

## Out of Hours

# Hope for US health care despite strong headwinds

During 2010's mid-term election, the colourful debate among the conservative Tea Partiers and the Republicans over the Affordable Care Act (ACA), aka 'Obamacare', helped both parties to gain significant power in the House. Now, 5 years later, the Affordable Care Act remains a divisive topic, yet more and more people are benefiting from health coverage while costs have been contained.

The Democrats have been unable to pass any significant legislation through the House of Representatives because it has been under Republican control since the 2012 elections. In the 2014 mid-term elections, the entire House of Representatives and a third of the Senate were up for election. Incumbent governments usually lose seats during the mid-term<sup>1</sup> and the Republican's gained the six seats in the Senate that they needed to seize in order to oust the Democrats from power.

### FROM ACA TO PCA

So what does this result mean for the Democrat's hard-won health reforms under the ACA? Probably, not very much. The stated intent by the Republicans is to erase Obama's legislative legacy, in particular, by repealing the ACA. Republican Senators Richard Burr, Tom Coburn, and Orrin Hatch have already released an alternative plan to the ACA, called the Patient Choice, Affordability, Responsibility, and Empowerment Act, or the Patient CARE Act (PCA).<sup>2</sup> However, despite the rhetoric, many ACA elements have been retained. These include cost-saving reforms to Medicare, the ban on lifetime insurance limits, coverage for children up to 26 years of age on parents' policies, disclosure of insurance benefits and limitations, non-refusal of coverage by insurers based on pre-existing conditions,<sup>3</sup> and a ban on cancelling an enrollee's insurance policy.<sup>4</sup>

So where do the plans differ? In the PCA, subsidised insurance plans will still be available for people on a low income, however eligibility will be scaled back.<sup>3</sup> Also, states will still be able to auto-enroll people on a default health plan, although the quality of the plan will not be assured.<sup>4</sup> Medicaid funding to states will be capped and tied to the Consumer Price Index and finally, the PCA will improve medical indemnity provisions to reduce defensive medical practice and mitigate expensive legal proceedings.

### CHANGING VOTING PATTERNS

The Republicans may not be the only threat to the ACA: some Democrats are starting to lean away from the ACA and many Democrats have voted against ACA-related bills and amendments. In the 2009 Congress vote on the ACA, 34 Democrats had already voted against the bill. In 2013, 39 Democrats voted for the Upton Bill allowing insurance companies to continue to sell health plans even when they do not fulfil the minimum requirements stipulated by the ACA.

More recently, 33 Senate Democrats voted against the Medical Innovation Bill and 22 Democrats favoured the abolition of the Independent Payment Advisory Board (IPAB), both key elements of the ACA. Several Democratic senators have been proposing their own amendments to the ACA. Mary Landrieu (of Louisiana), has proposed a bill similar to the Upton Bill that allows insurers to renew old policies even if they are substandard. Voting against the IPAB is a vote to repeal plans for a committee that does not yet even exist,<sup>5</sup> so it is the voting pattern rather than the votes themselves that is damaging for the Democrats, but not for the ACA.

### THE LONG GAME OF HEALTH REFORM

The ideological tug of war between decentralised market-based decision making and centralised regulation of the health insurance marketplace is set to continue; it just won't necessarily mirror the broader political ideologies.<sup>6</sup> A Republican Senate majority does not guarantee an ACA repeal because a two-thirds majority is required to overcome the Presidential veto on new legislation. In the short term, the King v Burwell Supreme Court ruling poses a threat to the ACA, but in the long term it is the 2016 Presidential election that looms as the most serious test.

While the Tea Party remains fragmented and is stepping up its campaigns focused around unlikely candidates, the proposed changes to the ACA (whether from Republicans or Democrats) seem to not substantively alter its fundamental reform platform. Health reform is tough and divisive but ultimately, affordability is likely to drive further innovations to reduce population risks and health costs, irrespective of the ruling party.<sup>7</sup>

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In the US, health reform appears to remain an electoral centerpiece for decades to come.

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