



It Can't Be Fixed: Policy and Politics in the Republican Health Care Bill

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Later this week or next we should get a CBO score of the latest Senate health care bill and we will revise, once again, our projections for its impact on Pennsylvania. But, we are not expecting major changes in anything but in how long it takes for well over a million fewer Pennsylvanians to have insurance as a result of the bill. To see why, one must step away from some of the details of the bill and look at the big picture, focusing not just on the policy but the politics of the bill.

From that perspective, it is pretty obvious why the Republican approach to repealing and replacing the ACA – and drastically reducing the size of the Medicaid program – can't be fixed.

The fundamental problem is that the basic design of the bill is deeply flawed from the perspective of anyone who thinks that America has a responsibility to guarantee quality, affordable health care to all. If, on the other hand, one rejects this aim and, instead, wants to cut federal funding for health care as much as possible, in order to cut taxes on large corporations and the very rich, the bill makes some sense.

But it makes no sense as a health care bill, that is, one designed to help Americans secure health care. And the fixes that the Republicans have proposed to the earlier versions of the bill not only fail to address those flaws, but aren't really meant to do so. Rather, they aim to give political cover to Republican senators whose constituents largely oppose the bill. And not only does that show us why the current bill is unacceptable, it warns us to be extremely wary of the Republican strategy for Senate debate of the bill, assuming that Majority Leader McConnell can find 50 votes to allow that debate to begin.

The Basic Structure and Problem in all the Republican Plans

The right wing, which dominates the Republican caucus in both the House and Senate, fundamentally wants to not only repeal the ACA but roll back Medicaid expansion. They simply do not believe that health care is a right. They do not believe that anyone, including large corporations or the very rich, should be asked to pay taxes so that anyone else – whether low- or middle- or upper-middle-income – gets federal assistance to secure health insurance.

They can't roll back all the programs that provide such help at once. Indeed, they won't touch the program that actually helps upper-middle class and rich people secure health insurance, the federal tax credit for employer-sponsored insurance, which is the mostly expensive federal tax break, costing roughly four times the ACA. And the reason they won't touch that program is that people will scream and holler if the federal government takes a huge benefit away from them – and they will scream and holler even louder if that benefit is health insurance, in large part because without some kind of federal subsidy that helps create broad insurance pools – like those found in large companies – health insurance becomes extremely expensive for people who are older and who have pre-existing conditions. And if we were to end the tax subsidy for employer-based insurance and companies, these companies would gradually phase out employer-based insurance. Even if they raised wages in lieu of health insurance, everyone – even people in the upper middle class – would discover that without the

market protections of the ACA that prohibit insurance companies from charging older people and those who are sick at much higher rates, their health insurance would become unaffordably expensive.

Republicans know they can't repeal the federal tax break for health insurance because the people who will be harmed are well-off, vote at high rates (and often for Republicans), and are politically connected. But they are determined to roll back the new benefits provided to working people and the middle class by the ACA.

They can't totally eliminate the health insurance marketplaces and the subsidies that help moderate- and middle-income pay for their premiums without a great deal of opposition, either. But they can reduce them. And to placate the market fundamentalists in the House and Senate who oppose them entirely, they have made an increasingly bold attack on the ACA's regulations on insurance, such as the ban on insurance companies charging people more if they have pre-existing conditions or the requirement that all policies cover essential benefits – which prevents insurance companies from excluding certain pre-existing conditions or setting annual and lifetime limits on policies.

And, to radically reduce federal spending on health care – and provide room for the tax cuts they so want – the Republicans have decided that the time is ripe to do what they have wanted to do for years. They want to scale back the Medicaid program that helps lower-income people secure health care and everyone who outlives their savings pay for nursing home care.

So every Republican proposal has called for a huge reduction in federal spending on health care while also repealing many of the ACA's regulations on insurance sold in the individual market. By reducing subsidies for insurance in the marketplaces, ending the Medicaid expansion, and radically restructuring the traditional Medicaid program to put a per-capita cap on funding, each bill reduces federal spending on health care by roughly \$1.2 trillion in the first ten years and somewhat more in the following ten years as the per-capita caps dig deeper into traditional Medicaid.

