



GOP Support for Government Healthcare

The Republican-controlled U.S. House of Representatives has voted to repeal ObamaCare again and again since the Republicans regained control of the House in the 2010 mid-term elections. Indeed, the *New York Times* has estimated that the House has spent 15 percent of all of its time on the floor focused on ObamaCare repeal efforts. Although the repeal of ObamaCare would certainly be a good thing, this political posturing by the Republicans is merely a symbolic gesture. It is also a great exercise in futility since the Democrats, who control the Senate by a margin of 52-46 (plus two Independents who caucus with the Democrats), would never in a million years repudiate what will turn out to be the cornerstone of President Obama's legacy. And of course, Obama would never sign a bill repealing the eponymous healthcare law.



Democrats, liberals, and progressives, since at least the days of Harry Truman, have generally pushed for a single-payer universal health system. Since that has never been politically feasible, they have been willing to accept almost any deviation from a free market in medical care and health insurance that moves the country closer to full-fledged socialized medicine. These digressions range from massive programs like Medicare, Medicaid, the State Children's Health Insurance Program (SCHIP), and ObamaCare down to the less visible but insidious regulations and mandates.

Some of these programs and regulations have been around for decades, but the Republican focus of late has just been on ObamaCare. But although Republicans say they believe in smaller government, less intrusive government, less government regulation, and the free market, their alternative to ObamaCare says otherwise.

ObamaCare

The Patient Protection and Affordable Care Act, otherwise known as the PPACA or ObamaCare (a term the president has embraced), was signed into law by President Obama on March 23, 2010, after the massive 2,407-page bill (H.R.3590) passed both the Democrat-controlled House and Senate without a single Republican vote. Although the first requirement of ObamaCare (a 10-percent tax on indoor tanning services) took effect in July of 2010, and most of its reforms take effect by January 1, 2014, its final provisions don't take effect until 2020 — after President Obama is long gone.

It was fitting that the first requirement of ObamaCare was a new tax since ObamaCare is in a great measure a collection of tax increases masquerading as a healthcare law. The employee share of the Medicare tax (currently 1.45 percent) has increased to 2.35 percent on that portion of income that is more than \$200,000 for individuals, more than \$125,000 for married taxpayers filing separately, and



Written by [Laurence M. Vance](#) on December 23, 2013

more than \$250,000 for married taxpayers filing jointly. And then there is the new 3.8 percent Medicare tax on investment income that will apply to the lesser of one's net investment income or the amount of adjusted gross income in excess of the applicable thresholds just mentioned. Medical expenses can now only be deducted on tax returns if they exceed 10 percent of adjusted gross income, instead of 7.5 percent, thus effectively raising taxes. Then there are the new taxes on drug companies and medical device manufacturers. Yet to come is the excise tax on comprehensive health insurance plans and a new tax on health insurers.

But in addition to its tax increases, ObamaCare includes many "reforms" to the healthcare and health insurance systems. These include the expansion of Medicare, changes to the Medicare payment system, the creation of state health insurance exchanges, federal subsidies for the purchase of health insurance, the employer mandate that all employers with 50 or more employees must offer health insurance or pay a penalty, the individual mandate that every American not covered by Medicaid, Medicare, or health insurance must purchase health insurance or pay a penalty, and the requirements that insurance companies must provide policies with minimum standards, cover all applicants without regard to their pre-existing medical conditions, eliminate annual and lifetime caps on benefits, eliminate co-payments and deductibles for selected health-insurance benefits, and allow children to remain on their parents' insurance plan until their 26th birthday.

The Republican Alternative

Republicans never reverse the bad policies of Democrats. This has been true since the Republican-controlled 83rd Congress of 1953-1955 under the Republican President Dwight Eisenhower. If ever FDR's New Deal could have been repealed and the government restored to its pre-New Deal levels, that was the time. But such was not the case. In fact, Republicans since then have usually helped Democrats enact bad policies or else they have enacted additional bad policies on their own. They routinely support legislative policies that are expensive, intrusive, unconstitutional, and socialistic.

Under the Comprehensive Health Insurance Plan (CHIP) presented to Congress by President Richard Nixon in 1974, "every employer would be required to offer all full-time employees the Comprehensive Health Insurance Plan." The plan would be

jointly financed, with employers paying 65 percent of the premium for the first three years of the plan, and 75 percent thereafter. Employees would pay the balance of the premiums. Temporary Federal subsidies would be used to ease the initial burden on employers who face significant cost increases.

The plan also contained the provision that "there would be no exclusions of coverage based on the nature of the illness."

