

# *What happens to older adult beneficiaries if the Affordable Care Act is repealed?*

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## *Introduction*

**P**arts of the Affordable Care Act (ACA) or Obamacare recently faced repeal—leaving many including some older adults—unsure of what would become of their healthcare benefits. The ACA covers about 20 million individuals through the Marketplace, Medicaid expansion, young adults staying on their parents' plan, and other coverages. Among older adults (aged 55-64), 4.5 million gained coverage since ACA was enacted. This issue brief describes the ACA, how it may be repealed, and how its repeal could affect the health of millions of older adults.

The ACA is not one single all-inclusive insurance coverage, rather it is a law made up of several rules and regulations that aim to control health care spending, expand access to care, and update how the payment and delivery system works (Oberlander, 2016). It creates new benefits, rights, and protections which includes covering those who have preexisting conditions (Obamacarefacts.org, 2015). Prior to the ACA (signed by President

Obama in March of 2010), only certain groups were covered by health insurance (e.g., those with certain diagnoses like end stage renal disease under Medicare) in a system that was complex and inefficient (Oberlander, 2016). The ACA expands access to care by making health insurance more affordable via Marketplaces, subsidies, and by giving states the option to expand Medicaid for low-income adults and families (HHS.gov, 2017). The ACA also requires employers to offer insurance and requires individuals to obtain insurance. These rules, regulations, and additional funding have increased access to care for millions.

## *Benefits for older adults*

The ACA has been responsible for improving the healthcare of older adults in a number of ways, including an expansion of benefits, expansion of coverage, cost savings, and improvements to nursing home care.

### **Expansion of benefits including**

- enhanced Medicare benefits,

- the abolition of lifetime and annual caps on insurance benefits,
- the reauthorization of Medicare Special Needs Plans,
- help with cost of Medicare prescription drugs for those in the Part D donut hole,
- expansion of the Money Follows the Person demonstration for community based care,
- additional funding for Aging and Disability Resource Centers,
- Medicaid at home services including the Community First Choice Options program, and
- an expansion of mandatory spousal impoverishment protections to community-based spouses of people receiving Home and Community Based Services (Miller, 2012).

#### **Expansion of coverage including**

- those covered under Medicaid expansion,
- subsidized coverage for the uninsured,
- coverage for direct care staff, and
- coverage for the more than 19 percent of adults age 55-64 who would not have enough health insurance to cover their needs (Miller, 2012).

#### **Cost savings include**

- national savings via a slower increase in healthcare spending (Oberlander, 2016), and
- savings associated with Medicare preventative services (Miller, 2012).

#### **Improvements to nursing home care including**

- improvements to care coordination, nursing home quality, and caregiving;
- enhanced dementia and abuse prevention training for certified nursing assistants,
- background checks for LTC workers,
- increased transparency regarding nursing home staffing, ownership, and expenditures,
- nursing home compare website improvements,
- standardized complaint forms, and
- shortening the length of time a person has to reside in a nursing home from 6 months to 90 days for eligibility for community-based care via the Money Follows the Person Program.

#### *How did we get to point of repeal?*

Although the ACA has seen a recent improvement in public poll approval ratings (NBC News/Wall Street Journal survey, 2017), it has not had strong majority public support. Since its inception The ACA's reputation has

been damaged by rumors of mythic death panels, glitches with HealthCare.gov, and penalties for not having coverage (although penalties are still less expensive than buying health insurance and many don't realize that they qualify for subsidies to help pay for coverage). Since its unveiling in 2009, public support of the ACA has remained at less than 50 percent, with support primarily from Democrats while Republicans voted many times for its repeal. Additionally, 26 states have challenged the constitutionality of the ACA (Dalen, et al., 2015). Republican opposition is particularly surprising given that the ACA was modeled after Republican Governor Mitt Romney's 2006 state insurance plan which was based on private insurance, competition, and federalism (Oberlander, 2016). Opponents of the ACA were particularly concerned about the individual mandates, health insurance exchanges or health insurance marketplaces, and Medicaid expansion.

Medicaid expansion has perhaps been the most politically contentious issue. Under the ACA, individuals with moderate levels of income could receive premium tax credits for Marketplace coverage, while Medicaid expansion was expected to help cover lower income individuals. States vary in their definitions of who qualifies for Medicaid; eligibility is based on varying levels of family size and poverty. The federal government also defines poverty based on family size and

poverty level, but their definition doesn't always align with the states'. Medicaid expansion under the ACA was intended to help cover nearly all low-income individuals (those at or below 138 percent of the poverty line; Garfield and Damico, 2016). Between 2014 and 2017, the federal government will pay for 100 percent of the difference between the ACA minimum definition and the state's Medicaid eligibility definition. After 2017, that percentage decreases to 95 percent in 2017 and to 90 percent after 2020. Initially, all states were required to expand Medicaid or risk losing all of their federal Medicaid funding, but a 2012 Supreme Court decision allowed states to opt out of the expansion. As of 2016, 19 states have not expanded their Medicaid programs, leaving almost 3 million individuals in a coverage gap (KFF.org, 2016). States that did expand Medicaid saw a greater reduction in their number of uninsured individuals compared to states that did not expand (45 percent versus 29 percent respectively; Robert Wood Johnson Foundation, 2016).

