has yet to be hammered out.

A proposal from Sens. Richard Burr, R-N.C., Tom Coburn, R-Okla., and Orrin Hatch, R-Utah, could help change that. Their proposal, introduced in late January and now gaining new attention after undergoing some revisions, outlines a number of ideas that could form the framework of a new approach to health reform.

"Sadly, Obamacare is about cutting choices rather than costs," Coburn wrote in a recent USAToday commentary. "It's time for policymakers to start over. The Patient CARE Act will exceed all of Obamacare's goals by giving individual Americans the freedom to shop for their own health care. Markets aren't perfect but, as Obamacare has shown, they are far more effective than government coercion."

Whether the legislation will gain traction in the House or Senate is far from clear, but advocates say the proposal represents the most comprehensive effort to date in articulating a GOP vision for replacing the PPACA.

Shifting power to state, individuals

The measure – its full title is The Patient Choice, Affordability, Responsibility, and Empowerment Act – includes half-a-dozen major ideas that supporters say will provide patient-centered reforms, strengthen consumer protections, and make health care more affordable, all while eliminating “job-crushing” mandates on employers.

“With our plan, we’ve shown once again that by empowering Americans — not Washington — with the right tools and information, they will make the best informed health care decisions for themselves,” Hatch said when the plan was released.

The Congressional Budget Office hasn’t scored the GOP package yet, so it’s still unknown how many uninsured Americans it will cover or what the costs of the plan will be. But an analysis by the Center for Health and Economy said that the proposal, if enacted, would cover roughly the same number of uninsured Americans while saving $1.5 trillion over 10 years, when compared to PPACA costs.

Some of the ideas in the act have been put forth in previous GOP bills, such as encouraging Health Savings Accounts and other consumer-directed health models. The plan also calls for tort reform to reduce the burden of medical lawsuits, an idea popular with the provider community. In addition, the Patient CARE Act would allow small businesses, and even states, to band together in order to create insurance pools. But in addition to these chestnuts, some of the proposals offer significant innovations on earlier health reform ideas.

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Consumer protections retained

The legislation would start by repealing the PPACA but would leave in a number of Obamacare's consumer protections, such as banning lifetime limits on insurance policies, requiring plans to offer dependent coverage up to age 26, and guaranteed renewability.

There are changes to some of the more popular consumer protections, as well. The GOP proposal modifies the requirement to end exclusions based on pre-existing conditions, requiring enrollees to have "continuous coverage."

Under the measure's provisions, if individuals go for a period of time without coverage, they could then be denied coverage, or charged higher premiums if they have pre-existing conditions.

Unlike the PPACA, the CARE Act would have a one-time open enrollment period for all uninsured Americans; after that, individuals or families could still obtain coverage during yearly enrollment periods, but they would not be protected from pre-existing condition exclusions.

Another difference is that the CARE Act would give carriers more flexibility in "age-rating," that is, charging older individuals higher premiums, to reflect the reality that they use more health care services.

Targeted tax credits

To help small businesses, which have traditionally been hardest-pressed to provide insurance benefits to employees, the CARE Act would put in place a targeted tax credit for self-employed individuals or employees of small businesses (fewer than 100 workers).

These individuals, if they make less than 300 percent of the federal poverty level, would be eligible for varying levels of the tax credit, depending on their income and age. The tax credits would be available only to U.S. citizens.

Default enrollment

In addition, the CARE Act would create an Office of Health Financing at the U.S. Department of Treasury to oversee the administration of the tax credits. At the same time, it would cut back federal expansion of services, such as ending the federal insurance exchange website.

One significant new idea in the CARE Act is the concept of "default enrollment." Under this concept, states would be able to enroll individuals into private insurance plans if they fail to enroll themselves.

This would expand coverage while allowing Americans more flexibility in health insurance choices, the proposal's authors said. If an individual did not like the plan they were assigned, they could switch to a different state-approved plan, or opt out of insurance coverage altogether.

This provision could allow states to enroll individuals at essentially no cost to the individual, the proposal said.

"(States) may be able to create a default enrollment option with premiums equal to the value of the tax credit, so that the individual assigned to the plan would not be charged any additional premium," the proposal said. "States could also work with health plans to set up deductibles so that the cost of the designated plans does not exceed the federal credit."

Capping tax exclusion for employer-based coverage

In a move that is likely to be especially controversial, the CARE plan proposal would cap the tax exclusion for employee's health coverage at 65 percent of the average market price for a high-end plan.

Initially, the proposal called for the cap to be set by "an average plan's costs," but was changed because it would have meant higher taxes for many Americans.

As now envisioned, the value of employer-sponsored health insurance would only grow with the consumer price index. "This approach is certainly fairer than Obamacare, and it provides for more equitable tax treatment of health insurance," the lawmakers said in their proposal.

But as James A. Klein, president of the American Benefits Council, pointed out, employers and employees simply oppose the idea of capping the tax exclusion for health benefits. "We don't believe taxing individuals on the basis of their health benefit is going to be helpful," he said. "It would pretty dramatically change the nature of this very valuable benefit."

Klein noted that the idea has been suggested before; as a presidential candidate, John McCain promoted a similar approach. It would provide funds for the proposed tax credits, and some economists have endorsed this approach, but it would be seen by many as a tax increase. A similar proposal in the PPACA, the "Cadillac tax" imposes a tax on high-benefit health plans, but has drawn resistance from both the business community and unions. That measure has not yet gone into effect.

Whether it wins passage, let alone gets any traction in Congress, the GOP proposal, advocates say, gives PPACA opponents a policy framework to talk about.

"This proposal is an expression of some Republican senators' views as to what would be a better direction to go," Klein said.

It is, indeed. Until anything different happens, however, "most employers accept the fact that the law is here to stay for the foreseeable future."

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