And, while the original aim of the Republicans was to repeal the ACA, far more of this huge cut in federal spending (almost \$900 million over ten years) is made from traditional Medicaid and the Medicaid expansion than from the subsidies for individual insurance purchased in the ACA's market places or exchanges. Also, the exchanges, to the consternation of the very far right, have been retained in the bill even though the regulations on insurance have been substantially rolled back. Why is traditional Medicaid cut so much while parts of the ACA survive? In part, for the same reason that the tax subsidy for employer-based insurance is not cut. The lower you go on the income scale, the less politically active and connected people are and the less likely they are to vote (and less likely to vote for Republicans). The whole Republican approach to government help for securing health care, in other words, is to take it away not from those who need it less, but from those who are less politically powerful and less likely to support Republicans. That Medicaid is (falsely) perceived to be a program that particularly benefits urban, black people also makes it an attractive target for a party that wins elections by subtly – and quite often not so subtly – appealing to racism.

The Republican determination to deeply cut federal support for health care is the fundamental reason that each Republican bill, in both the House and Senate, looks a great deal like the last one. It's why there is no need to see the CBO score to know it will hurt Americans. As long as every Republican plan changes the structure of Medicaid, ends the Medicaid Expansion, reduces subsidies for insurance in the marketplaces and repeals the insurance regulations, millions of people will lose insurance and

the insurance marketplaces will become unstable and unwelcome to those who are older or have pre-existing conditions.

Republicans have denied they want to take health care away from people. They have always said they wanted to improve the ACA. But the basic fact is that there are only two ways in America to provide quality, affordable health care for all. One is some version of the ACA approach, which, coincidentally was invented by the right-wing Heritage Foundation. The other is single payer. There is no third alternative. Thus, what Republicans have said all along about their bill is a lie. Their goal is reducing federal support for providing health care to people – and reducing the taxes that pay for it. There is no way to radically reduce federal spending on health care and cut taxes without millions of people losing health insurance.

To emphasize this basic point: you can't get health care without paying for it. And so you can't reduce what you pay for health care by 1.2 trillion dollars over ten years, which is roughly what every Republican health care bill does and get the same amount of health care. A \$200 billion patch over here or a \$70 billion patch over there doesn't help much, especially when those patches are complicated add-ons to the system you have torn apart, which means the government then wastes billions of dollars in administrative expenses. Nor do those patches solve a long-term problem when they expire after four or five years.

It's just basic math. The Republicans' bill takes \$1.2 trillion out of health care spending. Of the approximately \$430 billion available for patches from the combination of the deficit reduction in the original Senate bill and the removal of repeal of the Medicare taxes, the new bill already allocates \$175 billion to the opioid fund, additional stabilization money and expanded health savings accounts, which, as explained below, will not meaningfully reduce coverage losses. That leaves only about \$250 billion available to offset that \$1.2 trillion in cuts. No matter how further changes to the Senate bill divvies this amount up, it still leaves about \$800 million reductions in health care spending.

Is there any wonder why so many fewer people will have health insurance under the Republican plan?

The Politics of Changing Republican Health Care Plans

Given the basic Republican approach to health care, we can also understand the politics of passing such a plan. Republicans can't alter the basic framework of their bills without giving up their goal. But they have proposed additions to it that temporarily reduce or delay the impact of the bill – or at least promise to do so. And, the proposed Republican patches to the bill are, like each of the bills, tilted towards protecting middle- and upper-middle income Americans while ignoring the harms to lower- and moderate-income Americans. These patches are designed to mollify the politically active, Republican-leaning part of the electorate while ignoring everyone else.

That's the approach the Republicans took in the House where, at the very last minute, they put forward the Upton amendment that added funds to a program that was supposed to help the states create high-risk pools to insure those who have pre-existing conditions. They put that proposal forward after the CBO score was announced and right before the final vote. Because there was little time to figure out how many people this post-hoc adjustment to the basic plan would help, no one had any time to analyze it and show (1) that high risk pools don't really help those with pre-existing conditions get insurance unless you spend an enormous amount of money; and (2) even with the Upton amendment, the House bill was hundreds of billions of dollars from providing the money to protect everyone with pre-existing conditions.