In 1986, President Ronald Reagan signed into law a bill that the Republican-controlled Senate helped the Democratic-controlled House pass: the Emergency Medical Treatment and Active Labor Act (EMTALA). This law requires any hospital that participates in Medicare (virtually every hospital) to provide emergency care to anyone who needs it regardless of his lack of insurance, immigration status, or ability to pay. This is an unfunded mandate since it contains no reimbursement provisions. According to the Centers for Medicare & Medicaid Services, 55 percent of the emergency care in the United States now goes uncompensated.

In 1989, the Heritage Foundation, a conservative think tank, issued a monograph entitled "A National Health System for America" that reads like a conservative version of ObamaCare. As related in a speech



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that same year (also published by Heritage) at a medical college by Stuart Butler, the director of domestic policy studies at Heritage at the time, the objectives of the Heritage plan were:

- All citizens should be guaranteed universal access to affordable health care.
- The inflationary pressures in the health industry should be brought under control.
- Direct and indirect government assistance should be concentrated on those who need it most.
- A reformed system should encourage greater innovation in the delivery of health care.

The Heritage plan contains ObamaCare's individual mandate: "Every resident of the U.S. must, by law, be enrolled in an adequate health care plan to cover major health care costs." As Butler explained in his speech:

Many states now require passengers in automobiles to wear seatbelts for their own protection. Many others require anybody driving a car to have liability insurance. But neither the federal government nor any state requires all households to protect themselves from the potentially catastrophic costs of a serious accident or illness. Under the Heritage plan, there would be such a requirement.

The plan mimics ObamaCare's government subsidies to purchase insurance: "The government would aid those who, because of income or medical condition, find the cost of protection to be an unreasonable burden." Again, as Butler explains in his speech:

To an extent, the problems of affordability among these families would be dealt with through the system of tax credit outlined above. The Heritage plan also sees these tax credits as refundable — that is, a check would be sent to the family if the total credit exceeded the tax liability. In this way, families would receive direct assistance through the tax code to enable them to fulfill the obligation to obtain insurance.

The plan also contains ObamaCare's penalty for failing to be insured:

The requirement to obtain basic insurance would have to be enforced. The easiest way to monitor compliance might be for households to furnish proof of insurance when they file their tax returns. If a family were to cancel its insurance, the insurer would be required to notify the government. If the family did not enroll in another plan before the first insurance coverage lapsed and did not provide evidence of financial problems, a fine might be imposed.

And even worse than ObamaCare, the Heritage plan "would treat all health care benefits provided by employers as taxable income to the employee." Butler now says he opposes an "individual mandate" after recently coming under fire for the support that he and Heritage gave to the idea. Newt Gingrich, who also used to support some type of "individual mandate," likewise changed his mind when he felt the political winds blowing.

In 1993, the Republican alternative to President Clinton's health-reform bill made its first appearance: the Health Equity and Access Reform Today Act (HEART). It was sponsored by John Chafee (R-R.I.) and cosponsored by 19 Republicans, including Bob Dole (R-Kan.), then the Senate Minority Leader. The legislation proposed health insurance vouchers for low-income individuals as well as employer and individual mandates.

The State Children's Health Insurance Program (SCHIP), a partnership between federal and state governments that provides federally funded health insurance to children in families with incomes too



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high to qualify for Medicaid, was created by a Republican-controlled Congress in 1997.

In 2003, with a Republican president in the White House and Republican control of the House and Senate, Republicans introduced and passed their own healthcare bill: the Medicare Prescription Drug, Improvement, and Modernization Act (H.R.1). It was the largest expansion of the welfare state since Medicare was instituted as part of Lyndon Johnson's Great Society. Only nine Republicans in the Senate and 25 in the House joined the vast majority of Democrats in both Houses in voting against "Bushcare."

In the "Pledge to America" issued by conservative House Republicans on the eve of the 2010 mid-term election, the statement on healthcare could have been made by liberal House Democrats in defending ObamaCare:

Health care should be accessible for all, regardless of pre-existing conditions or past illnesses. We will expand state high-risk pools, reinsurance programs and reduce the cost of coverage. We will make it illegal for an insurance company to deny coverage to someone with prior coverage on the basis of a pre-existing condition, eliminate annual and lifetime spending caps, and prevent insurers from dropping your coverage just because you get sick.

In a speech to students at American University in Washington just after the Republicans regained control of the House in the 2010 mid-term elections, Eric Cantor, the new Republican House Majority Leader, expressed support for two of the worst provisions of ObamaCare: "We too don't want to accept any insurance company's denial of someone and coverage for that person because he or she might have a pre-existing condition. Likewise we want to make sure that someone of your age has the ability to access affordable care if it's under your parent's plan or elsewhere."

And if all of this weren't bad enough, Republicans are big supporters of Medicare.

