

Midterms Bring New Focus to Healthcare

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Tuesday's midterm elections showed that healthcare is now a top issue among voters, according to exit polls. In an NBC News poll, healthcare was the top issue for a plurality of voters, ahead of the economy, immigration, and gun policy.^[1] As voters made their voices heard, they also helped to solidify the position of the Affordable Care Act ("ACA") nationwide. While the country waits for final vote counts to be tallied, three key takeaways have emerged:

Medicaid Expansion Further Entrenches the ACA

Voters in Idaho, Nebraska, and Utah approved Medicaid expansion, which allows states to expand the enrollment criteria for their Medicaid programs to allow coverage for individuals with incomes up to 138% of the federal poverty level. Following the midterm elections, the total number of states electing to participate in the Medicaid expansion increased to 37, with enhanced prospects of expansion in Kansas and Wisconsin following the election of Democratic governors in both states. The remaining states may implement Medicaid expansion at any time, and may be eligible for partial federal funding for up to three years.^[2]

Voter support for Medicaid expansion in traditionally conservative states indicates the political popularity of expanding access to healthcare for underserved populations. As expansion increases, the ACA likely becomes more entrenched, and politically popular, throughout the country. States controlled by Republican lawmakers that have not already expanded Medicaid may feel more pressure in the coming years to adopt the Medicaid expansion, and increase coverage for traditionally underinsured populations.

Protections for Pre-Existing Conditions are Here to Stay

Protections for individuals with pre-existing conditions are a significant issue for voters, and the midterm results indicate that future attempts to undermine such protections will be politically unpopular. While in recent years House and Senate Republicans have supported legislation that

would have the effect of rolling back protections for pre-existing conditions, they rushed to introduce legislation immediately before the election in an effort to show voters that they wanted to support the such protections.^[3]

However, it appears that the Republican strategy came too late. According to Steven Law, a former chief of staff for Senate Majority Leader Mitch McConnell (R-Ky.) and current head of the Senate Leadership Fund, “Republicans who didn’t pay attention to the implications of gutting Obamacare walked into the buzz-saw of preexisting conditions, which was a very effective issue for Democrats this year.”^[4]

House Democrats are already capitalizing on their midterm victory, revealing plans to hold a vote on protecting health insurance coverage for individuals with pre-existing conditions. The vote could come as early as January, when the Democratic candidates-elect assume control of the House.^[5]

Legislative Repeal of the ACA is Off the Table

With Democrats in control of the House of Representatives, repeal of the ACA is no longer a feasible option for Republicans. Republican lawmakers have made concerted efforts to repeal the ACA since it was signed into law, though no measure has succeeded. Last month, Mitch McConnell said that the most recent failure to repeal the ACA in 2017 was “the one disappointment of this Congress from a Republican point of view.”^[6]

With Democratic control over the House, McConnell acknowledged that repeal is off the table, and is now suggesting that both parties work together “on a bipartisan basis” to address the flaws in the ACA.^[7] Not only will attempts to repeal the ACA be futile with Democrats in control of one chamber of Congress, they will also be politically unpopular among voters – approximately 50% of voters have a generally favorable opinion of the ACA.^[8]

Implications for the Future

Now, with divided control in Congress, any significant health care legislation will require bipartisan cooperation. Reigning in prescription drug costs and combating the opioid crisis are the most likely targets for bipartisan legislation; however, no clear bipartisan strategy has emerged.^[9] Consequently, one might reasonably assume that legislation to “fix” the ACA will continue to be a contentious issue for the new Congress.

[1] Benjy Sarlin, *Midterm exit polls: Health care is top issue for voters*, NBC News (November 6, 2018)

[2] *What Does the Outcome of the Midterm Elections Mean for Medicaid Expansion?*, Henry J Kaiser Family Foundation (November 7, 2018)

[3] Alice Miranda Ollstein, *Trump, McConnell float possibility of bipartisan action on health issues*, Politico (November 7, 2018)

[4] Sean Sullivan, *Republicans abandon the fight to repeal and replace Obama’s health care law*, The Washington Post (November 7, 2018)

[5] Megan Henney, *House Democrats eye early vote to protect coverage for pre-existing conditions*, Fox Business (November 9, 2018)

[6] Sean Sullivan, *Republicans abandon the fight to repeal and replace Obama’s health care law*, The Washington Post (November 7, 2018),

[7] Sean Sullivan, *Republicans abandon the fight to repeal and replace Obama’s health care law*, The Washington Post (November 7, 2018),

[8] Ashley Kirzinger, Bryan Wu, Cailey Munana, and Mollyann Brodie, *Kaiser Health Tracking Poll – Late Summer 2018: The Election, Pre-Existing Conditions, and Surprises on Medical Bills*, Henry J Kaiser Family Foundation (September 5, 2018)

[9] Alice Miranda Ollstein, *Trump, McConnell float possibility of bipartisan action on health issues*, Politico (November 7, 2018)

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