Center on Budget and Policy Priorities

Senators' ACA Replacement Won't Likely Give States, Patients the Choices They Seek

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Update, January 24: We've updated this post based on newly available information.

Senators Bill Cassidy and Susan Collins say their new proposal to replace the Affordable Care Act (ACA) would allow people who like the coverage they have to keep it. But now that we have more details about the proposal, it's hard to see how that could be so.

The Cassidy-Collins plan would likely leave many millions who now rely on ACA health coverage, especially those with low incomes and pre-existing health conditions, uninsured or going without needed care. That's partly because the bill punts major decisions about how to respond to ACA repeal to the states but then scales back the federal support available to cover people.

Cassidy-Collins would repeal the ACA's marketplace subsidies, eliminate the individual and employer mandates, and drop or roll back most market reforms and consumer protections — with all changes set to take effect after one year, though the sponsors indicated they would likely extend the effective date by perhaps three or four years. The plan offers states three convoluted options:

- A state could "reimplement" the ACA, including the marketplace subsidies, the market protections for consumers, and the mandates, but with reduced funding. Cassidy-Collins would cap federal funding for marketplace subsidies at 95 percent of what it would have been under the ACA. (Whether the capped amount would fully adjust for higher-than-expected enrollment or growth in premiums is unclear.) The plan provides less help in making coverage affordable than the ACA.

- A state could choose a new "alternative" option, or fail to choose and default to this "alternative." With the "alternative," the federal government would offer a tax credit to be contributed to a new type of Health Savings Account (HSA) instead of providing ACA marketplace subsidies that now help millions of people pay their premiums and out-of-pocket medical costs. But the federal funding for the HSAs would be 95 percent of the funds the ACA would have provided for subsidies. (For states that haven't expanded Medicaid, federal funding for HSAs would equal 95 percent of the marketplace subsidies, plus federal Medicaid funding estimated as if the state had adopted the expansion.) This lesser amount would be spread among a much larger group of people, including individuals at higher income levels (up to $180,000 for individuals and $250,000 for couples), unless the state opted not to do that. People with access to employer-based coverage would also be eligible. The plan would leave less help for lower-income people and the uninsured who want comprehensive plans.

  In states choosing this option, insurers in the individual market could again charge higher premiums to people with pre-existing conditions (if they don't maintain continuous coverage), drop or limit coverage of essential health benefits such as maternity care and prescription drugs, and charge unlimited deductibles, co-insurance, and co-payments.

The option could particularly hurt low-income Medicaid beneficiaries. States that have expanded Medicaid could opt out and, instead, let expansion enrollees qualify for the HSA tax credit to buy coverage in the newly de-regulated individual market. Consequently, people who recently gained coverage through the Medicaid expansion would likely go without it because they could not afford a comprehensive plan or experience high cost-sharing and new gaps in coverage.

- Finally, a state could reject any federal assistance. Cassidy-Collins would still require insurers in these states to abide by certain ACA rules, such as a prohibition against annual and lifetime limits and a requirement to cover people up to age 26 on their parents' plans.

Cassidy-Collins would require states to re-open their struggles over the ACA and act quickly to implement any changes, including through legislation. But states would likely need significant time to work through the details, even in cases where governors and legislatures agree on what to do. And the proposal doesn't do anything to ensure that insurance companies would continue to offer plans in states' individual markets, or keep premiums at a reasonable level, and thus prevent the market from unraveling while health care reform is in limbo.

So while Cassidy and Collins tout their plan as a way to give states choices to maintain or reject the ACA and let people keep the coverage they now have, it doesn't appear that the plan itself would achieve those goals.

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