But, having worked in the House, the Senate is keeping to the same strategy. Senator McConnell won't change the base structure of the bill, but he will add a series of patches that (1) because are announced as a response to one or another problem that affects mostly middle- and upper-middle income people and are taken seriously as a solution to the problem; (2) take time to analyze; but (3) are not sufficient to solve the problem or (4) are temporary measures.

Senator McConnell announced such patches last week. And, if he can ever find the votes to get the bill to the floor, he will announce more in the last day or two before the vote, hoping to give individual senators, who have been reluctant to support the bill, a chance to step up and say they can now support it given the new provision that addresses their concerns.

This will all be political theater designed to bamboozle the media and the constituents of the final senators who vote for this monstrosity. But the patches won't really solve the problems.

Why Some of the Proposed Patches Won't Work

Now, let's look at some of the proposed Republican fixes and why they don't work.ⁱ

Adding funding for substance abuse disorders.

The latest bill adds \$45 billion to fund treatment for those suffering from substance abuse disorders.ⁱⁱ That funding is meant to make up for ending the Medicaid expansion, which has dramatically increased access to medication-assisted treatment for opioid use disorders and perhaps to provide treatment for people who, under the Senate bill, will be encouraged to purchase health insurance plans that don't cover substance abuse treatment.ⁱⁱⁱ

Forty-five billion dollars is far less than what experts estimate is needed for opioid treatment and less than what would be spent if the Medicaid Expansion continues.^{iv} (Remember, if you spend less on health care, you get less.) But even if the program funded all the substance abuse treatment we need, funding *just* treatment for substance abuse disorder is always going to be inadequate because drug abuse is almost always a product of other physical and mental health needs, including depression and anxiety. People struggling with substance abuse disorder need consistent access to physical and mental health care, not just treatment for their addiction, if they are to successfully recover.^v

Increasing funding for state innovation grants.

The revised Senate bill adds \$70 billion in funding for "long term state stability and innovation" grants, on top of \$62 billion for these grants in the earlier version (with an additional \$50 billion available for payments to insurers from 2018 to 2021). These grants are meant to hold down insurance premiums in the marketplaces – which will rise because of other provisions in the bill including the Cruz amendment – and compensate for cuts to tax credits and cost-sharing payments that help people pay premiums and reduce out of pocket payments.

But (1) the grants are far too small to attain all the aims they are meant to achieve. From 2022 to 2026, they amount to about 10% of the cuts to federal Medicaid funding and marketplace subsidies. Again, you can't get health care that you are not willing pay for. If you cut 90% of the funding, you will get 90% less health care.

(2) The funding for these grants run out after 2026. After that, all the people this provision is meant to help (but won't really help) are totally out of luck.

(3) This patchwork approach to providing health care won't get federal funds to those who need it. Medicaid and marketplace subsidies direct federal money to people – in any state that has expanded Medicaid – who need help securing insurance. The state innovation program is a block grant to states, that (a) is almost entirely directed to middle-income citizens who secure insurance through the marketplaces, not low- or moderate-income citizens who benefit from traditional or expanded Medicaid; (b) it is not adjusted for recessions, demographic shifts or other changes in costs; (c) it is distributed according to the discretion of the Secretary of Health and Human Services, leaving states (and individuals) with no assurance they will receive the help they need, and (d) it requires states to make increasingly large matching payments to draw down smaller and smaller pots of federal money.

Expanding tax benefits for Health Savings Accounts (HSAs).

