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Trumpcare:

Republican Health Care Reform and Its Impact on Health Insurers

Introduction

Presidential Candidate Donald Trump promised to repeal and replace the Affordable Care Act (i.e., ACA or Obamacare). “On day one of the Trump Administration, we will ask Congress to immediately deliver a full repeal of Obamacare.”

Additionally, Candidate Trump's website provided the following general policy prescriptions for the replacement of the ACA:

- Eliminate the Individual mandate to purchase health insurance
- Allow insurers to sell plans across state lines
- Allow individuals to fully deduct healthcare premiums from their tax returns
- Expand the tax-effectiveness of HSAs
- Require price transparency from healthcare providers
- Block-grant Medicaid funds to the states to allow the states to spend the money as they see fit
- Allow the importation of pharmaceuticals for sale in the United States

Obviously, Candidate Trump's replacement plan is a series of guiding principles, rather than a serious and comprehensive policy proposal. However, many Republican lawmakers and market-friendly think tanks have developed ACA replacement plans that, along with Trump's guiding principles, can be used to develop a fairly accurate estimate of what the repeal and replacement of the ACA would look like. Over the rest of this article we will provide our best estimate of how and when the ACA would be repealed, what Trump's replacement plan would be (i.e., Trumpcare or the Republican health care reform plan), and what sort of disruption and risks health insurers would face as a result.

Repealing the ACA

Because of the filibuster rule, a full repeal of the ACA is unlikely without at least eight Democrats voting with the expected 52 Republican senators. However, major portions of the ACA can be rendered meaningless through a process called budget reconciliation. Budget reconciliation allows for a simple majority vote that could be used to defund the provisions of the ACA that are related to spending, revenues, and the federal debt limit. Therefore, the Republicans could repeal the following provisions, among others, of the ACA through the budget reconciliation process:

- Premium and member cost sharing subsidies
- The ACA insurer fee, the medical device tax, and other ACA taxes
- Medicaid expansion
- The Individual and Employer Mandates

Immediately ending the subsidies and mandates while still having a guaranteed issue requirement would mean the end of the Individual insurance market in the United States. Combining

that with a simultaneous rollback of Medicaid expansion would land Republican lawmakers in the politically suicidal situation in which twenty million or more people would lose their health insurance under their watch. This will not happen for obvious reasons. Instead, the most likely approach will be to repeal the ACA provisions listed above through budget reconciliation, while sunseting the coverage expansion provisions of the current law through the end of 2018, and providing transitional support to insurers so that they do not pull out of the ACA markets. This will probably happen in the first 100 days of Trump's presidency. Soon afterward we expect congressional Republicans will develop a replacement for the ACA that incorporates market-based solutions while providing low cost health insurance to as many people as possible. We believe that such a bill will attract enough Senate Democrats to pass prior to the 2018 mid-term elections.

Republican Proposals to Replace the ACA

To understand the details of what the expected Republican health care reform law would look like, we focused on five specific plans. The plans were chosen because they are 1) comprehensive (e.g., did not just deal with commercial market insurance, but also Medicare, Medicaid, and the overall cost of care), 2) are championed by people whom we expect to have power or influence in the new government, and 3) are in alignment with President-elect Trump's broad healthcare reform campaign proposal. While each of the Republican plans feature many free-market type reforms, they also include a heavy dose of federal government control and expenditures.

The five Republican plans we considered in detail are:

- "A Better Way" by Speaker of the House of Representatives Paul Ryan,
- "Transcending Obamacare and Achieving Market-Based Universal Coverage" by The Foundation for Research on Equal Opportunity,
- "Empowering Patients First Act" by Secretary of Health and Human Resources nominee Tom Price,
- "Improving Health and Health Care, An Agenda for Reform" by the American Enterprise Institute, and
- "The World's Greatest Healthcare Plan" by Representative Pete Sessions (R-TX) and Senator Bill Cassidy (R-LA).

In general, the Republican plans favor the lessening of federal control over insurance markets, the creation of interstate markets for health insurance, restrictions on the tax-favorability of employer-sponsored insurance, the expanded use of HSAs, and market-oriented reforms of Medicaid and Medicare.

What Trumpcare Would Look Like

In our estimation, Trumpcare will contain the following major policy provisions:

- **Modified Guaranteed Issue:**

While guaranteed issue is popular, it is also one of the main contributors to the rate and pool instability in the Individual ACA markets. Additionally, Trumpcare will not include an Individual Mandate provision which will only exacerbate the adverse selection issue. To help offset the risk of adverse selection, Trumpcare will contain a continuous coverage modification to its guarantee issue provision. People who do not maintain continuous coverage, as the law defines it, would still be able to obtain coverage, but would be rated based on health status.

- **Permanent Risk Adjustment and Reinsurance Programs for the Individual Market:**

Trumpcare will utilize premium stabilization programs to offset excessive risks to health insurers selling insurance in the Individual market. The first will be a non-zero-sum risk adjustment program supported by federal government payments. Additionally, Trumpcare will utilize a reinsurance program and/or high risk pool to protect insurers from the risk of very high cost individuals.

- **Means-Tested Defined Contribution Refundable Tax Credits for Individual Insurance:**

Trumpcare will provide premium support subsidies for Individual insurance to low-income individuals not able to, or who decline to, obtain coverage through Medicare, Medicaid, other government insurance programs, or through an employer-sponsored plan. The form of these subsidies will be fixed-dollar refundable tax credits, adjusted for income, age, and general (not medical) inflation.

