



## US election 2020: the future of the Affordable Care Act

President Donald Trump pledges to replace the Affordable Care Act while his Democratic opponent Joe Biden offers detailed proposals to improve it. Susan Jaffe reports from Washington, DC.

This report is the third of three in a series exploring the health and science issues in the campaign for the US presidency

For **Trump's priorities** see <https://www.donaldjtrump.com/media/trump-campaign-announces-president-trumps-2nd-term-agenda-fighting-for-you/>

For **Biden's policy proposals** see <https://joebiden.com/joesvision/>

For more on **Medicaid work requirements** see [World Report Lancet 2018; 391: 1135-36](#)

For more on **Medicare for All** see [World Report Lancet 2020; 395: 673-74](#)

Since winning the presidency in 2016 in large part by promising to eliminate Obamacare, otherwise known as the Affordable Care Act (ACA), Donald Trump has promised more than a dozen times that his replacement plan would be ready soon. The plan would be released in 2 weeks, a White House spokeswoman said 2 months ago.

"We're going to have a health-care plan that will be second to none", Trump said in 2017. "It's going to be great and the people will see that." And at last week's final presidential debate, he vowed "to terminate Obamacare, [and] come up with a brand new beautiful health care".

A decade after the ACA—President Barack Obama's signature achievement—became law, repealing and replacing Obamacare is again central to Trump's re-election. And improving and expanding the law is a crucial part of the campaign of his challenger, former Vice President Joe Biden. The outcome affects coverage for more than 20 million Americans and up to 135 million more with pre-existing health problems who insurers could charge higher premiums or simply turn away without the ACA's protection. Add to this the people who may now be considered to have a pre-existing health condition among the 3.9 million adults younger than age 59 years who have contracted COVID-19.

But when the president again touted his "great" health-care plan during a *60 Minutes* interview last week, he was asked why we haven't seen it. "You have seen it", he replied. "I've been putting out pieces all over the place, and we actually have plans."

"Obamacare is no longer Obamacare... because we've gotten rid of the worst part of it—the individual mandate [to buy health insurance]—and made

it much less expensive", Trump declared at a North Carolina campaign rally last month. "A lot of that was through good management." But he quickly added, "I'm in court to terminate this really, really terrible situation".

**"...health care is not a privilege, it's a right'..."**

On Nov 10, 2020, the Supreme Court will hear arguments in a lawsuit by Republican state attorney generals and the Trump administration to invalidate the ACA. With the addition of Amy Coney Barrett, Trump's conservative appointee, the prospect that the court could overturn the law or, more likely, eviscerate some provisions makes the need for a replacement plan more urgent.

"Americans deserve access to great health care", said Courtney Parella, the Trump campaign's deputy national press secretary. "President Trump's recently unveiled America First Health-care Plan will provide better care, increase choice, lower costs for families and seniors, and protect Americans with pre-existing conditions."

What Trump has provided is an executive order that he signed on Sept 24 that includes a compilation of past actions by Congress and Trump's administration and refers to other executive orders that state the president's intent but lack enforcement power. Experts across the political spectrum are sceptical.

"President Trump has said repeatedly that he would protect people with pre-existing conditions", said Doug Badger, a visiting fellow at the conservative Heritage Foundation (Washington, DC) and former health policy adviser to President George W Bush. "He has not specified how he would do that."

"There's absolutely no kind of a formal plan", said Katie Keith, a professor at the Georgetown University Law Center (Washington DC). "If you were going to try to decipher what a second-term Trump administration would do [about the ACA], it would be more of the same." She expects continuing efforts to undermine the law, such as the administration's funding cuts for enrolment advertising and assistance for the ACA's insurance plan marketplace and reducing the open enrolment period.

Shrinking the ACA's Medicaid expansion will also continue in Trump's second term, she said. The administration has encouraged states to establish work requirements for most adult beneficiaries. Inability to comply has reduced Medicaid enrolment in some states.

Although Trump has promised to keep protections for people with pre-existing health conditions, he has not said how he would achieve those protections if other elements of the ACA were repealed. To guarantee Americans health insurance, the ACA required insurers to accept all enrollees and to provide some basic essential benefits. To offset the cost of caring for chronically ill patients, Congress required all adults—including healthy people—to buy insurance. Although that mandate was later removed, enrolment has been stable.

