Trump Administration Wants the Courts to Strike Down All of Obamacare

Nearly 21 million Americans could lose coverage. Meanwhile, the GOP won't offer a health care replacement until after 2020.

March 28, 2019 By Trent Straube

UPDATE: While the court case mentioned below is ongoing, the Trump Administration announced that Republicans will not vote on a replacement health care bill until after the 2020 election (see the April 1 tweets at the bottom of this article). As Bloomberg reports, this is a reversal from Trump's earlier promises to offer an alternative to the Affordable Care Act.

It's happening again. The Trump administration is attacking the Affordable Care Act (the ACA, or Obamacare). Only this time, the approach isn't piecemeal, and it doesn't arrive via Congress. Instead, it's a full-on effort to repeal the entire health care law by declaring it unconstitutional.

Specifically, the Department of Justice, under the guidance of the Trump administration, issued a letter to a federal appeals court stating that it believes all the provisions of the ACA are invalid and that the court should toss out the law.

The Fifth U.S. Circuit Court of Appeals is deciding on a lower court's ruling in Texas v. United States. In that case, a federal judge in Texas ruled that because Congress had ended the individual mandate to buy insurance, then the entire Affordable Care Act was unconstitutional. Basically, the judge ruled that once one aspect of a law is struck down—in this case, the individual mandate—then it stands to reason that the entire law is unconstitutional. (To refresh your memory, in 2017, the Republican-controlled Congress passed a tax bill that eliminated the fine for people who didn't have health care.)

Last summer, as POZ summed up, the Justice Department weighed in on the lawsuit, saying that it would no longer defend Obamacare's protections for preexisting conditions. This week's statement by the Justice Department goes much further, seeking to eliminate the entire law. According to The New York Times, the Justice Department's new stance was conveyed in a two-sentence letter; it plans to file a brief later to elaborate its position.

What happens if the ACA is repealed? In a separate article, The New York Times lays out some numbers:

- 21 million Americans could lose their insurance
- 12 million adults could lose Medicaid coverage
- 133 million people with protected preexisting conditions could lose coverage
- 171 million people would no longer be protected from caps that insurers place on coverage; this is especially important for people with expensive conditions such as cancer
- 2 million young adults under age 26 could lose coverage that they're currently getting through their parents' plans.

It's no wonder health care advocacy groups oppose the Trump administration's new stance. "This poorly thought-out position undermines efforts to expand health care generally and specifically the White House's new initiative to end the HIV epidemic in the United States by 2030," writes AIDS United. "If the Administration succeeds in its latest assault, Medicaid expansion would end, state marketplaces for health insurance would close, and both treatment and care opportunities for people living with HIV would be severely restricted. Instead of ending the HIV epidemic, this action risks its renewal, resulting in new infections, and a worsening of HIV-related health disparities."

The American Cancer Society's Cancer Action Network (ACS CAN) released a statement titled "Overturning Health Care Law Would Resurrect Barrier to Coverage for Cancer Patients." In it, ACS CAN noted that it filed an amicus curiae, or friend of the court, brief in the Texas v. United States case.

"Cancer patients and survivors depend on critical patient protections in the law to ensure they get the care they need to treat their disease," says ACS CAN president Lisa Lacasse in the statement. "Evidence shows that having insurance leads to earlier stage diagnosis when the disease is less expensive to treat, and the likelihood of survival is greater. The health care law was intended to increase the number of Americans with quality health care coverage. Without those protections, cancer patients could be forced to delay or forego care completely leading to life-threatening consequences."

Why would any American support someone who attempts to take away health care from millions of people? Over at Vox, Sarah Kliff adds context to the conundrum, noting that as a candidate Trump promised to repeal the Affordable Care Act and replace it with something much better. Even now, as his administration attacks the health care law, Trump tweets messages stating the opposite.

The Republican Party will become “The Party of Healthcare!”

— Donald J. Trump (@realDonaldTrump) March 26, 2019

“Americans are listening to the claims Trump makes about health care,” Kliff writes. “They are hearing him say he wants ‘insurance for everyone.’ They listen when he says he has a plan. But everything I’ve seen covering the Obamacare repeal debate—from the bills on Capitol Hill to this lawsuit filing—tells me that Trump is not interested in protecting preexisting conditions. There isn’t a plan to create coverage for everybody, and there never will be.”

If Trump’s supporters come to the same conclusion, it could be disastrous for the Republican party. According to Kaiser Family Foundation polling from the 2018 midterm elections, health care remains one of voters’ top concerns. In fact, 25 percent of voters said health care is the “most important issue” for 2018 candidates to discuss; among Democratic and independent voters, health care ranked No. 1 (for Republicans, the top spot went to economy and jobs).

What’s more, the Kaiser polling found that most of the public—including Republicans, Democrats and Independents—said it is “very important” that the Affordable Care Act protect people with preexisting conditions.

UPDATE: Below are the tweets from Trump announcing the delay of a Republican-lead health care alternative to the ACA.

Everybody agrees that ObamaCare doesn’t work. Premiums & deductibles are far too high - Really bad HealthCare! Even the Dems want to replace it, but with Medicare for all, which would cause 180 million Americans to lose their beloved private health insurance. The Republicans.....

— Donald J. Trump (@realDonaldTrump) April 2, 2019

....are developing a really great HealthCare Plan with far lower premiums (cost) & deductibles than ObamaCare. In other words it will be far less expensive & much more usable than ObamaCare. Vote will be taken right after the Election when Republicans hold the Senate & win.....

— Donald J. Trump (@realDonaldTrump) April 2, 2019

....back the House. It will be truly great HealthCare that will work for America. Also, Republicans will always support Pre-Existing Conditions. The Republican Party will be known as the Party of Great HealtCare. Meantime, the USA is doing better than ever & is respected again!

— Donald J. Trump (@realDonaldTrump) April 2, 2019

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http://beta.docker.hepmag.com/article/trump-administration-tries-take-away-health-care