

The Republican Senate Take-Over: Implications for the Affordable Care Act

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The mid-term election brings an historic changing of the guard in the health care leadership in Congress. Republicans will take control of the Senate in January and gain key chairmanships. Senior Democrats like Senators Harkin and Rockefeller, and Representatives Dingell and Waxman, who have been leaders on health policy issues for decades, are retiring. Congress is losing a deep well of institutional and health care policy expertise, but new leadership may open up opportunities that did not exist previously.

Republicans' top health care goal is to repeal the Affordable Care Act (ACA), but given Senate rules, the Presidential veto power, and internal divisions within the Republican party, **these efforts may produce relatively modest results.**

Soon-to-be Senate Majority Leader McConnell said the day after the election that he would prefer to repeal the "deeply unpopular" law, but that he does not have the 60 votes necessary to do so. An estimated ten million previously uninsured individuals have gained health care coverage over the past year, and the health care industry, seems to be faring fairly well under the law. Some Republicans are wary of full repeal because of the challenge of how to "replace" that coverage.

In response to pressure from the conservative wing of the Republican Party, Senator McConnell will likely schedule a symbolic vote for full repeal early in the session. President Obama made it clear the day after the election that he would veto a repeal bill in the unlikely event that Congress sent him one.

Republicans could have greater success changing the ACA with a piecemeal approach pursued through budget reconciliation or by including amendments in must-pass appropriations bills. Reconciliation requires only a majority vote, but even reconciliation will be complicated by the need to comply with the Byrd rule, which requires provisions to have a meaningful budgetary impact. Likely ACA amendments include:

- A repeal of the 2.3% medical device tax;
- Limiting the employer mandate by changing the definition of full-time employment from 30 to 40 hours a week; and
- Creating additional exemptions from the individual mandate.

Some of these changes will be expensive. The Congressional Budget Office estimates that the 40 hour workweek change would cost \$46 billion over 10 years and eliminating the medical device tax would cost about \$29 billion. Republicans will have to decide whether and how to pay for these changes.

Look for health care to be a focus in the Senate next year. The critical question is whether anything significant will result, or whether there will be lots of wheel spinning that will divert the world's greatest deliberative body from other pressing matters.

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