The last version of the Senate bill already doubled the annual contributions limits for HSAs. HSAs are tax shelters on steroids that allow people to get a tax break when they put funds into the, when those funds earn interest, dividends or capital gains, and also, unlike IRAs, when they take money out to pay for health care and, in the latest version of the bill, health insurance premiums as well. The HSA proposal in the new Senate bill would cost the treasury about \$60 billion over ten years.^{vi}

But like other tax shelters, most of the benefits of HSAs go to the rich. Most low- and moderate-income people cannot afford to make HSA contributions to begin with, and others are likely to find it too complicated to funnel premium contributions through HSAs. And even if they did, the tax savings of the HSA tax shelters are far less valuable to low- and moderate-income people than those who have much higher incomes. Families in the lowest tax brackets will save 10 or 15 cents for each dollar they put in an has, while those in the highest bracket will save 35 cents for each dollar. Here the Republican plan not only protects, but adds to, the subsidies that higher income Americans get for their health insurance while reducing them for low- and middle- income Americans.

The Cruz Amendment.

The “Cruz amendment” would allow insurers that offer one plan that meets the ACA’s insurance regulations to offer other plans that adjusts premiums for the health status of the insured or exclude certain pre-existing conditions. If this proposal is adopted, healthier people are likely to enroll in the non-ACA compliant plans that would offer them lower premiums, while the ACA-compliant plans would disproportionately enroll people with serious pre-existing conditions, and thus would be far more expensive than the plans available now.^{vii} Even the insurance companies, which oppose the idea, recognize Cruz’s proposal will bi-furcate the insurance market and make insurance even more unaffordable for people who are older or have pre-existing conditions.^{viii} (The current bill also keeps the last version’s proposal, which allows states to opt out of the essential benefits requirement that protects people with pre-existing conditions from having to accept insurance that excludes their condition and prohibits annual or lifetime limits on coverage. That provision would also eventually allow multi-state corporations to avoid that requirement in all states.)

While lower-income people would be partially protected from higher premiums by the Senate bill’s subsidies, people with pre-existing conditions with incomes over 350 percent of the poverty level (which amounts to \$42,000 for a single adult) would face high, sometimes unaffordable premiums, with no financial assistance.

The bill dedicates up to \$70 billion of the state grant funding (the entire increase beyond the original Senate bill) to insurers that offer these plans. This proposal is similar to high-risk pools that have proven unsuccessful in the past and, once again, is so little relative to the need that it can’t possibly

make health insurance affordable for those with pre-existing conditions. And what's worse, given the provision that will allow insurers in many states to opt out of essential benefit requirements, it does nothing to guarantee that people with pre-existing conditions can even find plans that cover those conditions.

Changes to Medicaid that do nothing to limit the harm of the bill's cuts.

The minor changes in the new Senate bill do little to overcome the end of the Medicaid Expansion or the per-capita caps on funding for traditional Medicaid. Indeed, some of the proposals in the new bill make the Medicaid provision worse.

The bill gives even more money to states that haven't expanded Medicaid by increasing their allotments for payments to hospitals that treat a disproportionate share of uninsured or Medicaid payments. This not only hurts states that expanded Medicaid, like Pennsylvania, it reinforces the impetus to roll back the Medicaid Expansion.

A demonstration project to fund home- and community-based services (HCBS) won't make up for Medicaid cuts. The new bill would provide \$8 billion from 2020 through 2023 for a demonstration project providing states with one hundred percent federal matching funds for HCBS. This would allow a select number of states, *not including Pennsylvania*, to increase payments for their existing HCBS programs. But it would do nothing to protect seniors and people with disabilities from the severe threat the per-capita cap presents to HCBS where they exist now. HCBS are optional Medicaid programs. Thus, they are likely to be among the first benefits cut by states struggling to deal with reductions in federal aid due to the per-capita caps. And, to make matters even worse, the Senate bill eliminates enhanced federal funding to promote further transition to HCBS by states, a cut of \$19 billion over ten years.

Despite the provision to adjust Medicaid funding for public health emergencies, the new bill leaves states on the hook for costs not covered by the per-capita caps. The new bill purports to relax the the per capita cap for emergencies. But it leaves the decision to grant an exemption entirely up to the discretion of the Secretary of HHS and eliminates the exemption after 2024, that is, right before per-capita caps become even more stringent (thanks to Senator Toomey). It also continues to leave states responsible for one hundred percent of all other unanticipated costs, including higher costs resulting from a costly new breakthrough medication or medical treatment or from an aging population, which is a particular problem for our state.