Another challenge for the ACA was the establishment of health insurance exchanges and legal challenges to tax subsidies that provided credits to uninsured individuals. States were expected to run their own health insurance exchanges because they would have a larger appropriation than the federal government, reduced regulation and guidance issues allowing states to "set their own course," and a greater ability to coordinate various

groups in the state (Americanbar.org, 2013). Despite these advantages, only 12 states including the District of Columbia have state-based marketplaces, 11 have a hybrid marketplace, and 28 have federally based marketplaces (KFF.org, 2017) which means that the feds are responsible for operating exchanges across most of US. A further challenge to the marketplace exchange was a lawsuit (King V Burwell) that challenged the legality of the ACA mandate and the tax credits provided to individuals to help cover the premiums for their insurance purchased through the marketplace (Obamacarefacts, 2015).

### *Which steps have been taken in repeal process?*

A plan to repeal the ACA recently proceeded through part of the budget reconciliation process in the House. Rather than repealing the whole ACA, the budget reconciliation process allows only parts of the ACA to be repealed. Parts that were expected to be repealed included cost assistance, Medicaid expansion, and the individual and employer mandates (Obamacarefacts.com, 2017).

The budget reconciliation process allows for expedited Senate consideration of bills that deal with the budget and avoids any possibility for Senate filibuster. The first step was taken in January when the House and Senate passed a budget resolution. The next step was for the House and Senate committees to

write up changes to ACA laws under their jurisdiction. On March 6, Republicans in the House revealed the American Health Care Act (AHCA)- a proposed replacement for parts of the ACA. Lacking support, the AHCA was pulled from the House floor on March 24.

### *Replacement*

The AHCA contained several proposed changes including changes to Medicare and Medicaid, Health Savings Accounts (HSAs), and allowing insurers to charge certain groups more than others for insurance coverage.

Several changes were proposed to Medicare and Medicaid which are both programs that older adults rely on, especially for long-term care needs. The AHCA proposed to eliminate a Medicare tax on high earners in 2017 rather than in 2018 as required by the ACA. The result would have been a \$10 billion loss in revenue and a large financial hit for Medicare Part A's trust fund (Committee for a Responsible Federal Budget, 2017). A plan to modify Medicaid included converting federal Medicaid payments to states into block grants. Currently, both states and the federal government share the cost of Medicaid. The federal government requires states to cover certain individuals and services. With block grants, states would receive a fixed amount from the federal government, based on the number of people who are currently enrolled in each state's Medicaid program, to cover the cost of Medicaid spending in that state.

States would also have more of a say in who and what services are covered, potentially leaving out those who were covered under the prior system and leaving out those who might qualify after the per capita calculation has been made. The Congressional Budget Office estimated that Medicaid funding would be reduced by \$880 billion from 2017 to 2026 (CBO Cost Estimate, 2017).

Another proposed change shifted the responsibility to pay for healthcare onto the individual via HSAs. HSAs are savings accounts that allow individuals to save tax-exempt money to pay for deductibles and other health care expenses in combination with a high deductible health insurance plan (one that carries a deductible of between \$1,300 and \$1,600 or higher). Individuals pay for most of their care out of their HSA until the deductible has been met. Under the AHCA, individuals could make a much larger HSA contribution (at least \$6,550 for those with individual high-deductible plans and \$13,100 for family plans). HSAs as a replacement plan, however, may be out of reach for many individuals or families who can't afford to save and purchase high deductible insurance. Furthermore, HSAs provide a tax shelter for those with higher incomes in search of ways to lower their taxes.

Finally, while the ACA allows insurers to charge older adults up to three times more than their younger counterparts, the AHCA

would have allow insurers to charge older adults more than five times as much as their younger enrollees—a plan that would unduly put a financial strain on older adults and make it almost impossible to afford coverage.

### Conclusion

The ACA has accomplished several goals including increasing health insurance coverage in the population. Its repeal would affect millions of individuals, including older adults. With regard to the most recent repeal attempt, the AHCA, the CBO estimated that in 2018, 14 million more people would be uninsured primarily due to repealing the individual mandate. That number jumps to 24 million more than under the ACA in 2026 and is largely attributable to states choosing to discontinue expanded Medicaid eligibility (CBO Cost Estimate, 2017). For people ages 50 to 64 and who are living on less than \$30,000 per year, the CBO estimated that about 30 percent would be uninsured under the AHCA. Furthermore, many programs that benefit older adults would have been affected.

Although policy makers were unable to pass the AHCA, further attempts to weaken the ACA and the healthcare system are possible. Several Republicans in the past, for example, have backed a modified voucher system for Medicare where individuals would purchase coverage from private insurers and receive a voucher to help pay for the insurance premiums (NYTimes, 2016). The traditional

fee-for-service version of Medicare would co-exist with the voucher based version. The proposal, however, could create a two-tiered system with the healthiest and wealthiest able to enroll in private Medicare while others are left in the publicly run version, driving up costs overall and in Medicare. Others have proposed raising the age of eligibility for Medicare from 65 to 67. This proposal would require those over age 65 to purchase insurance and receive an unspecified tax credit for doing so (Forbes, 2016). Raising the Medicare eligibility age has the potential to leave many older adults who rely on a fixed income uninsured. Other plans could include the Medicaid block grants described earlier and weakening state health insurance exchanges.

The ACA was a set of patchwork policies that was intended, in part, to close existing gaps in coverage and the failure of Republicans to replace it with the AHCA has emboldened some Democrats. Senator Bernie Sanders, for example, recently announced that he will introduce Medicare for All legislation. Under Medicare for All, the healthcare system would move to a single payer, universal coverage system that would cover the entire continuum of care, including long-term care and dental care. Under this system, all citizens would be covered using a single, public insurance fund. Medicare for All would increase access to healthcare and greatly reduce or get rid of co-payments, deductibles, and multiple insurer payments. Adoption of Medicare for All would

alleviate many of the issues with the ACA, avoid problems with repeal and devising replacement plans that won't work, and move the U.S. more in line with all of the other developed nations.

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