Changes in the US tax system will also affect health care

The tax overhaul pushed by Republicans could jeopardise the ACA's health insurance marketplaces. Susan Jaffe, *The Lancet's* Washington correspondent, reports.

In the midst of celebrating congressional approval for the first major overhaul of the US tax code in 30 years, President Donald Trump lauded the legislation's substantial tax cuts and the many new jobs it is expected to create.

The new tax law also contains a provision aimed at another administration target, the Patient Protection and Affordable Care Act (ACA). Next year, it eliminates the ACA's tax penalty for Americans who disregard the requirement to have health insurance, one of the law's most unpopular features. Even though the ACA's health insurance mandate is still quite intact, Trump and others claim there is effectively no mandate without a penalty.

"When the individual mandate is being repealed, that means Obamacare is being repealed", Trump said shortly before signing the tax bill into law last month. "And we'll come up with something that will be much better, whether it's block grants or whether it's taking what we have and doing something terrific."

Abolishing the penalty could undermine the ACA's system of online health insurance marketplaces by reducing the number of participants.

The Congressional Budget Office (CBO), an independent agency that scrutinises the economic impact of proposed legislation, estimates that by 2027 about 13 million people would become uninsured as a result of eliminating the penalty.

Yet it might be too soon to declare the ACA's demise.

For people with no other source of affordable health insurance, only the marketplaces offer federally subsidised policies providing comprehensive benefits set by the ACA, including such basics as prescription drugs.

Nearly as many people enrolled this year as last year—about 9 million in the federally run marketplaces in 39 states—notes Judy Solomon, vice president for health policy at the Center for Budget and Policy Priorities, a non-partisan research institute in Washington, DC. And they managed to sign up "despite a lot of sabotage including withdrawal of funds for outreach and enrolment assistance as well as stopping the payment of the cost-sharing reductions", she said.

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These discounts lowered copayments and other out-of-pocket expenses for low-income beneficiaries.

Last October, Trump cancelled federal funds for these reductions, due to a legislative technicality. After creating them in the ACA, Congress did not approve specific funding to pay for them. Insurers must still provide the reductions to eligible beneficiaries but because the government no longer reimburses the companies, many have raised monthly premiums to cover the shortfall.

As the premiums increased, government-funded subsidies—in the form of tax credits—rose as well. "That's because the tax credits are designed on a sliding scale to require individuals to pay only a percentage of their income toward the cost of a [mid-level] 'silver' plan", said Karen Pollitz, a senior fellow at the Kaiser Family Foundation and a former director at the US Department of Health and Human Services during the Obama administration.

"Whatever the difference is between the actual cost and your required contribution is the amount of the tax credit that the federal government contributes", she said. As a result, marketplace beneficiaries who receive subsidies are protected from the price increases driven by directives from Washington.

Even though congressional Republicans and the Trump administration are working to streamline government and cut spending, they have instead expanded the government's ACA obligations.

"Uncle Sam is paying a whole lot more and that's all because of the change in the cost-sharing reductions reimbursement to insurers", said Pollitz.

"Carrots, not sticks"

The requirement to buy health insurance—enforced by the penalty—was intended to ensure that both healthy and sick people would buy insurance, so that healthy beneficiaries could offset the cost of treating those who were ill. Since the ACA also required insurers to sell policies without regard to an individual's pre-existing health conditions—one of

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President Donald Trump signed the tax cut reform bill on Dec 22, 2017 the law's most popular provisions—companies worried that without an insurance penalty, "people will not participate in years when they are pretty certain that they are not going to need health insurance", said Pollitz.

"Insurers were adamant when the ACA was being debated that 'if you make us take all comers regardless of health status and charge them the same and not exclude their pre-existing conditions, then there has to be a mandate'", she said.

Americans who don't have health insurance are charged a penalty on their tax returns, which will end in 2019. This year, the penalty is the greater of two amounts: either US\$695 for each adult and \$347·50 for each child, up to \$2085 per family, or 2·5% of the family income that exceeds the threshold for filing federal tax returns (\$10 400 for a single taxpayer in 2017 or \$20 800 for a couple).

"The individual mandate was always one of the most unpopular measures targeted for repeal", said Thomas Miller, a resident fellow at the American Enterprise Institute.

But the penalty for not having insurance is relatively weak and enforcement has been limited, he said.

"Its impact was substantially less than was either hoped for or feared, depending upon your perspective", Miller said. "People sign up because of the generous subsidies", he said.

"It's the carrots, not the sticks, that matter", said Robert Moffit, senior fellow for health policy at the Heritage Foundation. The individual mandate and its penalty "are not a powerful economic incentive".

He believes a greater threat to the participation of healthy people is the ACA rule that says older beneficiaries can be charged premiums no more than three times as much as younger—and usually healthier—people. The rule pushes premiums higher for the younger beneficiaries the marketplaces need.

Health-related effects avoided

Critics of some provisions in the tax reform legislation approved by the House of Representatives worked successfully to remove them from the final law. One measure would have counted waivers of medical education tuition as taxable income and another would have eliminated the tax deduction for student loan interest. Both changes would have added to medical students' already heavy financial burden.

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"Medical education remains the most expensive post-secondary education in [the USA], with an average medical student debt for indebted graduates of \$176 348", said David Barbe, president of the American Medical Association (AMA), which has about 250 000 members.

Another provision in the House legislation would have ended the ability of people with high medical bills to deduct some of those costs from their taxable income. Instead, the final law allows the deduction of medical expenses that exceed 7·5% of their income during 2017 and 2018. In 2019, the limit reverts to the 10% established under the ACA. The AMA estimates that nearly 9 million Americans, half with incomes of \$50 000 or less, rely on this deduction.

"It is critical for patients who need extended skilled nursing, custodial, medical, and hospital care, such as children with special needs and patients with Alzheimer's disease and other dementias", Barbe said.

Looming cuts

The tax breaks provided under the new law are expected to increase the federal deficit by about \$1·5 trillion during the next 10 years because they are not offset by spending reductions, according to the CBO. As a result, automatic spending cuts required under the 2010 Pay-As-You-Go Act (PAYGO) could take effect next year to roll back the increased debt.

Although many government programmes are exempt from PAYGO, Medicare, which provides health insurance to 58 million older or disabled Americans, is not among them. Medicare would be subject to a maximum 4% cut—or \$25 billion annually—according to the CBO. The budget cuts would have taken place a year after the tax law was enacted.

"Those cuts would have been catastrophic", said Lindsey Copeland, federal policy director at the Medicare Rights Center, a consumer advocacy group in New York.

That possibility and likely backlash was so serious that the Trump administration considered a delay in signing the law until this month so that Medicare cuts would occur in 2019, after the November, 2018, election, according to news reports late last month.

But in the temporary spending bill that kept the government running until Jan 19, Congress added a provision to exempt the tax reform legislation from the PAYGO cuts. Trump signed the tax bill into law on Dec 22, 2017.

Still, advocates for low-income and older people are not relieved. Because the tax law deepens the federal deficit, they fear the Republican majority in Congress could use it as a reason to make selective spending reductions in expensive domestic programmes.

"It is a pathway for them to do what they've wanted to do for a long time", said Solomon.

Medicare, Medicaid, and social security are most at risk, said Copeland. "We are really worried about the impact this would have on people who rely on these programmes to remain happy and healthy and a part of their community", she said.

Susan Jaffe