

January 24, 2017

What the First Days of the Trump Administration Mean for Healthcare Providers



Robert Fromberg,
Senior Vice President
Kaufman, Hall & Associates, LLC

The inauguration of Donald Trump and swearing in of a new Congress brought immediate actions directed toward fundamental change in U.S. health policy. These actions are the first in what is likely to be a long process whose specific path and outcome are hard to predict. Given this unpredictability, provider executives need to carefully monitor actions in Washington, develop policy scenarios, and model the potential effect of each scenario on key performance indicators. Equally important, providers should view near-term policy activity in the context of long-term economic and social trends that— independent of policy—will continue to transform healthcare.

What Has Happened

Immediate, unilateral repeal of the Affordable Care Act (ACA) is not possible. However, in the early days of the Trump Administration, the President and Congress took the actions possible to change how the current law is implemented and to set in motion its repeal and replacement. Following are key recent actions.

Public Statements

In an [interview with *The New York Times*](#) reported on Jan. 10 and in a [press conference](#) on Jan. 11, President Trump stated his intent to issue a plan to repeal and replace the ACA shortly after his nominee for Secretary of Health and Human Services is confirmed. He further stated that in his plan, repeal and replacement of the ACA would occur “essentially simultaneously.”

Budget and Legislative Processes

On Jan. 12, the [Senate approved a budget framework](#) that includes a Jan. 27 deadline for Congressional committees to create legislation to repeal the ACA. The budgeting process can be used to address how the law is funded—for example, by repealing the individual and employer mandates and Medicaid expansion. The [House approved the Senate measure](#) on Jan. 13.

Executive Order

On Jan. 20, President Trump signed an [executive order](#) announcing the intent to seek prompt repeal of the ACA and in the meantime to act “consistent with law to minimize the [ACA’s] unwarranted economic and regulatory burdens.” The executive order instructs agencies to do the following:

- “Waive, defer, grant exemptions from, or delay the implementation of any provision or requirement...that would impose a fiscal...or regulatory burden” on any stakeholder
- “Provide greater flexibility to States and cooperate with them in implementing healthcare programs”
- “Encourage the development of a free and open market in interstate commerce for the offering of healthcare services and health insurance”

The executive order does not repeal the ACA, nor does it change the regulations associated with the law. Rather, it is limited to granting flexibility in the implementation of current regulations. For any action that would require new regulation, the order specifies that the required process of notice-and-comment rulemaking be followed.

A Time of Uncertainty

Despite the clear intention of the Trump Administration for near-term repeal and replacement of the ACA, significant uncertainty exists in exactly how and when that would be carried out. That uncertainty is fueled by the complexity of the U.S. healthcare system, the ACA, the political landscape, and regulatory, budgetary, and legislative processes. For example:

- Action on President Trump’s executive order likely would not start until agency heads are approved and in place
- The executive order does not spell out which regulations are to be relaxed and how that would be done; it is not known which of the many ACA provisions might be kept in a replacement law, from value-based payment initiatives to policies related to coverage of people with preexisting conditions
- Developing a replacement plan could require more time than allowed by the Jan. 27 deadline; [Senator Rob Portman \(R-OH\) said](#), “[I]t could take longer, and we believe that it might.”

Potential Effects on Providers

Providers are understandably concerned about how changes to the ACA specifically and health policy more generally under the Trump Administration could affect their communities, financial performance, operations, and ability to carry out their missions. Given the uncertainty about specific policy changes, it is not possible to predict specific effects on providers. The following sections identify factors that *could* be affected by policy change, although they do not predict what *will* change. The degree of change will depend on legislation, regulation, and implementation.

Pressure on Payment and Margin

A significant concern for hospitals and health systems is how changes to the ACA, Medicaid, and Medicare will affect revenue, which in turn could affect the ability to serve their communities. In part, hospitals' support for the ACA was based on the understanding that increased insurance coverage would mean a reduction in the financial burden of uncompensated care, which would offset payment reductions associated with the ACA. The Administration's pledge to repeal and replace the ACA raises questions as to exactly how a replacement law will affect insurance coverage, payment levels, and health system revenue.

