

Navigating the ACA in the Trump Era

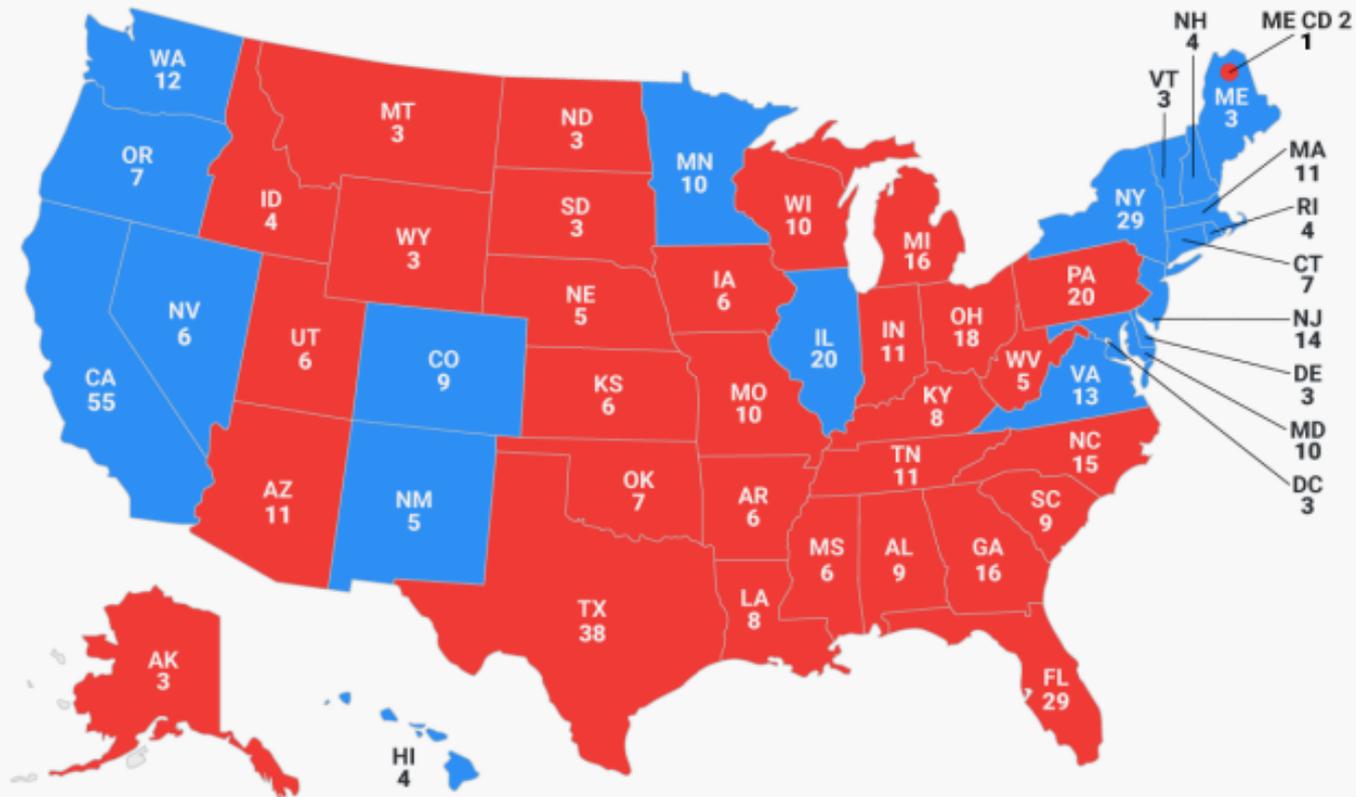
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BUSINESS INSIDER
ELECTION ★ 2016

CLINTON
232

270 ELECTORAL
VOTES TO WIN

TRUMP
306



SOURCES: Associated Press, Fox News, CNN, NBC News, CBS News, ABC News

How We Got Here

- ❖ Before November 8, 2016, many predicted that Hillary Clinton had a 92% chance of winning the White House
- ❖ The likelihood of a Trump victory was compared to the chances of a kicker missing a 20 yard field goal
- ❖ Well he missed...

What does this mean for the Affordable Care Act?

- ❖ Since the law was enacted in March 2010, 20 million uninsured people have gained coverage
- ❖ We now have 6 years of implementation – the ACA is now the “norm”
- ❖ Republicans now control the White House and both houses of Congress
- ❖ With a Republican President, at best, the future of the Affordable Care Act is uncertain

Recap: ACA in a nutshell

- ◆ Premium tax credits and other cost-sharing subsidies
- ◆ Individual mandate
- ◆ Employer mandate
- ◆ Prohibitions on pre-existing condition exclusions
- ◆ Dependent coverage (coverage for children up to age 26)
- ◆ Small business tax credit
- ◆ Chronic care, net investment and tanning taxes
- ◆ Medicare tax increases as applied to individuals with income surpassing certain thresholds
- ◆ Limitations on contributions to Flexible Savings Accounts (FSAs)

Recap: ACA in a nutshell

- ❖ Medical device excise tax
- ❖ The annual tax imposed on health insurers
- ❖ Prohibitions on using FSAs or HSAs for non-prescription healthcare expenses
- ❖ 20% tax penalty on non-qualified purchases from FSAs
- ❖ The prescription drug tax imposed on manufacturers and importers of prescription drugs
- ❖ Disproportionate Share Hospital (DSH) allotment reductions
- ❖ "Cadillac Tax" on high-cost employer-sponsored health insurance premiums and health plan benefits
- ❖ Medicaid expansion – (31 states + DC have expanded; 19 have not)
- ❖ Prevention and Public Health Fund
- ❖ Coverage of preventive services
- ❖ Wellness programs

Trump on the ACA

◆ Trump position from campaign website:

“On day one of the Trump Administration, we will ask Congress to immediately deliver a full repeal of Obamacare”.