It allows states to include adults insured under the Medicaid Expansion in the state block grants described above. People who lose insurance if a state ends the expansion of Medicaid are, in the new bill, eligible for support under the state block grants. As the block grants become more and more responsible for helping states avoid the worst consequences of the reductions in federal funding, they become even less effective in really addressing any of the consequences. Again, the problem is that a limited pot of money given to the states can't make up for a far larger sum of money given to individuals to secure health insurance. And, of course, after 2026, when the block grant program expires, no one benefits from it.

Despite retaining the ACA’s Medicare taxes, the bill is still a huge tax cut for corporations and the rich.

The new version of the Senate legislation retains the ACA’s additional 0.9% Hospital Insurance payroll tax and its 3.8% tax on investment income for individuals with incomes over \$200,000 (couples with incomes over \$250,000).^{ix} This change is intended to respond to complaints that the Senate bill cuts taxes on the wealthy even as it increases costs for low- and middle-income people. But even without repeal of these taxes, ***the Senate bill would still spend about \$400 billion on tax cuts (counting the additional HSA tax breaks described above)***. And these tax cuts would still mostly benefit upper-income people and pharmaceutical companies, insurers, and other corporations – even as the bill imposed deep cuts in health coverage. For example, the tax break to drug companies in 2022 would roughly equal the savings from the bill’s reduction in tax credits and subsidies that help low- and moderate-income families in twenty states and the District of Columbia *combined*.

Keep in mind, too, that the tax cuts the Republicans don’t include in their health care bill can, and no doubt will, reappear in their tax cut plan. Even after all the patches, the bill still reduces health care spending by roughly \$800 million over ten years, which gives Republican plenty of room to cut taxes.

State specific changes, like the Kodiak Kickback for Alaska, are also inadequate and tilted to the higher end of the income scale.

The Kodiak Kickback guarantees that Alaska will receive at least \$1.8 billion from the stabilization fund in the Senate bill discussed above. That might help Alaskans who will lose tax credit subsidies that make insurance affordable for them in their high medical cost state. But once again, the low and moderate income Alaskans who rely on traditional or expanded Medicaid will barely benefit. And the whole program expires by 2026.^x

Conclusion: Further Changes to Bill Are Likely – and will not fix the bill either.

If Senator McConnell can find the 50 votes that, together with the vote of Vice President Pence, allows the Senate to proceed to debate, we expect further changes either through piecemeal amendments or a manager’s amendment. The final coverage and cost impact of these changes are unlikely to be scored before a vote, allowing Senate Republican leaders to falsely claim that last-minute changes have finally “fixed” the bill’s major harms. But, as we have seen, given its fundamentally flawed structure, there is no way they can undo the harm of the bill. The bill will always:

- end the Medicaid expansion;
- put per-capita caps on Medicaid funding;
- drastically reduce subsidies and cost-sharing provisions for purchasing insurance in the exchanges;
- and weaken regulations that protect people with pre-existing conditions.^{xi}

These provisions are baked into the DNA of the bill and won’t be changed. And, as we have seen **there is not enough money available to improve the bill to meaningfully reduce the number of people losing coverage.**

The current, but almost certainly not last, Senate health bill proposes Band-aids for the deep stinking wound that would be created in our health care system by every one of the Republicans’ bills, which all follow the same basic model. Like all the other Band-aids, these are mostly aimed at providing temporary protection for the middle-income beneficiaries of the ACA, while leaving low- and moderate-income beneficiaries of the ACA and Medicaid out of luck. And, by the end of the decade, if not sooner, those Band-aids all fall off and the stinking wound the Republicans aim to create will be obvious to all.

ⁱ The analysis and some of the language used in this section is borrowed from Jacob Leibenluft and Aviva Aron-Dine, Senate Health Bill Can’t Be Fixed, Center on Budget and Policy Priorities, July 13, 2017, <https://www.cbpp.org/research/health/senate-health-bill-cant-be-fixed>.

