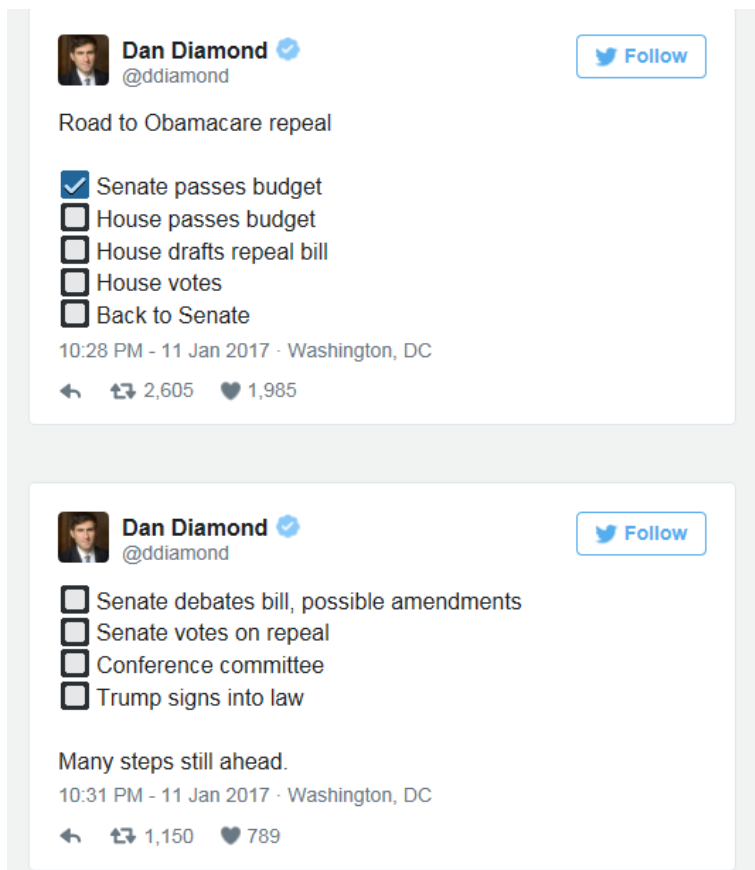


REPEAL & REPLACE ACTIVITY REPORT **FOR THE WEEK OF JANUARY 13TH, 2017**

ACA Repeal and Delay



The image shows two tweets from Dan Diamond (@ddiamond) on Twitter, dated January 11, 2017, from Washington, DC. The first tweet, posted at 10:28 PM, is titled "Road to Obamacare repeal" and contains a checklist with five items: "Senate passes budget" (checked), "House passes budget" (unchecked), "House drafts repeal bill" (unchecked), "House votes" (unchecked), and "Back to Senate" (unchecked). It has 2,605 retweets and 1,985 likes. The second tweet, posted at 10:31 PM, contains a checklist with four items: "Senate debates bill, possible amendments" (unchecked), "Senate votes on repeal" (unchecked), "Conference committee" (unchecked), and "Trump signs into law" (unchecked). It includes the text "Many steps still ahead." and has 1,150 retweets and 789 likes. Both tweets include a "Follow" button.

Senate resolution vote moves forward repeal of ACA^{1,2,3}

At about 1:30AM on Thursday, January 12, 2017, the Senate voted 51-48 to pass a budget resolution that is being used as a vehicle for rolling back the ACA, with the House expected to vote on Friday. Sen. Rand Paul (R-Ky.) voted against the resolution because it didn't balance the budget, while no Democrat supported the repeal rules. Although there is no unified Republican plan for an ACA replacement, this step in the process has outlined several provisions in the 7-year-old law that are now up for repeal. While Democratic representatives lacked the option

¹ <http://www.rollcall.com/news/policy/58553-2>

² https://www.nytimes.com/2017/01/12/us/politics/health-care-congress-vote-a-rama.html?_r=0

³ <http://www.vox.com/2017/1/12/14249476/senate-republicans-obamacare-repeal>

for a filibuster to prevent the passage of the resolution, they put forth several amendments that would have kept popular parts of the ACA. In the series of votes throughout the night, conservative members of the Senate spurned amendments proposed by Democrats that were intended to allow for imports of prescription drugs from Canada, protect rural hospitals, ensure access to coverage for people with pre-existing conditions, maintain the provision allowing people to stay on their parent's health insurance until age 26, and protecting the ACA provisions related to women's health, access to free birth control, and prohibiting women from being charged more than men for insurance because of their gender. This strategy puts the Republican representatives on-record as opposing these popular components of the laws that many of their constituents have grown a fondness for. The resolution will now make its way to the House for a confirmation.

Meanwhile, the Office of Management and Budget (OMB) has analyzed the budget resolution and determined that it would increase the public debt from \$14.2 trillion in 2016 to \$23.7 trillion in 2026. The annual on-budget deficit would increase to more than \$1 trillion by 2026, OMB also found. In another analysis, the Center on Budget and Policy Priorities found that repeal would provide the 400 highest income households with massive Medicare tax cuts. They estimate that each of these households would get an average tax cut of about \$7 million a year under ACA repeal.⁴

House Speaker Paul Ryan pushes for simultaneous repeal and replace⁵

In a town hall on Thursday night, House Speaker Paul Ryan said that Republicans wanted repeal and replace to happen at the same time, perhaps even in the same bill. Although he was vague on the details of timing, he indicated that the goal was to make strides within the first 100 days of the Trump presidency. He also indicated that Medicare reform was one of his priorities and that he hoped the replacement plan would look like his "Better Way" proposal.

