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What if the Affordable Care Act were Gone Tomorrow?
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Although the practicality of the Patient Protection and Affordable Care Act being fully repealed becomes less likely as more time passes and more of its provisions are adopted, there is still a great deal of doubt surrounding the law. If a full repeal did occur, would America's healthcare system slink back to the way it was pre-PPACA, or would it be forever changed?

In the past five years, the PPACA has been challenged numerous times in the Supreme Court and House Republicans have voted 54 times to try to repeal or severely cripple the law through funding cuts. On top of that, the PPACA is a sticking point for a presidential election, and it has been deemed one of the most controversial laws of the last 100 years.

One of the Supreme Court challenges to the health reform law has been in the national spotlight for months. The case, King v. Burwell, is focused on the insurance subsidies provided under the PPACA. The health reform law states tax subsidies for health insurance are to be provided "through an exchange established by the state." Based on the text of the law, lawsuits were filed challenging an IRS regulation that allows for subsidies in all states, even those that didn't establish their own insurance exchanges. One possible outcome is that the court will block the subsidies in the more than 30 states that did not establish their own marketplaces. The high court heard arguments in King v. Burwell in March and is set to hand down its opinion in late June.

Various parties, including healthcare organizations, have taken a strong stance on the issues involved in King v. Burwell. For instance, in early February, Nashville, Tenn.-based Hospital Corporation of America filed a friend-of-the-court brief showing strong support for keeping health insurance subsidies in all states, saying the petitioners' legal theory in the case would have "absurd consequences."

The possibility of the subsidies being done away with in the states that didn't establish their own exchanges is "so disruptive for the industry a contingency plan is necessary," says Kenneth E. Thorpe, PhD, a Robert W. Woodruff Professor and chair in the Department of Health Policy and Management at Emory University's Rollins School of Public Health. However, if the possibility becomes a reality, it appears the industry will be ill prepared. In late February, HHS Secretary Sylvia Matthews Burwell sent a letter to Congress stating the Obama administration does not have a contingency plan if the Supreme Court blocks the subsidies.

A lot of hospitals are on the same page as the government in that sense. "We've been surprised in speaking with healthcare executives in that they haven't done much in contingency planning," says Ceci Connolly, managing director of PwC's Health Research Institute. The lack of planning is likely attributable to some of the hospitals believing that the subsidies won't be thrown out and others feeling like there isn't much they can do if they are.

The lead plaintiff challenging the subsidies is David King, a resident of Fredericksburg, Va., who works as a limo driver and makes approximately $39,000 a year. Mr. King and the three other Virginia residents who joined him in filing the lawsuit challenged the PPACA because they didn't want to be forced to buy health insurance or pay a penalty. With their legal challenge, which hinged on seven words, making its way in front of the Supreme Court, the possibility of other U.S. residents who oppose the law finding other provisions or words in the health reform law to challenge isn't an unlikely scenario.

Controversy surrounding the PPACA is not limited to the high court and Congress, as the American people have voiced their strong support and opposition to the law. Since implementation of the PPACA's major provisions began in 2012, more Americans had disapproved of the law than approved of it. However, that changed in April, when PPACA approval was higher than disapproval for the first time since November 2012, according to a Kaiser Family Foundation tracking poll.

Just because the tides have changed slightly does not mean the fight is over. The battle will continue in coming months as the Supreme Court hands down its opinion in King v. Burwell, and Republican presidential candidates, including Sen. Rand Paul, MD, (R-Ky.) and Sen. Ted Cruz (R-Texas), continue to promise a PPACA repeal as one of their first priorities if elected.

The health reform law has had a significant effect on hospitals, insurance companies and the American people as a whole, and if the PPACA were gone tomorrow, the healthcare industry would immediately begin feeling the effects.

Revenue from commercial payers would plummet

If the PPACA were gone tomorrow, the biggest effect initially would be on revenue coming into hospitals. Hospitals have experienced revenue growth due to more insured patients coming in for care, as more than 15 million people have gained health coverage over the last two years.

"In a short period of time, a great deal of people have become insured and that has meant paying customers," says Ms. Connolly.

Hospitals across the country have seen about $20 billion in new revenue due to the health reform law, and if the PPACA were gone, the additional influx of funds would cease.

The PPACA has had the most significant effect on hospitals that previously served large numbers of uninsured patients, such as safety-net facilities.

Mr. Thorpe says if the PPACA were gone tomorrow, virtually all of the 15 million people who gained coverage under the health reform law would lose it. With the vast majority of people who signed up for coverage using the PPACA insurance exchanges receiving subsidies to help pay their health insurance premiums, most would not be able to afford to keep their coverage if the law and its subsidies disappeared.

"The hospital industry only remains profitable because it has privately insured patients, and without that, it would struggle," says Mr. Thorpe.

Medicaid revenue would drop

Hospitals in states that expanded Medicaid under the PPACA would also feel the effects of those Medicaid patients once again becoming uninsured.

The PPACA calls for all states to expand their Medicaid programs. However, the 2012 Supreme Court decision made Medicaid expansion optional, and as of March 6, 29 states, including Washington, D.C., had expanded their programs, according to Kaiser Health Facts.

