Trump makes pro-insurance company changes to Obamacare

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The Trump administration on Thursday released changes to the Affordable Care Act (ACA) that closely adhere to the recommendations of the private health insurance industry. The move follows the withdrawal by Trump and House Republicans late last month of a bill to repeal and replace the legislation better known as Obamacare, after Trump and House Speaker Paul Ryan failed to secure the necessary votes in the Republican-controlled House.

The failed Republican legislation would have gutted Medicaid, drawing back on its expansion under the ACA as well as allowing states to block-grant the insurance program for the poor. The Congressional Budget Office estimated that 26 million Americans would lose coverage under the Republicans' American Health Care Act (AHCA) over a decade.

The AHCA largely drew on the pro-insurance company underpinnings of Obamacare, further shoring up the for-profit private insurers while cutting costs for the government and corporations. A key component of the ACA, the "individual mandate," forces those without insurance from their employer or a government program to purchase it from a private insurer or face a tax penalty.

The new changes announced by Trump were in response to demands by the giant private insurers, who claim that Americans are "gaming" the Obamacare system by signing up only when they get sick and then dropping out after receiving medical treatment. The changes are aimed at making more young, healthy people sign up, while forcing older people with greater health care needs to pay more for coverage. All of these changes are aimed at increasing the insurers' revenue stream.

The changes include:

• A shortened 45-day sign-up period for open enrollment for 2018 coverage. The window to sign up is changed from November 1, 2017, through January 15, 2018, to November 1 through December 15, 2017. The change follows the schedule that would have been in effect for 2019 under the ACA. This change will stop people from waiting until the insurance year is already underway to make a decision on purchasing coverage.

• Limits on "special enrollment periods," which allow people to sign up outside the normal enrollment window. Insurers claim that waivers have been too liberally granted, allowing some people to sign up only when they need treatment. People who experience life changes—such as losing a job, getting married or divorced, having a child, or moving—will now be required to provide documentation to enroll outside the open-enrollment period.

• Allowing insurance companies to refuse to sell policies to people who fail to make all their premium payments in the current year. The ACA allowed a 90-day grace period before consumers could be kicked off their plans for non-payment. Insurers will now be allowed to use any payments for the subsequent year to go toward debt on the previous year premiums, meaning people will not be covered for the new year until they are fully paid up to date.

• Allow insurers to sell skimpier plans. Under the ACA, each "metal" level of coverage—bronze, silver, gold, platinum—must cover a certain percentage of a person's expenses, with the least expensive having less coverage and lower premiums, and the most expensive having better coverage and higher premiums.

Under Trump's new regulations, insurers would be given more leeway in the percentage of coverage required, meaning they could cover less. Because tax credit subsidies are based in part on the second-cheapest silver plan in each geographic area, the value of these credits could potentially be lowered.

• Allowing insurers to include fewer “essential community providers” in their networks. Obamacare requires insurers to include at least 30 percent of area health providers that care for “medically underserved” and poor patients. This would change to 20 percent under the new rules, meaning less coverage would be available to the poor and underserved. Also, it would be up to the states or private accrediting entities to police insurers’ adherence to the 20 percent rule.

Trump’s new rules do not address so-called cost-sharing subsidies, which differ from the better-known tax subsidies for insurance premiums. Under the ACA, insurers are required to reduce deductibles, copayments and other forms of cost-sharing for the lowest-income enrollees. The government reimburses insurers for those payments.

The Obama administration was sued in 2014 by House Republicans, who argued that the federal government was making these cost-sharing payments without authorization from Congress. A federal judge ruled in favor of the Republicans last year; the Obama administration appealed the decision. The Trump administration became the defendant in the case when Trump took office. The two sides obtained delays from the appeals court while they decided how to proceed.

So far, the Trump administration has continued making those payments. But in comments Wednesday to the *Wall Street Journal*, Trump threatened to hold back the cost-sharing payments to insurers in an effort to force congressional Democrats to negotiate on a new Obamacare replacement package.

While praising Trump’s new regulations, Marilyn Tavenner, CEO of America’s Health Insurance Plans, cautioned in a press release, “There is still too much instability and uncertainty in this market. Most urgently, health plans and the consumers they serve need to know that funding for cost-sharing reduction subsidies will continue uninterrupted.”

In other words, if the payments are cut off, more insurers may pull out of the ACA exchanges, and those that remain may hike premiums. This year alone, premiums for ACA plans rose by an average of 25 percent.

House Minority Leader Nancy Pelosi, Democrat of California, responded predictably to the threat to cut off the payments to insurers, saying, “Refusing to make the Cost Sharing Reduction payments has no purpose but to hurt millions of people, and manufacture a crisis.” Congressional Democrats have maintained a virtual silence on Trump’s new regulations.