Medicaid

HHS says Utah's request for limited Medicaid expansion will wait for Trump administration⁶

Health officials in Utah were told that the current administration will not make any decision on the state's proposed Medicaid expansion, and instead will need to wait for the decision of the administration elect. This plan constitutes a small-scale Medicaid expansion to extend coverage to the state's most vulnerable estimated at first at 16,000, but later reduced to 10,000.

⁴ <http://www.cbpp.org/research/federal-tax/aca-repeal-would-lavish-medicare-tax-cuts-on-400-highest-income-households>

⁵ <http://www.politico.com/tipsheets/politico-pulse/2017/01/paul-ryans-obamacare-plan-so-far-218226>

⁶ <http://khn.org/morning-breakout/hhs-says-utahs-request-for-limited-medicare-expansion-will-wait-for-trump-administration/>

Wisconsin public radio: both state, feds may seek changes to Medicaid⁷

The Walker Administration in the state of Wisconsin are seeking to change various components of the state's Medicaid program. They are proposing charging more for risky behaviors by having participants partake in drug testing and could charge those who smoke more, as well as limit the time participant are on Medicaid. These changes currently would need to be approved via a waiver, but the state's administration is also in favor of the block grant proposal so that they have more flexibility in the design of their program.

Commonwealth Fund: Restructuring Medicaid through Section 1115⁸

The Trump Administration could accompany a repeal law with Section 1115 demonstrations that seek to introduce fundamental changes to Medicaid. For example, a Section 1115 initiative might introduce new eligibility restrictions, such as work requirements for adults, required premium contributions coupled with termination of eligibility for nonpayment, and eligibility tied to adherence to certain behaviors, such as diet and exercise plans. Section 1115 demonstrations also could restrict or eliminate certain benefits, such as the special comprehensive coverage rules that apply to children and adolescents. Furthermore, demonstrations might introduce new restrictions on access to Medicaid itself by limiting enrollment to specified open-enrollment periods similar to those used in private health insurance. Additionally, the Administration conceivably might attempt to use Section 1115 to allow states to test the use of beneficiary enrollment limits and waiting lists similar to the types of strategies to limit access to coverage that might be necessary were Medicaid to be block-granted.

Section 1115 does not, however, grant wholesale authority to allow states to introduce changes not permitted under federal law. Instead, it is a research authority, meaning that its use must incorporate research hypotheses and testable research designs, including evaluations capable of measuring the impact of program changes. Furthermore, Section 1115 can be used only for demonstrations that further Medicaid's objectives, the most basic of which is to insure people who meet eligibility criteria.

A legislative repeal effort could be accompanied by an aggressive strategy to redesign Medicaid through Section 1115 demonstrations, which could in some respects have even more far-reaching consequences. Aggressive use of such powers that goes beyond the limits of the law could trigger judicial challenges, but such litigation is difficult to mount, and its outcome cannot be predicted. If the Administration uses its Section 1115 powers to tighten eligibility criteria and

⁷ <http://www.wpr.org/both-state-feds-may-seek-changes-medicaid>

⁸ http://www.commonwealthfund.org/~media/files/publications/issue-brief/2017/jan/1928_rosenbaum_medicoids_future_aca_repeal_ib_v2.pdf

reconfigure Medicaid along the lines of private insurance, these changes would have enormous consequences.

Medicare

Medicare failed to recover up to \$125 Million in overpayments from private insurers⁹

In 2011, federal health officials began to audit private Medicare Advantage Plans. In 2007 alone it was found that Medicare had overpaid five health insurance plans by roughly \$128 million. Because of pressure from the industry, CMS settled the matter quietly for under \$3.4 million. Medicare Advantage currently has 1/3 of the total Medicare enrollees, which costs taxpayers around \$150 billion per year. Although these plans are strongly supported in Congress, many remain critical about the lack in oversight on the matters of program operation. Reports made public after the Freedom of Information Lawsuit confirm that billions are wasted annually due in part by the practice of 'upcoding'. This refers to the practice where health plans exaggerate how sick their covered population is. 35 of 37 health plans that CMS audited were found to be guilty of this practice. The auditors could not confirm more than 1/3 of the diseases that the plans had been paid for due to a lack of complete medical records regarding diagnostic details. Despite the fact that auditing was to have finished in 2011, it continue to this day where some say with the new Trump Administration's sympathy towards business interests, the rate of collection of overpayments will decelerate.

Other news

Sen. Alexander expects Rep. Price's HHS confirmation to come mid-February¹⁰

Sen. Lamar Alexander (R-Tn.), who leads the Senate Health, Education, Labor and Pensions Committee, says his panel and the Finance Committee should be able to move the nomination of Rep. Tom Price (R-Ga.), as HHS secretary by the Presidents' Day holiday. President-elect Donald Trump said at a news conference Wednesday in New York City that a plan to replace the ACA would come once Secretary of HHS nominee Rep. Tom Price wins confirmation.

Trump walks back vaccine skeptic's statement on safety commission¹¹

Robert F. Kennedy Jr., who is a major source of disproved theories about the harms of vaccines, told reporters that Trump had asked him to chair a "commission on vaccine safety and scientific integrity." But in a statement several hours later, Trump said he was "exploring the possibility of forming a committee on Autism" and "no decisions have been made at this time."

⁹ <http://www.npr.org/sections/health-shots/2017/01/06/508260306/medicare-failed-to-recover-up-to-125-million-in-overpayments-from-private-insure>

¹⁰ <http://khn.org/morning-breakout/top-senator-expects-price-confirmation-to-come-around-middle-of-february/>

¹¹ <http://www.politico.com/tipsheets/politico-pulse/2017/01/what-trump-could-say-on-obamacare-today-218185>