Trump's 7 Point Healthcare Plan from Campaign

- ❖ Complete repeal of ACA
- ❖ Allow insurance companies to offer plans in any state, as long as the plan is in compliance with state requirements
- ❖ Allow individuals to deduct insurance premium payments from taxes; review of Medicaid options to ensure it is affordable
- ❖ Establish tax-free Health Savings Accounts, which could become part of an individual's estate and passed on to heirs without an estate penalty.

Trump's 7 Point Healthcare Plan from Campaign

- ❖ Price transparency from providers and hospital organizations
- ❖ Medicaid handled on state level, including incentives
- ❖ Break down barriers that prevent drug providers of less expensive, safe products from entering the free market.

Trump since the Election

- ❖ Since winning the presidency, Trump has seemed to soften his rhetoric:

“Either Obamacare will be amended, or repealed and replaced.” (first official post-election interview; with *Wall Street Journal* on Nov. 11, 2016)

Trump Administration Transition Plan

- ❖ Replace ACA with a solution that includes Health Savings Accounts and State regulation of health insurance
- ❖ Re-establish high-risk pools
- ❖ Purchase of insurance across state lines
- ❖ “Modernization” of Medicare
- ❖ Flexibility for States to administer Medicaid
- ❖ Patient-centered healthcare system that promotes choice, quality and affordability

Repeal Process

- ❖ Full repeal of the ACA would require 60-vote supermajority in the Senate to overcome Democrat filibuster
- ❖ Senate breakdown after 2016 Election:
 - Democratic Party: 46
 - Republican Party: 52
 - Independent: 2

Budget Reconciliation

- ❖ Created by the Congressional Budget Act of 1974
- ❖ Allows for expedited consideration (debate less than 20 hours) of certain tax, spending, and debt limit legislation.
- ❖ Reconciliation bills are not subject to filibuster
- ❖ Bill can pass with simple 51 vote majority
- ❖ Allows for partial repeal of ACA

Restoring Americans' Healthcare Freedom Reconciliation Act of 2015

- ❖ ~~Premium tax credits and other cost sharing subsidies~~
- ❖ ~~Individual mandate~~
- ❖ ~~Employer mandate~~
- ❖ **Prohibitions on pre-existing condition exclusions**
- ❖ **Dependent coverage (coverage for children up to age 26)**
- ❖ ~~Small business tax credit~~
- ❖ ~~Chronic care, net investment and tanning taxes~~
- ❖ ~~Medicare tax increases as applied to individuals with income surpassing certain thresholds~~
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- ❖ ~~Disproportionate Share Hospital (DSH) allotment reductions~~
- ❖ ~~"Cadillac Tax" on high-cost employer-sponsored health insurance premiums and health plan benefits~~
- ❖ ~~Medicaid expansion~~
- ❖ ~~Prevention and Public Health Fund~~
- ❖ **Coverage of preventive services**
- ❖ **Wellness programs**

Other Tools

- ❖ Executive Orders (and the undoing of the previous administration's Executive Orders)
- ❖ Section 1332 of the ACA: allows the federal government to grant:
 - ▶ Innovation waivers to states to take a different approach to care
 - ▶ Section 1115 waivers, which allow for experimental, pilot, or demonstration projects that promote the objectives of Medicaid with expanded coverage, new benefits, or improved efficiency

Paul Ryan's "A Better Way"

- ❖ Eliminate individual and employer mandates
- ❖ Support for employer-based insurance
- ❖ Universal, refundable tax credits to help buy insurance on the individual market given at the beginning of each month, adjusted for age/grows over time
- ❖ Allow sales across state lines
- ❖ Promotion of wellness plans

Paul Ryan's "A Better Way"

- ❖ Substantial reform to Medicaid through per capita allotment financing and block grants
- ❖ Creation of a "Medicare Exchange" – private plans compete with traditional fee-for-service Medicare
- ❖ Medicare "premium support" payments that would be paid by Medicare directly to the private plan or the fee-for-service program to subsidize its cost

Rep. Tom Price 2015 proposal

- ❖ 2015 proposal: repeal ACA in its entirety, privatization of Medicare, sharp cuts in Medicaid funding, and defunding of Planned Parenthood
- ❖ Price is now the incoming Trump Administration appointee to head Department of Health and Human Services

World's Greatest Healthcare Plan Act

- ❖ Legislation introduced by House Rules Chairman Pete Sessions (R-TX) and by Senator Bill Cassidy (R-LA) in 2016
- ❖ No individual mandate and no employer mandate
- ❖ Based on freedom of choice and competition
 - ▶ Refundable, universal health insurance tax credit available to everyone to help buy the private health insurance in a competitive marketplace
 - ▶ The credit varies by age and geography, but not income
 - ▶ Credit averages \$2,500 per adult and \$1,500 per child

Other Recent Developments: 21st Century Cures Act

- ❖ Passed by House and Senate with strong bipartisan approval
- ❖ Signed into law by President Obama on Dec. 13, 2016
- ❖ \$6.3 billion law that provides funding for cancer cure research, efforts to fight opioid addiction, treatment of mental illness, and Alzheimer's research
- ❖ Amends the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 to allow small employers that do not offer group health insurance coverage to establish a new qualified small employer health reimbursement arrangement and reimburse employees for medical care expenses.

Common Themes

- ◆ More Choice
- ◆ Affordability
- ◆ Open Markets
- ◆ Transparency
- ◆ Shifts away from Federal Government and Towards State Government and Private Enterprise