

With the election of Donald Trump in November, a repeal of the Affordable Care Act seems probable, and both House and Senate have already taken the first steps toward repeal. Republican members of Congress are currently divided, however, about how to implement a repeal of the ACA. Three options have been considered: an immediate repeal alongside an immediate replacement plan, a delayed repeal to give more time for a replacement to be crafted, or an immediate repeal which will take effect at a future date, which would serve as a deadline for the creation of a replacement plan. As of January 8, Trump's transition team has not professed support for any of the aforementioned legislative options.¹ Congress paved the way for the impending repeal on January 13, approving a budget blueprint that would allow a reconciliation bill repealing the ACA to be passed without a filibuster taking place.² The blueprint requires repeal legislation to be written by House and Senate committees January 27.³

Immediately following the election, Trump's transition team published an outline of his proposed healthcare policy, including the use of inter-state markets and high-risk pools.⁴ Many other ideas for replacement include provisions strengthening the state role. Trump informed the *Wall Street Journal* in mid-November that he would consider leaving in place two provisions from the ACA: allowing adult children to remain on their parents' insurance until the age of 26 and enabling people to obtain insurance despite "pre-existing conditions."⁵ Whether Trump will push for these policies to be included in a replacement healthcare plan passed by Congress remains unclear. During his first day in office, President Trump signed an Executive Order giving agencies wide breadth in scaling back aspects of the ACA and committing the incoming administration to a hasty repeal of the law.⁶

As the President molds his incoming administration, however, his appointments shed light on possible policy avenues. Representative Tom Price (R-GA) has been nominated to be the next Secretary of Health and Human Services.⁷ Before serving in the Georgia State Senate and subsequently the House of Representatives, Price was a practicing orthopedic surgeon and instructor.⁸ Since the Affordable Care Act's passage, Representative Price has persistently introduced bills that offered a comprehensive alternative to the existing healthcare plan. The Empowering Patients First Act would have repealed the ACA, while instating age-based tax credits for insurance coverage and HSA contributions, as well providing grants to states to subsidize higher-risk patients, e.g. those with pre-existing conditions. Price's proposal would also enable consumers to purchase insurance plans across state lines, a change that Trump strongly advocated during his campaign.⁹ During his hearing with the Senate Health, Education, Labor and Pensions Committee, however, Price declined to propose a specific replacement plan for the Affordable Care Act. Price did express a desire to help those covered under the ACA retain coverage despite the impending repeal.¹⁰

President Trump also picked Seema Verma, whose consulting firm helped design Indiana's Medicaid expansion, to oversee Medicare, Medicaid, and the Children's Health Insurance Program. The Indiana expansion included provisions popular among conservatives, such as a required small monthly payment for insurance. Other states with Republican leadership have used Verma's firm to implement the Medicaid expansion, which was a segment of the Affordable Care Act.¹¹ Representative Price called attention to Indiana's program during his Senate hearing on January 18, calling it "a best practice... for many other states to follow."¹² Both Representative Price and Verma have to be confirmed by the Senate before beginning their duties, which will include implementing any changes to or repeal of the ACA.

President Trump also must decide administration policy for the pending lawsuit the House of Representatives filed against a subsidy program of the Affordable Care Act. Subsidies

are provided to insurance companies to off-set insurance costs for low-income people, but the House maintains that the subsidies are not funded properly. Following the election, the House asked the Federal Court of Appeals to pause proceedings on the lawsuit. If President Trump does not instruct the Justice Department to fight the suit, federal subsidies to health insurance companies could quickly end. If this foundational mechanism of the ACA halts, the ACA would become defunct, pre-empting congressional efforts to repeal and replace the ACA.¹³

The states had some autonomy in their implementation of aspects of the ACA. For example, states had the option to implement a healthcare market within their state or rely on the federal insurance marketplace. States also had flexibility in their implementation of expanded Medicaid funding. The fate of these state marketplaces and expanded Medicaid programs remains up in the air, however, until a replacement for the Affordable Care Act has been agreed upon by Congress.

1 <http://www.politico.com/story/2017/01/conway-priebus-obamacare-repeal-233329?cmpid=sf>

2 <https://www.nytimes.com/2017/01/13/us/politics/affordable-care-act-congress-budget.html>

3 <https://www.nytimes.com/2017/01/12/us/politics/health-care-congress-vote-a-rama.html>

4 <http://www.usnews.com/news/articles/2016-11-11/donald-trump-provides-details-of-health-care-policies>

5 <http://www.wsj.com/articles/donald-trump-willing-to-keep-parts-of-health-law-1478895339>

6 https://www.nytimes.com/2017/01/20/us/politics/trump-executive-order-obamacare.html?_r=0

7 http://www.nytimes.com/2016/11/28/us/politics/tom-price-secretary-health-and-human-services.html?_r=0

8 <http://tomprice.house.gov/about/full-biography>

9 <https://www.congress.gov/bill/114th-congress/house-bill/2300?q=%7B%22search%22%3A%5B%22tom+price%22%5D%7D>

10 <https://www.nytimes.com/2017/01/18/us/politics/nominee-for-health-secretary-is-vague-on-replacing-affordable-care-act.html?smid=fb-nytimes&smtyp=cur>

11 <http://www.npr.org/sections/health-shots/2016/11/29/503762324/trump-picks-seema-verma-to-run-medicare-and-medicaid>

12 <https://www.nytimes.com/2017/01/18/us/politics/nominee-for-health-secretary-is-vague-on-replacing-affordable-care-act.html?smid=fb-nytimes&smtyp=cur>

13 <http://www.politico.com/story/2016/11/obamacare-house-lawsuit-231724>