

Latest volley aimed at gutting health care for workers

## Trump administration freezes “risk adjustment” payments to health insurers

**Kate Randall**  
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In its latest move to undermine the Affordable Care Act (ACA), the Trump administration is suspending billions of dollars in payments under the legislation known as risk adjustment. The Centers for Medicare and Medicaid Service said Saturday it was halting the payments due to a judge’s ruling.

Risk adjustment payments are intended to reduce the incentives for insurers to cherry-pick healthy consumers and weed out those with chronic illnesses and other preexisting conditions whose health costs are higher.

In the short term, \$10.4 billion in payments tied to the 2017 benefit year, which were scheduled to go to health insurance companies, will not be paid. This introduces uncertainty into the ACA markets just as insurers are deciding next year’s rates. The industry warned that the government’s failure to make the payments would likely push up premium rates on 2019 plans.

Over the last year, the White House has issued a number of executive orders and undertaken administrative actions to undercut the program popularly known as Obamacare. This follows the failure of several attempts by the Republican-controlled Congress last year to repeal and replace it. The president’s campaign has taken aim at the remaining fig leaves of reform in the health care legislation voted into law in 2010.

The suspension of risk adjustment payment will also have the effect of destabilizing the ACA marketplace. America’s Health Insurance Plans, an industry trade group, told the *Wall Street Journal* that it was “very discouraged by the new market disruption brought about by the decision to freeze risk adjustment payments.”

The Trump administration says the freezing of these payments is based on a ruling by a federal judge in Albuquerque, New Mexico, who ruled that part of risk adjustment provision’s implementation was flawed and hadn’t been adequately justified by federal regulators. The judge was ruling in a case filed by a small nonprofit, which

argued that the program’s formula disproportionately favored big insurers.

The administration, however, was not compelled to halt the payments on the basis of this ruling. Another federal judge upheld the risk adjustment formula in a separate case filed in Massachusetts.

In addition to encouraging private insurers to shun less healthy people, it will raise premiums. Scott Serota, president and CEO of The Blue Cross Blue Shield Association, said in a statement, “Without a quick resolution to this matter, this action will significantly increase 2019 premiums for millions of individuals and small-business owners and could result in far fewer health plan choices.”

### Pre-existing conditions protections

Last month, President Trump announced the Department of Justice (DOJ) was supporting a lawsuit that challenges preexisting conditions protections under Obamacare. In February, 20 Republican state attorneys general filed suit in federal court charging that Congress’s changes to the ACA in last year’s tax bill rendered the entire law unconstitutional.

Under the bill, the tax penalty for people who fail to obtain insurance—the so-called individual mandate—was repealed, effective January 1, 2019. The mandate requires people without insurance from their employer or a government program to obtain health coverage or pay a penalty. Removal of the tax penalty rendered the individual mandate unenforceable.

While the DOJ has argued that only the individual mandate, and not the entire ACA, should be struck down, its refusal to uphold the constitutionality of a current law is highly unusual. It is clear that the target is not the individual

mandate—which in fact funnels millions of dollars from paying customers to the insurers’ coffers—but the health care legislation itself.

If the individual mandate is ruled unconstitutional, private insurance companies could revert to rejecting people with many conditions—including heart disease, cancer, diabetes and a host of less serious health problems—or charging them exorbitant rates for coverage. The Kaiser Family Foundation estimates that 27 percent of people under the age of 65 have what could be considered a pre-existing condition. Pregnancy could be one of these.

### **Association health plans and short-term insurance**

Also last month, the Trump administration announced it was releasing rules making it easier for small businesses and self-employed individuals to buy insurance plans that do not comply with Obamacare’s regulations. So-called association health plans do not need to follow the rules for policies sold under the ACA, which means they do not need to provide coverage for services deemed “essential” by the ACA.

Trump asked federal agencies last fall to look for ways to expand the use of these plans, which could offer skimpier coverage for lower cost. The administration is also pushing to broaden the definition of short-term insurance, which is also exempted from the ACA’s rules. Taken together, these moves will have the effect of damaging the ACA’s marketplaces by attracting younger, healthier people, while forcing older, sicker people to either pay more for insurance or purchase sub-par insurance that might not cover services they need.

Signaling the administration’s long-term objectives, Andrew Bremberg, who oversees domestic policy at the White House, told reporters last year, “The president still firmly believes that Congress must act to repeal and replace Obamacare, but before that can be done, this administration must act to provide relief.”

The most radical plan drafted by congressional Republicans last year—known as the Graham-Cassidy bill after two of its authors, Lindsey Graham (South Carolina) and Bill Cassidy (Louisiana)—would basically eliminate the ACA’s private insurance marketplaces as well as Medicaid expansion, replacing them with lower-funded state block grants with few strings attached.

#### **A voucher plan for Medicaid**

This plan has now been rebranded and was issued by the Health Policy Consensus Group on June 19 in the form of “Policy Recommendations to Congress.” The group includes

former Republican Senator Rick Santorum along with representatives from the Goldwater Institute, the Heritage Foundation and the American Enterprise Institute.

The plan would replace federal payments to insurance companies with block grants to states, allowing states to “innovate” by providing low-cost, low-benefit plans. Under the group’s plan: “Anyone eligible for financial assistance under the block grant, CHIP [Children’s Health Insurance Program], or Medicaid can take the value of their premium assistance to purchase the private plan of their choice.”

In other words, Medicaid, CHIP and whatever other federal assistance is provided would be transformed into voucher programs, which has been the main aim of Trump and congressional Republicans. Block grants to the states would be based on ACA subsidies and the cost of Medicaid expansion “as of a fixed date,” i.e., frozen, putting “federal spending on real budget,” according to the plan.

President Trump indicated his support for the plan the day after its publication, tweeting: “...on conservative health plan: ‘The White House fully supports the efforts of the broad coalition from around the country working to address the Obamacare disaster and increase affordable healthcare options for middle-class Americans.’”

As part of its war on the working class, the White House has also authorized states to impose work requirements for Medicaid, the health insurance program for the poor jointly administered by the federal government and states, and in the Supplemental Nutrition Assistance Program (SNAP, food stamps).

Medicaid provides free health insurance to an estimated 74 million low-income people, while SNAP provides food-purchasing assistance to roughly 44 million Americans. The imposition of work requirements will not “dignify” program recipients and “lift them out of poverty,” but will in many cases bump them off the benefit rolls through onerous requirements.

There has been no demonstrable outrage from leading Democrats on Trump’s intensifying campaign to transform Medicaid into a cut-rate voucher program or other aspects of the administration’s crusade against the poor and dismantling of what remains of the social safety net.



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