

The ACA after the expiry of the budget reconciliation

After the latest repeal bill was withdrawn and the budget reconciliation has expired, what does the future hold for the ACA? Susan Jaffe, *The Lancet's* Washington correspondent, reports.

Republicans, from President Donald Trump down, have predicted the imminent demise of the Affordable Care Act (ACA) and its health insurance marketplaces, but so far their efforts to dismantle the law have proven far more vulnerable. Next month, enrolment begins for health insurance coverage in 2018. As the programme enters its fifth year, the rate of uninsured people in the USA has hit an all-time low, and after several attempts, the ACA repeal is on hold, if not abandoned.

At the same time, there is growing acknowledgment across the political spectrum that the ACA needs some improvements, and faltering bipartisan negotiations in the Senate Health, Education, Labor and Pensions committee have resumed.

"It's been a big problem, up to now, that neither party has been interested in opening the ACA for meaningful improvement", said David Barbe, a family physician and president of the American Medical Association (AMA), representing over 220 000 medical students, residents, and physicians. But any fixes will probably come too late to affect 2018 insurance policies, which were finalised last month.

Senate Republicans had hoped to muster the 50 votes needed to pass legislation repealing and replacing the ACA (with Vice President Mike Pence casting the deciding 51st vote), before a procedural strategy known as the budget reconciliation, which provides a temporary exception to the 60 votes that are usually required to approve legislation, expired at midnight on Sept 30, when the federal government's fiscal year ended. But the repeal bills failed to gain enough support before then.

At the beginning of the final week, Capitol police arrested 181 people with disabilities and their supporters, as they

protested outside the only hearing on a repeal legislation, sponsored by South Carolina Senator Lindsey Graham and Louisiana Senator Bill Cassidy.

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More than 400 hospital, physician, and other provider associations, consumer and patient advocacy groups and health insurance companies opposed the Graham–Cassidy bill, including members of the American Cancer Society Cancer Action Network like Steve Taylor. Last month, he travelled to Washington, DC, from Anchorage, AK, to meet with Alaska Republican Senator Dan Sullivan's staff to discuss the Graham–Cassidy legislation.

The bill would have repealed the ACA, redistributing its funding to the states so they could establish their own health insurance systems in 2 years, deciding which—if any—of the ACA's patient protections and mandatory health benefits they keep. It would have also provided states with limited grants for Medicaid, the federal-state health-insurance programme for people with low income. Critics claimed that such block grants would threaten funding for nursing home residents, care for Americans with disabilities, home health aides, and other home-based Medicaid services.

"Legislation that threatens to cut coverage and access to care for 1 million Ohio residents who have secured coverage through the federal [marketplace] and expanded Medicaid eligibility is disruptive to Ohio's health-care system", said John Palmer, a spokesman for the Ohio

Hospital Association, which includes 220 hospitals. Many of those hospitals could not afford to serve uninsured patients. "Nearly 20% of hospitals in the state operate with negative margins and one in four operate below a 2% margin."

Taylor, a three-time cancer survivor, spoke to reporters before his meeting with Senate staffers, and wore a red T-shirt for the occasion emblazoned with the words "I am a pre-existing condition", a reference to the ACA's ban on insurance companies charging people higher rates if they have pre-existing health conditions.

One of several medications he depends on is an injection that would cost US\$10 000 every month if he didn't have health insurance. Without the ACA's protection for pre-existing conditions and its ban on limiting annual insurance expenses, Taylor fears he and other patients with expensive chronic health problems would not be able to get medical care. "We would have access to care but even though it's there, if it's too expensive, that's not access", he said. "It's out of reach."

Has the repeal effort ended?

3 days before the midnight deadline, Senators Graham and Cassidy



Steve Taylor came to Washington, DC, to urge senators to reject ACA repeal

announced that they were withdrawing their repeal legislation because “we don’t have the votes”, as Cassidy put it bluntly. Among the leading opponents was Graham’s long-time friend, Arizona Republican and former presidential candidate John McCain.