Medicare is government-funded healthcare for those 65 and over or those who are permanently disabled. It is partially funded by payroll tax deductions from both employers and employees. Medicare began in 1966 as part of the Great Society. It now covers over 50 million Americans at an annual cost of almost \$600 billion, and is the third largest item in the federal budget after defense and Social Security. Medicare should be distinguished from Medicaid — which is government-funded healthcare for the poor via a joint federal-state program administered by the states — which is also supported by Republicans.

In their "Pledge to America," Republicans proposed to "support Medicare for seniors," and "protect our entitlement programs for today's seniors and future generations." They actually criticized ObamaCare for supposedly cutting Medicare. Two of the biggest defenders of Medicare in the Congress are Paul Ryan (R-Wis.) in the House and Ted Cruz (R-Texas) in the Senate. When the Republicans controlled both Houses of Congress for over four years when George W. Bush was president, they did absolutely nothing to rein in Medicare spending. Nancy Pelosi made a specious point against Republican opponents of ObamaCare in her "Constitutionality of Health Insurance Reform," which, though wrong as a matter of constitutional law, rightly condemns Republicans for not attacking Medicare as unconstitutional:

Reform opponents continue to spread myths about components of America's Affordable Health Choices Act, including the nonsensical claim that the federal government has no constitutionally valid role in reforming our health care system — apparently ignoring the validity of Medicare and other popular federal health reforms.

The Republican argument against ObamaCare was never about real medical freedom. Although Republicans (except perhaps for Chief Justice John Roberts) may not believe in the federal government



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forcing Americans to purchase health insurance for themselves, they do believe in forcing some Americans to pay for the health insurance or healthcare of other Americans through programs like Medicare, Medicaid, and SCHIP. Because of their support for massive government intervention into the healthcare and health insurance industries, Republicans have no creditability on these issues and no real alternative to ObamaCare.

The Constitutional Alternative

The stated purpose of ObamaCare is, according to the bill that became the president's healthcare law, to "provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes." Conservatives and libertarians can and do make important arguments about how it is not the proper role of government to provide or pay for healthcare, make healthcare and health insurance more affordable, institute a safety net to ensure that the poor have adequate healthcare, regulate the healthcare and insurance industries, mandate that employers provide a particular benefit to employees, or force anyone to purchase a service. Not to mention that no American has a right to the resources of another American, no matter how low his income or "need" for medical services.

But the argument against ObamaCare and every other intervention of the federal government into the healthcare and health insurance industries is not just a philosophical one. The simplest and most practical alternative to ObamaCare is the constitutional one. The Constitution nowhere authorizes the federal government to have anything to do with healthcare or health insurance. Period. This means no laws, no mandates, no regulations, no requirements, no licensing, no standards, no programs, no agencies, no funding, no subsidies, no guidelines, no oversight, no restrictions — nothing of any kind on the federal level.

Nowhere does the Constitution authorize the federal government to have programs such as Medicare, Medicaid, SCHIP, Bushcare, Republicare, or ObamaCare.

Nowhere does the Constitution authorize the federal government to have agencies such as the National Institutes of Health, the FDA, or the Department of Health and Human Services.

Nowhere does the Constitution authorize the federal government to provide a healthcare safety net, subsidize anyone's medical care or insurance, or "provide affordable, quality healthcare for all Americans and reduce the growth in healthcare spending."

Nowhere does the Constitution authorize the federal government to fund clinical trials, laboratories, community health centers, medical research, HIV/AIDS prevention initiatives, or family planning.

Nowhere does the Constitution authorize the federal government to have nutrition guidelines, vaccination mandates, drug schedules, or prescription drug plans.

Nowhere does the Constitution authorize the federal government to mandate the reduction of co-payments and deductibles, the elimination of annual and lifetime caps on benefits, or the issuance of insurance policies without regard to pre-existing conditions.

Nowhere does the Constitution authorize the federal government to force hospitals to treat anyone regardless of their ability to pay, force employers to offer health insurance, or force individuals to purchase health insurance.

Nowhere does the Constitution authorize the federal government to regulate hospitals, nursing homes, medical schools, medical records, the health-insurance industry, pharmaceutical companies, organ sales



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or donations, medical devices, physicians, dentists, nurses, midwives, psychiatrists, psychologists, pharmacists, or practitioners of holistic, chiropractic, homeopathic, nutritional, or other forms of alternative medicine.

The constitutional alternative to ObamaCare is simply medical freedom. This means that repealing ObamaCare is not enough. But because the idea that the federal government should intervene in some way into the healthcare and health insurance industries is so pervasive and systemic, the constitutional alternative is in the minority even among those who profess to respect the Constitution. Nevertheless, it is imperative that the hearts and minds of the American people be turned, not just from ObamaCare, but to the constitutional alternative — medical freedom.

Photo of Speaker of the House John Boehner with House Majority Leader Eric Cantor: AP Images

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