"If you look at all the data, hospitals in states where Medicaid expansion was adopted are benefiting," says Gregory F. Hagood, senior managing director and president of SOLIC Capital.

If the PPACA were gone tomorrow, the states could continue offering their expanded programs, but it would be virtually impossible to continue providing the coverage without federal funds.

More hospitals might go bankrupt

Although the effects would vary, a reduction in revenue would negatively impact all healthcare organizations. However, rural hospitals are the ones in the most dire straits, as many of them are already facing financial troubles, according to Mr. Thorpe.

The influx of revenue from commercial payers and Medicaid enrollees who were once self-pay patients has served as a shot in the arm for many rural hospitals. It gave many that were financially distressed a little breathing room. However, if those additional funds were taken away, more rural hospitals would be forced to file for bankruptcy, according to Mr. Hagood.

Financially distressed hospitals filing for bankruptcy isn't anything new in the industry, with 16 hospitals filing in 2014, according to a report from Value Healthcare Services. However, that number would likely increase if the PPACA were gone.

The consolidation trend may continue_

Consolidation in the healthcare industry is rampant, as large systems expand their market presence by acquiring hospitals seeking financial sustainability and other systems come together to become more efficient.

Peter Kongstvedt, principal of P.R. Kongstvedt Company, a consulting firm, and an affiliate faculty member in the Department of Health Administration at George Mason University, believes the rise in consolidation in the healthcare industry has nothing to do with the PPACA.

"The consolidation trend has been underway for a long time, predating the PPACA," says Mr. Kongstvedt. "Although efficiency is given as a reason for consolidation, generally speaking, it is really driven by the ability to get market power."

However, if the PPACA were gone and the consolidation trend continued, the Federal Trade Commission would still have a close eye on the industry. The FTC has successfully challenged several hospital mergers and other integration combinations in recent years, even those that were executed to realize the values of healthcare reform. Hospitals are acquiring and aligning with other hospitals and physician groups to create an integrated care continuum for patients and build the scale needed for value-based reimbursement, but the FTC will still scrutinize these transactions for potential anticomopetitive effects, particularly the resulting leverage with health insurers. The agency would maintain this level of antitrust enforcement regardless of whether the PPACA was around or not.

Changes to quality of care initiatives

Along with ensuring all Americans have access to affordable health coverage, the PPACA also aims to improve patient care quality and lower healthcare spending.

There are a number of PPACA quality initiatives, including the Medicare Hospital Value-Based Purchasing program. The VBP program is intended to encourage hospitals to provide high-quality care more efficiently by adjusting payments to hospitals based on the quality of care they provide. In 2015, 1,714 hospitals will receive some bonus payment and 1,375 will receive a payment reduction under the program, according to data on more than 3,000 U.S. hospitals.

If the PPACA were gone, hospitals participating in this VBP program would likely continue their efforts to provide more efficient care. However, over time, without the possibility of receiving a bonus or a payment reduction, hospitals' adoption of the principles would likely fade away.

Like the VBP program, accountable care organizations are meant to reward providers for improving quality of care while reducing healthcare costs. Physicians, hospitals and other providers participating in ACOs coordinate patient care and receive bonuses when they deliver care more efficiently.

However, unlike the VBP program, the ACO concept predates the PPACA, as CMS began launching ACO pilots in 2005. Although the term ACO may have existed before the PPACA, the health reform law requires CMS to move forward with ACOs.

Private payers have followed in Medicare's footsteps and entered into ACOs with organizations across the nation. There are roughly 159 non-CMS ACOs that involve shared-saving arrangements between healthcare providers and private payers, according to research from consulting firm Oliver Wyman.

In January, HHS Secretary Sylvia Mathews Burwell announced ambitious goals for reforming Medicare payments that would make 30 percent of payments through alternate payment models like ACOs by 2016. A few days after HHS' announcement, a group of top health systems, payers and other stakeholders once again followed the government's lead and announced the formation of the Health Care Transformation Task Force, a private sector alliance aimed at accelerating the healthcare industry's transformation to value-based care.

If the PPACA were gone tomorrow, and CMS chose not to extend the pilot programs, providers participating in the two types of Medicare ACOs — the Pioneer Program and the Medicare Shared Savings Program — would no longer be eligible for bonuses. With no financial incentive involved, the carrot-and-stick approach for these types of networks would no longer be effective. If these ACOs were dismantled, it could cause patient care to suffer since care coordination efforts would be dealt a major setback.

The PPACA does not dictate the ACOs private payers and systems have formed. However, if the health reform law were gone, some of those ACOs might choose to dissolve as the intense focus on efficiency and quality care the PPACA calls for would no longer exist. Some of the private payer ACOs — those realizing the benefits of coordinating care and available financial incentives — may choose to continue as they are now.

There's no going back

In the years since its adoption, the PPACA has already fundamentally altered the healthcare system in the U.S. Although the health reform law is shrouded in controversy, the American people and the healthcare industry have already adapted to many of the changes it mandates in a relatively short period of time. Hospitals have invested in technology, improved their population health efforts and adapted to seeing more insured patients. If the PPACA disappeared tomorrow, healthcare would not simply return to the way it was before the law was enacted. That is no longer a possibility.

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