“The missing ingredient for us as Republicans has been we know what we don’t like: Obamacare is not working”, Graham said, noting only one health insurance provider is selling policies in his state’s ACA insurance marketplaces. “But we’ve had a hard time articulating what we’re for until now.”

Graham promised lawmakers there would be more time to consider the legislation, responding to McCain’s criticism that its sponsors were rushing it through without following the usual legislative process of multiple hearings and debating any amendments. McCain said in a statement that he couldn’t support the Graham–Cassidy bill “without knowing how much it would cost, how it will affect insurance premiums, and how many people will be helped or hurt by it”.

Although Republicans ran out of time, the repeal effort is still a top priority, said Stan Dorn, a senior fellow at Families USA, a consumer advocacy group that worked to help pass the ACA. Republicans have not given up on their goal.

“The Republicans have paused in their assault on the [ACA], but they have vowed to renew the attack as soon as they see prospects for success”, he said. A new budget resolution under consideration in the Senate contains the groundwork for trying yet again to pass legislation that would need only 51 votes to repeal the ACA. “There are all kinds of opportunities [Republican] leadership would have to put more pressure on some senators and get them to support health-care cuts”, he said.

“In my judgment, they are just going to keep coming back again and again”, said Oregon Senator Ron Wyden, the senior Democratic member of the powerful Senate Finance Committee. “This is an ideological trophy for their

big contributors in the Republican Party—that they repealed the [ACA].”

Republicans claim the ACA isn’t working and point to the rising cost of monthly premiums and the various counties across the USA where only one or two insurers offer coverage through the ACA’s online insurance marketplaces. Insurers have said premiums will have to be increased next year to account for the uncertainty generated by the Trump Administration’s threat to stop paying the companies subsidies to reduce copayments and other cost-sharing payments for low-income policy holders.

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“They’re not letting it fail, they’re making it fail,” said Dorn. The Trump Administration has cut the open enrolment period in half, to 6 weeks, cut funding for the law’s so-called navigators who help people sign up for marketplace or Medicaid coverage, and will shut down the online enrolment website for 12 h on all but one weekend during the shortened enrolment time.

“I spent today cancelling appointments”, said Rachel Rosen DeGolia earlier this month. She has been an ACA navigator in Cleveland, OH, for the past 4 years. In addition to helping people compare complicated insurance plans, DeGolia said navigators help beneficiaries understand and use their plan, find doctors and other providers that accept their plan, and provide a crash course in Insurance 101. The administration cut Ohio’s navigator funding of nearly \$2 million by 71%. As a result, DeGolia and some 60 other navigators serving the state’s 88 counties have been laid off.

“It does patients very little good to have a programme that they either don’t know about, don’t know if they qualify, or they don’t know how to

access to benefits that are available to them”, said Barbe, the AMA president. “Patients have a benefit that would give them access to health care and we’re sort of hiding it from them.”

From a repeal to a fix

“There’s universal agreement in [the Republican Party’s] conference that Obamacare is failing [and] can’t be repaired”, Graham told reporters. “Our Democratic friends are talking about bipartisanship. Let’s engage each other and see if we can find a bipartisan pathway forward that basically changes Obamacare, [but] doesn’t prop it up.”

ACA supporters hope Congress will fortify the insurance marketplaces by guaranteeing cost-sharing reductions, among other steps. “We need to work on improving what we have”, said Michael Munger, president of the American Academy of Family Physicians (AAFP). The AAFP, which represents 129 000 doctors, is also asking Congress to consider creating a government-run public insurance plan similar to Medicare, which insures nearly 57 million older or disabled Americans. The AAFP also wants primary care to be provided at no cost to patients, which will create a healthier population and reduce medical spending, Munger said.

The problem lawmakers face is that some Americans have benefited from the ACA while others have insurance plans with bells and whistles they do not want that go beyond basic protection from financial losses, said Ed Haislmaier, a senior research fellow at the conservative Heritage Foundation. “How do you give people back what they used to have without undoing what some other people now have?”

But Taylor, who is getting to know his way around the halls of Congress, fears that something important has been lost in the debate. “It’s unfathomable that we’re turning this into a political issue when it’s about health care, it’s about our lives.”

Susan Jaffe