HEALTH CARE FOR AMERICA NOW!

Trump Continues Attack on ACA with New Executive Order That Dismantles Protections and Drives Up Costs for Sicker Americans

Republicans in Congress have failed to repeal the Affordable Care Act (ACA) repeatedly, but President Trump won't give up on taking away our health care by using his executive authority to undermine the ACA as part of a bigger plan to collapse the law.

On Thursday, October 12, 2017 President Trump took another step toward dismantling the ACA by issuing a new executive order that allows health associations plans to sell watered down health coverage that doesn't meet current standards under the ACA.

This executive order includes provisions like those in the ACA repeal bills that were roundly rejected earlier in the year by both lawmakers and the public. Trump's order loosens up rules for insurance companies so that they can go back to refusing coverage for people with pre-existing conditions, charging them more for their coverage, and selling bogus plans that don't even include essential health benefits like maternity care, mental health and prescription drugs that are required for plans sold in the ACA marketplaces. These plans could even have life-time and annual benefit caps.

Waiving protections means these plans can cherry pick young, healthy consumers and pull them out of the existing individual health insurance market, leading to a market dominated by older and sicker people. That means that rates will skyrocket, insurers will flee, and ultimately the entire private health insurance market could collapse.

This latest executive order is part of Trump's partisan political campaign to sabotage the ACA by forcing premium increases, creating instability in the market, actively interfering with the ability of consumers to sign up for coverage, and rolling back the no-cost birth control mandate for 55 million women. That's why Trump said that this order is about "starting the process" of ACA repeal.

Background. Executive orders don't set policy – they instruct federal agencies to propose new rules. This EO instructs the Departments of Labor, Health and Human Services, and Treasury to initiate three changes.

- First, it expands the role of so-called "association health plans" in a way that allows plans formed by associations to bypass existing rules for insurance companies (like consumer protections and essential health benefits) that cover other health insurance plans under the ACA. Currently such plans are treated as small business plans and are covered by the ACA.

  This will allow association plans to systematically cherry pick young, healthy people from the existing market which will transform the existing market into an insurance pool dominated by older, sicker consumers. That will raise rates and eliminate access to affordable health care for millions of Americans, especially middle-class consumers not eligible for the ACA's tax credits. It could create what's commonly referred to as a "death spiral," where consumers are priced out of the market, insurers flee, and ultimately the market collapses, leaving millions of Americans without coverage.

- Second, it changes the definition of “short-term” plans from 90 days or less to up to one year. Because short-term plans are exempt from the consumer protections and other rules that govern insurance products under the ACA, this will allow insurers who sell these plans to raise premiums or refuse coverage to people with pre-existing conditions, and sell inadequate coverage that doesn’t include the ACA’s 10 essential health benefits. This also will siphon younger, healthier people from the existing market, while giving them bare-bones coverage instead of real insurance.

  Short-term plans are less expensive than Obamacare plans because they offer limited benefits. They can charge more or deny coverage to people with pre-existing illnesses, have annual and life-time caps, and they do not cover a broad range of medical care, from addiction treatment to maternity care. They also cannot be purchased with the tax credits available to millions of middle-income people under the ACA. This means they’ll actually cost more than ACA plans for many consumers.

- Third, it expands the use of Health Reimbursement Arrangements, which are employer-funded accounts that reimburse employees for health care expenses, such as deductibles and co-payments. While this sounds good, this change would allow employers to use HSAs to pay premiums – currently not allowed by law – which would create an incentive for employers to stop providing insurance for their employees. Instead they could offer pre-tax dollars – but probably not enough for coverage. This would push sicker patients into the individual market while pulling out healthier consumers, some of whom may purchase the newly available short-term plans. This provision is another way to trigger the collapse of the market.

It's time for Trump and the Republican Party to end their war on health care. Instead of working to take health care away from millions, our elected representatives should work to find bipartisan solutions to expand access to affordable health care.

Go here for a comprehensive summary of the executive order by Timothy Stoltzfus Jost, Emeritus Professor at the Washington and Lee University School of Law. Go here for an analysis by the Center on Budget and Policy Priorities.

Comments from Experts

Kaiser Family Foundation Senior Fellow Karen Pollitz: “Within a year, this would kill the market.” [Politico, 10/12/2017]

Washington State Insurance Commissioner Mike Kriedler: “It would have a very negative impact on the markets...Our state is a poster child of what can go wrong. Association health plans often shun the bad risks and stay with the good risks.” [New York Times, 10/12/2017]

Center for American Progress Vice President for Health Policy Topher Spiro: “By siphoning off healthy individuals, these junk plans could cannibalize the insurance exchanges...For older, sicker people left behind in plans regulated under the Affordable Care Act, premiums could increase.” [New York Times, 10/12/2017]

Veda Partners Policy Analyst Spencer Perlman: "It would essentially create a parallel regulatory structure within the individual and small group markets that is freed from the various consumer protections established...The end result could be a death spiral for ACA-compliant plans.” [Bloomberg, 10/12/2017]

Rebecca Owen, Society of Actuaries: “The influx of a set of plans exempt from the Affordable Care Act rules will essentially divide the market and make it increasingly unstable, said Rebecca Owen, a health research actuary with the Society of Actuaries. People who want or need broad coverage could find it increasingly difficult to obtain an affordable policy, experts say.” [New York Times, 10/12/2017]