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# ACA order rattles system

## Trump's move to rein in law fuels uncertainty

President Trump's executive order instructing federal agencies to grant relief to constituencies affected by the Affordable Care Act has begun to reverberate throughout the nation's healthcare system, injecting further uncertainty into an already unsettled insurance landscape.



EVAN VUCCI/ASSOCIATED PRESS

**Vice President Pence watches as President Trump prepares to sign his first executive order in the Oval Office telling federal agencies to roll back parts of the Affordable Care Act.**

The political signal of the order, which Trump signed just hours after being sworn into office, was clear: Even before the Republican-led Congress acts to repeal the 2010 law, the new administration will move swiftly to unwind as many elements as it can on its own — elements that have changed how 20 million Americans get health coverage and what benefits insurers must offer some of their customers.

But the practical implications of Trump's action on Friday are harder to decipher. Its language instructs all federal agencies to "waive, defer, grant exemptions from or delay" any part of the law that imposes a financial or regulatory burden on those affected by it. That would cover consumers, doctors, hospitals and other providers, as well as insurers and drug companies.

The prospect of what could flow from pulling back or eliminating administrative rules — including no longer enforcing the individual mandate, which requires Americans to get coverage or pay an annual penalty, and ending health plans' "essential benefits" — could affect how many people sign up on the Affordable Care Act marketplaces before open enrollment ends Jan. 31 for 2017 coverage, as well as how many companies decide to participate next year.

Robert Laszewski, president of the consulting firm Health Policy and Strategy Associates, called the executive order a "bomb" lobbed into the law's "already shaky" insurance market. Given the time it will take Republicans to fashion a replacement, he expects that federal and state insurance exchanges will continue to operate at least through 2018.

"Instead of sending a signal that there's going to be an orderly transition, they've sent a signal that it's going to be a disorderly transition," said Laszewski, a longtime critic of the law, which is also known as Obamacare. "How does the Trump administration think this is not going to make the situation worse?"

Teresa Miller, Pennsylvania's insurance commissioner, said Saturday that several insurers on her state's exchange "seriously considered leaving the market last year" and that Trump's action could propel them to indeed abandon it in 2018. In fact, she added, some have raised the possibility of withdrawing from the ACA's exchanges during 2017, which would mean consumers could keep their plans but no longer receive federal subsidies to help them afford the coverage.

"That would create a nightmare scenario," Miller said.

As of this year, nearly a third of all counties nationwide have just one insurer in the federal marketplace, and almost two-thirds have two or fewer insurers.

The White House did not return requests for comment over the weekend.

On Capitol Hill, Republican leaders offered cautious praise for the president's executive order. Yet more broadly, the GOP remains in a state of uncertainty on health care, with unresolved questions about the path forward.

Sen. Lamar Alexander (RTenn.), the chairman of the Health, Education, Labor and Pensions Committee, was briefed on the details of Trump's order only Thursday, according to a GOP aide who spoke on the condition of anonymity to describe private talks.

Alexander said in a statement late Friday that Trump was "right to make the urgent work of rescuing Americans trapped in a collapsing Obamacare system a top priority on his first day in office."

Senate Majority Leader Mitch McConnell (R-Ky.), speaking on "Fox News Sunday with Chris Wallace," focused primarily on what Trump could do through executive action.

"President Obama implemented a lot of Obamacare himself, so President Trump will be able to undo a lot of it himself," McConnell said. Asked whether he knew what the new president's replacement plan is, he said Senate Republicans are working with the administration "to have an orderly process."

The GOP-led House and Senate have passed a budget measure that was designed to serve as a vehicle for repealing key parts of the law. But they have yet to rally around a consensus idea for when and what to do to replace it. They were placed under further pressure to act quickly after Trump vowed "insurance for everybody" in a recent interview with The Washington Post.

A key Trump ally said Sunday that the president's decision to sign the order on his first day in office, coupled with his recent comments about moving swiftly on repealing and replacing the law, has applied pressure on GOP lawmakers to act faster than they might have initially planned.

