

Health Reform: The Impact of the AHCA to Patient Access

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Former Rep. Barney Frank (D-MA), who served in Congress for more than 30 years, recently said, “[It’s] stupid to think legislation is perfect on the first try.” While Rep. Frank was referring to his trademark Wall Street reform legislation, “The Dodd-Frank Act”, which has found its way into political crosshairs this year, the statement is also applicable to the Affordable Care Act (ACA).

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Former President Barack Obama even said so in a New England Journal of Medicine perspective piece on health care reform less than a week after leaving office, stating, “I am the first to say we can make improvements.” Republicans agreed and campaigned on the promise to repeal and replace the ACA, strengthening their majority in the House, maintaining their majority in the Senate, and gaining control of the White House with the election of Donald Trump. They began delivering on their promise just a few days after the ACA celebrated its seventh birthday when the House passed the American Health Care Act (AHCA), but the effort stalled in the Senate and Senate Majority Leader Mitch McConnell (R-KY) was forced to announce a delay of the scheduled August recess in early July for the Senate to attempt to complete “its work on health care reform.”

The flaws with the ACA are becoming more evident; an article published by The New York Times in June 2017 estimated that if nothing is done to the ACA by next year, there will be 45 counties in the U.S. where there is no insurer offering plans on the ACA exchanges and 1,388 counties where only one insurer will be present. If the projections are accurate, 45 percent of counties nationwide will have one or no insurers in their markets, resulting in unaffordable insurance options for patients. Despite the increasing premiums and lack of stability in the marketplaces, the majority of Americans still viewed the ACA favorably at the end of June, according to a Kaiser Family Foundation tracking poll. The support for

the law is rooted in its protections for America's sickest and most medically dependent patients. The ACA ensured patient access to treatment by instituting that patients with pre-existing conditions could not be denied coverage or charged more, establishing a list of 10 essential health benefits, and ending lifetime and annual caps on coverage of the essential health benefits.

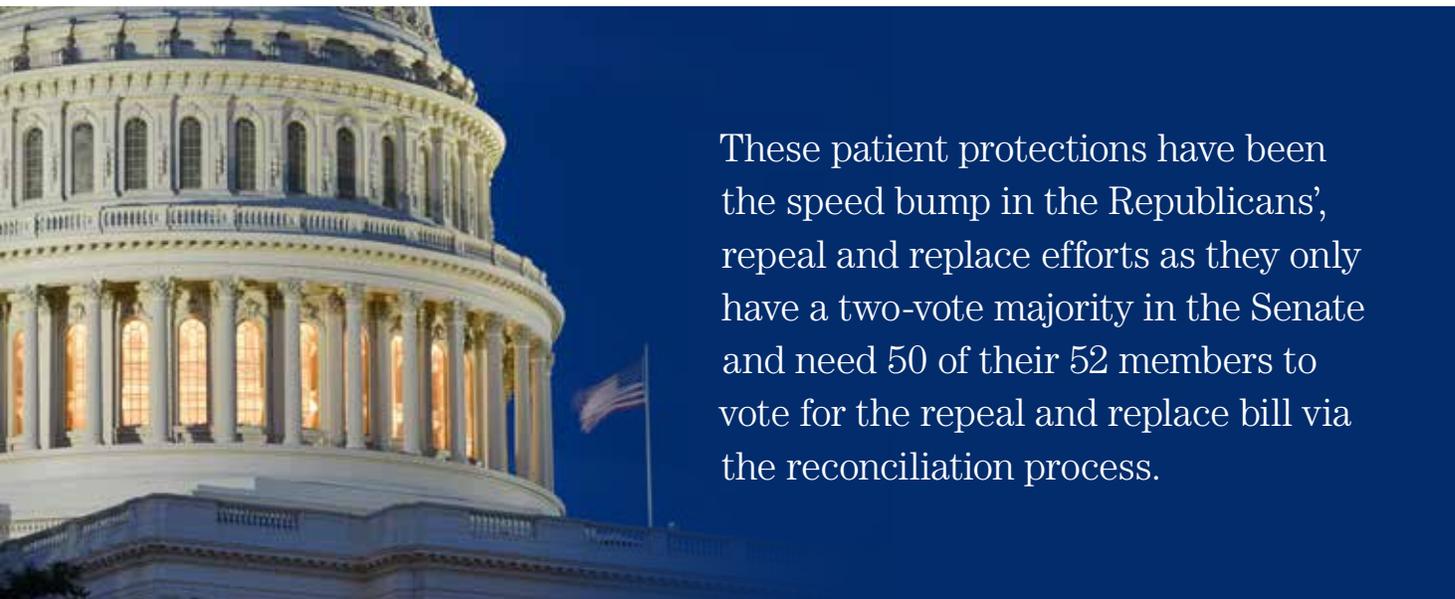
These patient protections have been the speed bump in the Republicans' repeal and replace efforts as they only have a two-vote majority in the Senate and need 50 of their 52 members to vote for the repeal and replace bill via the reconciliation process. After the House passed the AHCA, Republican senators have had town hall meetings in their districts interrupted by protesters, and in early July more than 80 protesters were arrested in Congressional office buildings chanting, "Kill the bill, don't kill me!" among other calls to action.

While the House-passed bill would not explicitly repeal these patient protections, it would enable states to apply for waivers. If a state were granted a waiver, it would then have the flexibility to make changes to the essential health benefits, reinstitute annual or lifetime caps, or even deny patients coverage based on pre-existing conditions. The U.S. Department of Health and Human Services (HHS) would be the entity responsible for reviewing waiver requests, and HHS Secretary Tom Price, who served in Congress for more than a decade, has advocated strongly for states to have waiver authority. State waivers were a part of Sec. Price's repeal and replace plan when he was in Congress, and he has said waivers would "provide

Americans relief from the damage Obamacare continues to inflict on health insurance markets."

Although the Senate vowed that its repeal and replace bill would be vastly different than the House-passed version, its initial draft bill, the Better Care Reconciliation Act (BCRA), also permitted states to apply for waivers. The Senate legislation would not allow states to be granted waivers to deny coverage to patients with pre-existing conditions, but it would allow them to use their waiver authority to eliminate the requirements that plans cap annual out-of-pocket spending and the bans on annual and lifetime limits. A change of this nature would result in millions of America's sickest patients losing coverage and access to therapies that are keeping them alive and groups from the American Hospital Association to the March of Dimes to the American College of Physicians all came out in opposition of the Senate's efforts. Further, three Republican Senators, Sens. Collins (R-ME), Murkowski (R-AK), and McCain (R-AZ), opposed the Senate efforts, with Sen. John McCain returning to Washington a week after being diagnosed with brain cancer to cast the decisive vote against the Senate's repeal and replace bill.

While the Senate departed for their scheduled August recess late and without passing an ACA repeal and replace bill, major reform is needed to preserve patients' access to lifesaving therapies and care. It is now up to Congress to determine whether it's best to pursue a bipartisan compromise to shore up the ACA or to revitalize Republican efforts to repeal and replace. ●



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