Changes in Utilization

Hospitals and health systems also could experience changes in utilization as a result of repeal and replacement of the ACA. An increase in the number of uninsured or a reduction in essential health benefits could mean a reduction in hospital inpatient admissions and outpatient visits, particularly for non-urgent services. An increase in the number of uninsured also may result in a rise in emergency department visits, as uninsured or underinsured individuals use that resource as a primary care provider or allow conditions to progress to emergency levels because of lack of treatment. Again, the extent to which these changes could occur depends on how health policy changes.

Changes in Value-Based Payment

A key part of the ACA was establishment of the Center for Medicare and Medicaid Innovation, which has promulgated various value-based payment initiatives such as shared savings, bundled payment, and MACRA. It is not known how repeal and replacement would affect these initiatives, but any changes would affect hospitals and health systems in multiple ways, including their revenue and cost assumptions, and structures, processes, and technologies established to carry out the arrangements.

Changes in Price and Quality Reporting

Transparency was a tenet of candidate Trump's [healthcare platform](#). He called on government to "[r]equire price transparency from all healthcare providers, especially doctors and healthcare organizations like clinics and hospitals. Individuals should be able to shop to find the best prices for procedures, exams, or any other medical-related procedure." To the extent that this position translates into policy, providers may have to comply with new requirements for price and quality reporting.

What Providers Can Do

In this period of uncertainty, providers will need to monitor activities in Washington, develop policy scenarios, and assess potential effects of each scenario on revenues, costs, and operations.

What to Watch

Provider organizations should monitor how regulatory enforcement, rulemaking, budget proposals, and legislative proposals begin to address key policy issues, including:

- Mechanisms for funding comprehensive health insurance coverage under the ACA, including the individual mandate, employer mandate, Medicaid expansion, premium subsidies, and taxes
- Movement toward making Medicaid a block grant program
- Aspects of the law governing insurance practices and plan design, including requirements for inclusion of essential health benefits and free preventive services, coverage despite pre-existing conditions, caps on out-of-pocket and lifetime costs, and the ability to keep dependents on a parent's policy through age 26
- Value-based payment initiatives

Providers also should monitor policy changes that are not necessarily part of the ACA, such as:

- Alternative mechanisms for providing insurance coverage, including health savings accounts supported by individual tax incentives
- Reduction in Medicare payment rates or other actions to extend Medicare's solvency
- Allowing the sale of health insurance across state lines
- Strengthening price transparency requirements
- Removing barriers to the sale of imported medications

Scenario Analysis

Organizations should develop several policy scenarios as a basis for contingency planning. These scenarios could incorporate different existing proposals for replacing the ACA, or they could be based on a range of possible effects of policy changes to key indicators such as the number of uninsured, utilization, and payment rates. Scenarios should be assessed based on information about market demographics, and the organization's payer mix and utilization patterns. A key outcome of these analyses is the potential effect on organizational revenue and margin, which can inform a discussion of cost implications. The purpose is not to take preemptive action, but to be prepared to act as policy changes are implemented and their effects are felt.

Planning for the Near Term and the Long Term

The U.S. healthcare system, the ACA, and our legislative processes are complex enough that even a relatively prompt repeal and replacement of the ACA would take time to go into effect. The new law needs to be drafted, voted on, amended, and reconciled. Regulations need to be written, reviewed, and implemented. The process is likely to be a moving target for months, and while some effects could be felt in the near term, others may take years.

In the meantime, macroeconomic, microeconomic, socioeconomic, competitive, and technological forces are driving real healthcare

change. Healthcare spending remains at an unsustainable level. Greater responsibility for insurance costs is shifting to consumers. New demands for healthcare convenience and service are rapidly emerging. New competitors are entering the sector, applying nimble business practices and new technology designed to draw the loyalty of desirable consumer segments. Technological breakthroughs such as precision medicine and artificial intelligence could change the processes, outcomes, and economics of healthcare delivery.

Provider organizations need to monitor and plan for changes that are emerging from the Donald Trump Administration—changes that could have a material effect on finances and operations. Kaufman Hall can help with this important analysis.

At the same time, the larger forces driving healthcare change remain firmly in place. These forces will continue to drive the need to develop new structures, processes, and technology; to enhance quality, coordination, efficiency, and consumer experience; and to stay relevant in an increasingly diverse competitive landscape. It is critical that a focus on these initiatives continues, even as organizations monitor and plan for the effects of policy changes under the Trump Administration.

Your comments are welcome. I can be reached at rfromberg@kaufmanhall.com.