

# Uncertainty, confusion, and the ACA

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**JOHN C. CALHOUN**, seventh Vice President of the United States, said, “The interval between the decay of the old and the formation and establishment of the new constitutes a period of transition which must always necessarily be one of uncertainty, confusion, error, and wild and fierce fanaticism.”

This seems to be the case today in the healthcare sector, which has been the source of much rhetoric over the last presidential campaign cycle.

As things now stand, Medicare typically pays hospitals a flat fee per case, with a different per-case price for each of about 750 distinct diagnosis-related groups (DRGs).

The Medicaid program is reimbursed jointly by the states and the federal government. Depending on the specific state, Medicaid may provide states with case-based payments (DRGs), set number of dollars per day for inpatient stays (per diem payments), or fees for individual services and supplies (fee for service). State governments unilaterally set the levels of these payments.

Since the November election, of course, everything is likely to change.

## The ACA in 2017 and beyond

What does Republican control of the House, Senate, and presidency mean for the Affordable Care Act (ACA)? Donald Trump has vowed that on day one of his administration, he'll ask Congress to repeal Obamacare. To some, that may sound great, but it would be a highly complicated process. A motion to repeal any portion of the ACA would likely trigger a filibuster in the Senate. In addition, the ACA includes many administrative provisions that most Americans don't think of as Obamacare. Sudden repeal would cause chaos for Medicare beneficiaries—at least until new rules could be written—and getting AARP riled up is political suicide. So the ACA won't go away immediately.

However, a Republican administration can make certain changes fairly easily. Congress can use the budget reconciliation process to repeal the premium tax credits, presumptive eligibility, individual and employer

mandates, small business tax credit, expansion of Medicaid coverage for adults up to 138% of the federal poverty level, and ACA taxes (including the medical device tax, insurer fee, high-cost plan tax, and tax increases for the wealthy). And if restrictions on insurance companies aren't accompanied by financing provided in the ACA, most insurance companies will withdraw from the health exchanges completely.

So Republicans can undermine the ACA without touching the law. A budget reconciliation bill can be passed with a simple majority; a filibuster can't stop it. What's more, changing leadership in the agencies and appointing leaders committed to eliminating ACA rather than implementing it will paralyze the bureaucracy.

Under section 1332, states can apply for a waiver from the ACA if they offer similar healthcare coverage. The Obama administration granted few waivers, but a Trump administration is likely to be more generous. This means more and more states are likely to opt out of the ACA. In addition, next year the Children's Health Insurance Program comes up for reauthorization. Trump opposition could end the program, which could leave millions of children without coverage.

Democrats designed Obamacare, and many Americans are dissatisfied with it. Now let's see what the Republicans will do with healthcare coverage. Will “uncertainty, confusion, error, and wild and fierce fanaticism” run amuck?

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### Selected reference

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