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Federal administrative improvements to the Affordable Care Act and state options for health care reform

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This publication is an abbreviated version of the Policy Brief "Federal administrative improvements to the Affordable Care Act and state options for health care reform" that will be published by Washington Policy Center in January 2018. You can find the complete Policy Brief at **www.washingtonpolicy.org**.

Policy recommendations

Patients are the most important part of the health care system and they should be in charge of their own health care. There is nothing inherently different about health care as a service than any other economic activity. Health care providers should be paid for their work, and to the extent possible prices for health services should be set, not by government, but by economic efficiency and the natural movement of supply and demand in the market.

There are practical steps that would put patients in charge of their health coverage without complete repeal of the ACA:

1. Reform the ACA through Administration and incremental legislative actions.
    - promote greater use by the states of 1332 and 1115 waivers.
    - provide patient-centered alternatives, such as health savings accounts and catastrophic health insurance plans, to the essential health benefits in the ACA.
    - extend the use of short-term, limited-duration health insurance plans.
    - allow the purchase of health insurance across state lines.
    - expand the definition of "hardship" cases to blunt the restrictions of the individual mandate.
    - promote state high-risk pools to cover high-cost patients and pre-existing conditions.[1]
    - allow greater use of association health plans to give small employers and individuals the same insurance price and benefit advantages of large employers.[2]

1 "High risk pools work well in covering hard-to-insure patients," by Roger Stark, MD, Policy Note, Washington Policy Center, March, 2017, at https://www.washingtonpolicy.org/library/doclib/Stark-High-Risk-Pools-3-22.pdf

2 "Association health plans and small business health insurance exchanges in the Affordable Care Act," by Roger Stark, MD, Policy Note, Washington Policy Center, August, 2015, at https://www.washingtonpolicy.org/library/docLib/Stark-Association-Health-Plans-and-Small-Business-Health-Insurance-Exchanges-in-the-Affordable-Care-Act.pdf

- permanently withdraw the cost-sharing reduction subsidies and allow the exchanges to collapse sooner rather than later. Because of adverse selection, the exchanges are currently in a financial death spiral. More taxpayer money will not improve the long-term outlook of the exchanges.

- repeal the Obamacare taxes.

2. Promote price transparency, so patients become true consumers of health care and know the real cost of the services they are receiving.

3. Change the tax code and allow equal treatment for individuals and families, so they can benefit from the same tax deductions that employers now receive for providing employee health benefits.

4. Enact meaningful reform of Medicaid and Medicare entitlements and make them true, targeted, safety-net programs, as they were originally designed.[3]

Specific measures states can do

In addition to administrative changes the Secretary of Health and Human Services can make to the ACA, which are outlined in the complete Policy Brief, states can enact their own health care reform, regardless of federal actions. Here is a list of policy options available to state policymakers under current federal law:

1. Aggressively pursue 1332 and 1115A waivers

Under these two sections, states can request, and the current Administration can approve, significant changes in the implementation of the ACA without action by Congress.

2. Pass state legislation to limit state taxpayers' contribution to the Medicaid expansion

The ACA enticed states to expand Medicaid by offering federal taxpayer funds to cover 100 percent of the expansion costs for three years. By 2020, the states are required to pay 10 percent of the costs. The federal government now has a $20 trillion debt and there is a high likelihood that states will be required to pay more than 10 percent of the Medicaid expansion cost in the future. State legislatures can pass laws that limit the amount of state taxpayer responsibility to 10 percent or to a fixed amount of expansion costs.

3. Repeal Certificate of Need laws

Research now shows that state Certificate of Need laws do not decrease health care costs, but that they do limit patient choices by banning investment and construction of new health care facilities.

4. Enact tort reform to reduce wasteful medical expenses

Legal fees and, more importantly, defensive medicine costs add tremendously to overall health care spending without increasing patient choices or quality of care.

5. Decrease state benefit and provider mandates in health insurance plans

The ACA requires 10 essential health benefit mandates in every health insurance plan. In many cases, these are in addition to mandates imposed by individual states. Each mandate adds to the cost of health insurance and, while pleasing politically-connected special interest groups, often reduces choices for patients. Legislatures should repeal most of their states' added health insurance mandates.

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3 "Medicare and Medicaid at fifty," by Roger Stark, MD, Policy Note, Washington Policy Center, September, 2015, at https://www.washingtonpolicy.org/library/doclib/Stark-Medicare-and-Medicaid-at-50.pdf

6. **Expand and promote the use of association health plans**

   Association health plans allow small groups and individuals to join together to purchase health insurance in the same way large groups do. Large group plans are regulated by the federal ERISA law and therefore avoid many of the worst features of the ACA.

7. **Promote telemedicine**

   Telemedicine and similar online services can reduce cost and increase patient access to health care, especially for people living in rural areas.

8. **Eliminate or decrease waste, fraud, and abuse in the Medicaid program**

   A high percent of Medicaid costs do not increase care or access for enrollees. The massive bureaucratic nature of the program makes it a target for cheating and financial crime.

9. **Encourage home health care in the Medicaid program**

   Costs are less and patient satisfaction is higher with home health care. It reduces government involvement in care and respects the natural family relationships of patients.

10. **Cap or freeze Medicaid enrollment**

    Medicaid, as originally intended by Congress, should be targeted to help the most vulnerable patients, while encouraging patients with the means to gain access to affordable private health insurance coverage.

11. **Review scope of practice and licensing laws**

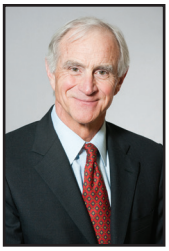
    Most states will face a provider shortage in the near future. States should aggressively relax barriers to medical practice which will increase access to health care for patients.

12. **Encourage direct primary care**

    For a fixed amount of money per month, patients can access primary care around the clock. Direct primary care can increase access to doctors for all socio-economic groups. Legislatures should protect direct primary care from state regulatory insurance laws.

13. **Resist ACA Medicaid expansion if it is not already in place**

    Today, states that chose not to join the ACA's expansion of Medicaid enjoy more flexibility in serving their residents. Because they are not locked into expanded Medicaid, policymakers in these states have the discretion and resources to make affordable coverage more available for families.



Dr. Roger Stark is the health care policy analyst at Washington Policy Center and a retired physician. He is the author of two books including *The Patient-Centered Solution: Our Health Care Crisis, How It Happened, and How We Can Fix It.* He has also authored numerous in-depth studies on health care policy for WPC, including *Health care reform: lowering costs by putting patients in charge.*