"I think Trump has consistently moved that needle with the mind-set of our conference," Rep. Chris Collins (R-N.Y.) said.

Democratic leaders, however, are casting the executive order as evidence that Republicans are in a state of disarray on health care.

"They don't know what to do. They can repeal, but they don't have a plan for replace," Senate Minority Leader Charles E. Schumer (N.Y.) said in an interview that aired Sunday morning on CNN's "State of the Union." "The president's executive order just mirrored that."

At least publicly, the insurance industry's reaction has been muted. America's Health Insurance Plans spokeswoman Kristine Grow, whose group represents nearly 1,300 insurers, said in an email

Saturday that it is "too soon to tell" what the executive order will mean for the industry.

"There is no question the individual health-care market has been challenged from the start," Grow said. "The president said he would take swift action to move our country to improve it, and he has."

A key question following Trump's order is what actions Republican-led states might take to withdraw from key provisions of the law. Florida Gov. Rick Scott's (R) office said Saturday that he was reviewing his options.

Jackie Schutz, a Scott spokeswoman, said the governor "appreciates" that the new administration is "swiftly taking action." But as to how and when Scott would seek to take advantage of it, "we're still looking into it to see what it specifically means to Florida," Schutz said.

Ohio Gov. John Kasich (R), who met with Senate Finance Committee Orrin G. Hatch (R-Utah) and nearly a dozen other GOP governors on Thursday to discuss the future of Medicaid, said afterward that there are "some fundamental things that we can do that can settle people down so they are not worried they are going to lose their coverage but that at the same time bring significant changes to the Obamacare package."

Kasich, who expanded Medicaid in his state under the Affordable Care Act, said that one option he favors is paring Medicaid coverage to people with incomes up to 100 percent of the poverty level, rather than the current 138 percent, and then letting those above 100 percent go on the marketplace to get coverage.

Asked whether he could guarantee that none of his constituents would lose health-care coverage, Kasich responded, "I can't guarantee anything."

Even if the new administration is eager to grant waivers to states, it does not have the political appointees in place at the Health and Human Services and Treasury departments to do so.

But timing is important. While the exact deadline varies depending on the state, insurers generally must decide by the spring whether to participate in Affordable Care Act marketplaces for the next year and, if so, propose the rates they would like to charge.

Their decisions could be complicated if the president's order results in rule changes that affect the benefits those health plans must include — or alters rules in other ways that, in turn, prompt fewer healthy customers to seek coverage through the marketplaces.

Chris Jennings, who served as a senior White House adviser on health care in the Clinton and Obama administrations, said that in the health-care arena, "more than any other domestic policy, details matter. Plans, they live off a comma, or an incentive, or a disincentive, or a penalty, or an enforcement mechanism."

Ceci Connolly, president and chief executive of the Alliance of Community Health Plans, said her members are in a particularly difficult position because they are unlike large national companies that can "pick and choose" which markets they operate in under the federal exchange.

"Local nonprofit plans are in their communities, so they can't look around for certain markets and pull out of ones that they don't like," said Connolly, who added that her group's "biggest concern" is that some consumers might stop paying their premiums if they believe they will not be penalized for lacking coverage.

That could lead to hospital and doctor visits that would not be reimbursed, which then would impose costs on providers and insurers more broadly.

With fewer than 10 days to go in the current enrollment period, Mila Kofman, executive director of the D.C. Health Benefit Exchange Authority, said that "all of this discussion of whether or not people will have access to affordable quality health insurance is very unsettling."

Some residents have asked Kofman whether she can assure them they will get the same health benefits if Congress and the administration overhaul the system in the coming months. "I tell them, 'Sign up. We will certainly do everything we can to ensure that you'll have access to quality health insurance.'"

Yet Mona Mangat, a solo practitioner in allergy and immunology in St. Petersburg, Fla., is not sure what to say when patients ask her whether they will be able to afford the kind of prescriptions and services they have taken advantage of under the Affordable Care Act.

"Unfortunately, I don't have an answer for them," Mangat said. "I say, 'Oh my God, I don't know what's going to happen.'"

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