

2012 and the fate of health reform

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This year promises to be momentous for the fate of federal health reform efforts and thus the direction of health care in America for the foreseeable future.

In March, the Supreme Court will hear five hours of oral arguments on a challenge to the 2010 health care overhaul law – in particular, whether the federal government can require Americans to purchase health insurance.

The court's decision to review the case creates a number of possible resolutions, including upholding the law, striking down its most controversial (and most unpopular) provision, possibly nullifying other elements of the act, or simply ducking any definitive judgment entirely as premature. A decision on the constitutionality of the "individual mandate" and other provisions of the Affordable Care Act will be rendered in June.

Even if the Supreme Court upholds the ACA in its entirety, the 2012 elections will play a major role in determining whether key insurance coverage and health care delivery provisions of the act are implemented or repealed. Writing in the *New England Journal of Medicine*, Harvard policy analyst David Blumenthal argues that the health care stakes riding on this year's election couldn't be greater and concludes that "we will live with its health care consequences for decades to come."

While such bets are presently illegal in Nevada, I'd be willing to wager that President Obama will be re-elected, Republicans will narrowly retain control of the House of Representatives, and Republicans will recapture the Senate. In 2012, 23 Democratic seats will be contested as compared to only 10 Republican-held seats – electoral math that, in our polarized, anti-incumbent times, favors a GOP takeover of the Senate.

Blumenthal contends that the scenario of an Obama second term and Republican Congress all but guarantees a "political stalemate [that] reduces funding for coverage expansions, slows implementation of state health insurance exchanges, and reduces funding for health system reforms." To wit, GOP efforts to thwart the implementation of President Obama's signature legislative achievement will only be emboldened.

Over the past two years, 43 of 46 major provisions of the Affordable Care Act have been implemented despite the best efforts of Republican lawmakers to defund or block all things Obama. These include a number of popular provisions, such as measures preventing insurers

from denying coverage to those with preexisting conditions, closure of the Medicare “donut hole” for drug coverage for seniors, and tax credits to individuals and small businesses to help pay for coverage.

Despite widespread public support for elements of the new law – particularly, its consumer friendly provisions – Republican opposition remains undaunted. The current band of Republican presidential contenders, most notably, are united in their pledge to repeal the health reform law. What would replace the horror which they contend is “Obamacare” is never specified, of course, but repeal is their patriotic duty.

It’s essential to point out that in the decade prior to the enactment of the Affordable Care Act, the ranks of the uninsured grew from 38 million or 24 percent of the adult population in 2001 to an estimated 52 million or 28 percent in 2010. Similarly, one third of working-age adults, or 49 million Americans, spent 10 percent or more of their income on out-of-pocket medical costs and health insurance premiums in 2010, up from 21 percent or 31 million adults in 2001.

One is thus struck by the utter poverty of Republican approaches to the triple problems facing health care in the US – the high cost of care and unsustainable spending growth, lack of timely access to health care for millions of uninsured and underinsured Americans, and uneven quality of care and threats to patient safety – that begat federal health reforms in the first place.

Warts and all, the Affordable Care Act recognizes that our nation’s big health care problems might require equally big solutions. Those solutions, as evidenced by the law’s support for state-level health insurance exchanges, need not nor should not be federal one-size-fits-all in nature, but big they must be.

The Supreme Court’s ruling later this spring and the upcoming fall elections will shape both the nature and extent to which the “big solutions” embodied in the recently enacted health reform law ultimately come to fruition.

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