



What will Happen to the Affordable Care Act Under a Trump Administration? (Part 1)

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Throughout his presidential campaign, President-Elect Donald Trump criticized President Obama's Affordable Care Act (the ACA). Now, Mr. Trump has chosen Tom Price to head the Department of Health and Human Services and he will be charged with repealing or replacing the ACA. Mr. Price, a six-term Congressman and orthopedic surgeon, has introduced legislation every year since 2009 to replace the ACA. Mr. Price's proposal, called the "Empowering Patients First Act," provides some clues regarding the future of the ACA under the incoming administration.

1. Repeal of the Individual Mandate

Unlike the ACA, the Empowering Patients First Act does not include a requirement that all Americans purchase health insurance or pay a tax penalty. Instead, under Mr. Price's plan, the government would encourage people to purchase health insurance on the individual market by rewarding such a purchase with a refundable tax credit. Tax credits are "refundable" when the taxpayer is entitled to the entire amount of the credit regardless of the taxpayer's income or tax liability. The amount of the tax credit would range from \$900 to \$3,000 per individual depending on the individual's age. The credit would not be available to those receiving federal or other benefits, including Medicare and Medicaid, nor would it be available to individuals in employer-subsidized group plans for health insurance.

2. Reduced Pre-Existing Condition Protections

Another change that would result from the implementation of the Empowering Patients First Act would come to the ACA's rules regarding pre-existing conditions. Under the ACA, insurance companies cannot refuse to sell coverage to an individual with a pre-existing condition, they cannot sell a policy that excludes coverage of a pre-existing condition, and they cannot charge more

for a policy sold to an individual with a pre-existing condition. Under Mr. Price's legislation, a health insurance company could sell a plan that excludes coverage of an individual's pre-existing condition if the individual has not had continuous coverage of that condition for at least 18 months prior to enrollment in the new insurance plan. In addition, the insurance company could charge the individual a higher premium – up to 50% higher – for up to two years after initial enrollment in the health plan. Or, if the insurance company chooses to sell a plan that covers the individual's pre-existing condition even though that person did not have 18 months of continuous coverage prior to the enrollment date, it could charge up to 50% more than the standard premium for up to *three* years.

3. Promotion of Health-Savings Accounts

Finally, Tom Price's proposed healthcare legislation would expand and incentivize the use of health savings accounts (HSAs). If, as discussed above, an individual receives a refundable tax credit as a "reward" for purchasing health coverage on the individual market, the individual could direct the government to directly deposit into his or her HSA any money remaining from the tax credit after payment of the individual's insurance premiums. In addition, Mr. Price's bill would provide a one-time \$1,000 HSA contribution from the government to incentivize people to establish HSAs.

These are just a few of the ways in which the ACA would be significantly changed by the passage of the healthcare legislation Tom Price has repeatedly proposed. Federal healthcare law under the Trump administration is also likely to be heavily influenced by Mr. Trump's recently-announced pick to head the Centers for Medicare and Medicaid Services, Ms. Seema Verma, which will be addressed soon in Part 2 of this series.

The future of the ACA under a Trump administration will also be the topic of a regional video conference in all Frost Brown Todd offices scheduled for 8:00 – 10:00 a.m. on Friday, February 10, 2017. An invitation with a link to register for the forum will be circulated in early January.

Part 2 of this series was published on February 16, 2017; [click here](#) to access.

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