ⁱⁱ Robert King, “Senate Bill Adds Opioid Money, HSA Changes to Health Bill to Woo Holdouts,” *Washington Examiner*, June 29, 2017, <http://www.washingtonexaminer.com/senate-adds-opioid-money-hsa-changes-to-health-bill-to-wooholdouts/article/2627422>.

ⁱⁱⁱ Lisa Clemans-Cope et al., “Medicaid Coverage of Effective Treatment for Opioid Use Disorder,” Urban Institute, updated June 2017, http://www.urban.org/sites/default/files/publication/90461/2001287_medicaid_coverage_of_effective_treatment_for_opioid_use_disorder_1.pdf.

^{iv} Emily Gee and Richard Frank, “Senate’s Opioid Fund Cannot Substitute for Coverage,” Center for American Progress, June 20, 2017, <https://www.americanprogress.org/issues/healthcare/news/2017/06/20/434708/senates-opioid-fundcannot-substitute-health-coverage/>.

^v Susannah Luthi, Michelle M. Stein, and Erin Raftery, “Separate Opioid Fund Could Limit Care for Addicts, Experts Warn,” *Inside Health Policy*, June 14, 2017 and Peggy Bailey, “Extra Opioid Funding Wouldn’t Undo Senate Health Bill’s Harm,” Center on Budget and Policy Priorities, June 30, 2017, <http://www.cbpp.org/blog/extra-opioid-funding-wouldnt-undo-senate-health-bills-harm>.

^{vi} Robert King, “Senate Bill Adds Opioid Money, HSA Changes to Health Bill to Woo Holdouts,” *Washington Examiner*, June 29, 2017, <http://www.washingtonexaminer.com/senate-adds-opioid-money-hsa-changes-to-health-bill-to-wooholdouts/article/2627422>; Edwin Park, “Senate GOP Adding Another High-Income Tax Break to Health Bill,” Center on Budget and Policy Priorities, June 29, 2017, <http://www.cbpp.org/blog/senate-gop-adding-another-high-income-tax-break-to-health-bill>.

^{vii} Sarah Lueck, “Cruz Amendment Would Worsen Already Harmful Senate Health Bill for People with Medical Conditions,” Center on Budget and Policy Priorities, July 12, 2017, <https://www.cbpp.org/research/health/cruz-amendment-would-worsen-already-harmful-senate-health-bill-for-people-with>

^{viii} Lenny Bernstein and Paige Winfield Cunningham, “Cruz amendment” would divide health-care market, experts say; insurance industry strongly opposed, *Chicago Tribune*, July 15, 2017, <http://www.chicagotribune.com/news/nationworld/politics/ct-cruz-amendment-senate-health-care-20170715-story.html>.

^{ix} Richard Rubin and Siobhan Hughes, “Some Senators in Health Talks Would Keep Tax on Investment Income,” *Wall Street Journal*, updated June 29, 2017, <https://www.wsj.com/articles/some-senators-in-health-talks-would-keep-tax-on-investment-income-1498757176>.

^x Jeff Stein, The Kodiak Kickback: the quiet payoff for an Alaska senator in the Senate health bill, *Vox*, July 15, 2017, <https://www.vox.com/policy-and-politics/2017/7/15/15971642/alaska-republicans-health-care>.

xi Even if the Cruz amendment is dropped or modified, the bill still removes or substantially weakens protections for people with pre-existing conditions. The bill already allows states to waive important protections for people with pre-existing conditions, including standards for what services plans have to cover. That means plans could once again carve out key services, such as maternity care or mental health or substance abuse treatment, and could go back to placing annual and lifetime limits on coverage. That could make coverage and care unaffordable for people with pre-existing conditions or other serious health needs—even though the bill technically retains the ACA’s prohibition on charging higher premiums based on health status. See Sarah Lueck, “If Senate Republican Health Bill Weakens Essential Health Benefits Standards, It Would Harm People With Pre-Existing Conditions,” Center on Budget and Policy Priorities, June 12, 2017, <http://www.cbpp.org/research/health/if-senate-republican-health-bill-weakens-essential-health-benefits-standards-it>.