- **Medicaid Reform:**

Trumpcare will end and probably roll-back the ACA's Medicaid expansion. Instead premium support subsidies will be made available to allow low-income individuals either not covered by, or who opt-out of other programs, to obtain coverage in the Individual markets. For the remaining Medicaid population, there would be revisions to how the federal government provides Medicaid reimbursement to the states. Two common proposals mentioned in the five plans reviewed are 1) using a national per capita or PMPM funding approach, and 2) using a block grant funding approach, where states would receive a set amount based on historical program costs and be given far greater discretion for both spending these funds and setting eligibility requirements.

- **Medicare Reform:**

We expect that President Trump and Congressional Republicans will make a serious attempt to reform Medicare. While the details of such a reform effort are beyond the scope of this article, the Republicans' Medicare reform plan will include the following basic provisions:

- ◇ Move Medicare to a premium-support model to purchase private insurance, Medicare Advantage, or Medicare FFS plans.
- ◇ Gradually raise the Medicare eligibility age to at least 67.
- ◇ Eliminate both the Independent Payment Advisory Board (i.e., IPAB) and the Center for Medicare and Medicaid Innovation (i.e., CMMI).

- **Expanded Use of HSAs to Encourage Consumerism:**

Trumpcare will expand the use of HSAs by doing the following:

- ◇ Providing a one-time refundable tax credit for HSA contributions
- ◇ Increasing the maximum HSA annual contribution limit
- ◇ Allowing HSA rollovers to surviving children or parents (not just surviving spouses as current law allows)
- ◇ Expanding the availability and use of HSAs in Medicare, Medicaid, and other government insurance programs
- ◇ Providing contributions to people receiving premium support tax credits in the Individual market. This item is meant to serve as a replacement for the ACA's cost-sharing subsidies.

- **Expansion of Pooling Vehicles for Individuals and Small Groups:**

Trumpcare will establish Independent Health Pools (i.e., IHPs) and Association Health Plans (i.e., AHPs) to allow individuals and businesses to come together for the purpose of purchasing health insurance.

- **Creation of Interstate Markets for the Purchase Health Insurance:**

Under Trumpcare, much of the regulatory authority assigned to the federal government by the ACA will be returned to the states. As such, federal rating rules, benefit mandates, and plan designs requirements would go away. Additionally, Trumpcare will allow for the purchase of insurance across state lines.

- **Medical Liability Reform:**

Trumpcare will encourage reforms at the state level, such as establishing medical review tribunals, limiting damages based on proportional liability, and establishing a statute of limitations for malpractice cases through the offering of

federal grants. At the federal level Trumpcare will place limits on noneconomic and punitive damages for patients receiving either premium support in the Individual market or healthcare through a federally funded program.

- **Caps on the Tax-Favored Status of Employer-Sponsored Insurance:**

The Republican health care reform plan will place a cap on the tax-favored status of employer-sponsored insurance (i.e., ESI). Under Trumpcare, if an employee's health insurance costs exceed a specified cap, then the portion of the costs exceeding the cap will no longer receive the ESI tax exclusion.

Risks and Opportunities for Insurers Under Trumpcare

How will all of the changes associated with the expected Republican health care reform plan will impact health insurers? The rollout of the ACA provided insurers with many challenges, and we expect the same for Trumpcare. We believe that insurers will also be presented with opportunities if the Republican plan is sustainable and effectively rolled out.

The first Trumpcare-related risk for health insurers concerns the effectiveness of Trumpcare's premium stabilization programs given that health status rating will be limited and there will be a modified guaranteed issue requirement. Risk adjustment programs are great in theory, but, in our opinion, have not worked well in the ACA markets. We do think that having mechanisms to pay for the costliest members outside of the risk adjustment program (i.e., the reinsurance programs and/or high risk pools), along with making risk adjustment a non-zero sum game, will definitely help. However, we are unsure of how these programs will work in practice. If the Republicans do not establish effective risk mitigation programs, we expect the Individual market to continue to flounder under Trumpcare.

We believe that many of Trumpcare's reforms increase participation in the Individual and Group insurance markets. The premium support program under the Republican health care reform plan,

combined with the expansion of HSAs and the removal of the ACA's strict rating rules should incentivize many previously uninsured, including the so-called "young invincibles", to enter the Individual market. We also believe that the IHPs and AHPs will allow many previously un- or under-insured to obtain meaningful health insurance coverage. However, the defined contribution nature of the premium subsidies, along with the change in the tax treatment of employer-sponsored insurance, have a very real chance of decreasing the amount of insurance coverage per contract that is purchased.

We do not think that the selling of insurance across state lines will have much of an impact on insurance markets, at least in the short-term. It will take large investments, and a good amount of patience, for out-of-state insurers to establish effective provider networks, to develop successful distribution systems, and to build a risk pool of enough size to gain the administrative efficiencies necessary for profitability in new markets.

Finally, we expect that Medicaid and Medicare reforms will be a net positive for health insurers. The Republican efforts to reform Medicaid and Medicare will expand the markets for health insurers since the reforms encourage a continued move away from traditional Medicaid and Medicare to private insurance alternatives for many enrollees. However, efforts to lower the expected cost increases in the two programs will similarly lower revenues and profits for health insurers on a per contract basis.

Contact Information:

Joe Slater, FSA, MAAA, is a Senior Consulting Actuary with Axene Health Partners, LLC and is based in AHP's Murrieta, CA office. Joe can be reached at (951) 239-4345 or joe.slater@axenehp.com

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