"Without all of the protections in the ACA, people with pre-existing conditions may be able to get a health plan but it might not pay for their health care", said Cynthia Cox, director of the Kaiser Family Foundation's Program on the ACA (Washington, DC). "They would either have extraordinarily high out-of-pocket expenses or more likely just won't be able to get the care in the first place."

But Brian Blase, former special assistant to President Trump at the National Economic Council, praised the administration for creating insurance options outside of Obamacare, especially for the middle class, including expanding the availability of short-term renewable health plans that are inexpensive but have more limited benefits.

Biden's more comprehensive health-care proposal would expand ACA health insurance policies to more Americans by increasing premium subsidies and tax credits. He would also eliminate the income eligibility limit for financial assistance and instead guarantee that no one would pay more than 8.5% of their income on health insurance. Along with policies from private insurance companies, Biden would add a new public health insurance option modelled after the Medicare programme. This public option would be available to individuals buying their own insurance as well as people who get insurance through their employer but are looking for something more affordable. It would also be premium-free for low-income families who live in the 14 states that did not expand Medicaid coverage as allowed under the ACA.

A Biden administration would also expand access to abortion and contraception by repealing the Hyde Amendment, a federal law that prohibits the federal government from paying for such services. He would also extend to the rest of the country a successful Californian programme to reduce maternal deaths, which disproportionately affect Black women.

A separate proposal to help caregivers would expand non-institutional long-term care services for older adults and people with disabilities and raise wages for direct-care workers. "I think health care is not a privilege, it's a right", Biden said during the second presidential debate last week. His health-care plan

### Drug pricing

The candidates have some similar ideas to reduce the cost of prescription drugs. Although Biden's proposals have yet to be tested, the president's efforts have run into obstacles he vows to overcome during a second term.

Trump would tie the prices of retail prescriptions (excluding those used in a hospital or clinic) to the lowest prices paid by certain high-income countries. Most Republicans oppose the plan as price negotiation by proxy and instead look to private sector competition as the way to reduce drug costs.

"There are a lot of questions about how it would work", said Rachel Sachs, an expert in drug pricing policy at Washington University School of Law (St Louis, MO). Even if the US could find out what other countries pay for a particular drug, "there's no way to force companies to sell it to us at that price", she said.

Rather than rely on price negotiations in foreign countries, Biden would allow the US Government to negotiate prices of all drugs directly with pharmaceutical companies on behalf of the 62.7 million seniors with Medicare coverage. But Badger says price negotiations between drug makers and the private insurers that offer Medicare drug plans have "performed well, keeping premiums and costs to the federal government far below projections".

Both candidates would help Americans buy drugs at lower prices from other countries. Biden would allow all

Americans to import drugs deemed safe by the Department of Health and Human Services. Under Trump's more limited plan, states would request permission to import drugs from Canada for their residents. States would have to show that their programme saves money and explain how they would ensure that the drugs come from Canada and are not counterfeit. So far, six states are waiting for government approval. However, Sachs doubts that these limited state programmes will come to fruition because they lack partnerships with Canadian pharmacies, among other reasons.

One proposal Trump is likely to pursue if re-elected is his promise to send a \$200 discount card to each person with Medicare drug coverage who does not receive any other subsidies to defray the cost of their prescriptions. But the card has been mired in controversy. It would be offered under an ACA provision for pilot projects, which could disappear if the law is repealed. It is also unclear whether the cards constitute an illegal use of government funds by Trump to boost his political support.

Biden's agenda to reduce prescription costs also includes capping price increases for brand name and some generic drugs to the general rate of inflation. He would also end drug companies' tax deduction for the billions of dollars they spend on advertising.

"is something that's going to save people's lives".

But many of his proposals will require congressional approval, said Cox. "When the ACA was passed, it was a very controversial issue 10 years ago, even among Democrats", she said. Attempts to loosen the Hyde Amendment restrictions nearly sunk the ACA until a narrow compromise was reached. Tackling it again won't be easy. Some critics say Biden's public option goes too far. Private insurers won't

be able to offer competitive benefits and prices, and eventually some companies could go out of business. Conversely, progressive Democrats argue that it doesn't go far enough. It is not the Medicare for All programme championed by Vermont Senator Bernie Sanders that would expand Medicare coverage with added benefits for all Americans. But Biden is betting that his public option compromise will appeal to more voters.

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