Analysis of the Patient Freedom Act of 2017 (Cassidy-Collins bill)

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Basic premise: give states options for providing health care coverage, while offering federal dollars to support those choices.

Key points:

1. ACA regulations and mechanisms of coverage will remain one of three options for states—states can have the ACA structure in place (like MA did before ACA was passed), and will continue to receive federal money to support it.
2. Another option is for states to receive an amount of money equal to 95% of what it would have received under ACA, but with freedom to implement new regulations and coverage mechanisms. Money could be used as a block grant or as refundable tax credits (basically, an option to implement the Paul Ryan ACA/Medicaid replacement plan).
3. Third option is for states to have flexibility to set insurance regulations at its own discretion, and will choose not to receive federal funds to support healthcare coverage.

Potential benefits:

1. States will have the option of continuing to receive federal money to support healthcare systems, whereas an outright repeal of ACA with no replacement would cause massive budget disruptions for states that expanded Medicaid. (Of course, some states may opt for that disruption by deciding to forego federal funding, which means that all those currently receiving subsidies to buy insurance through the marketplace would be left without help.)
2. States that didn't expand Medicaid would get funding almost equal to what they would have had with expansion—funding they chose to forego when choosing not to expand Medicaid.
3. This bill represents a compromise through which some states could continue to operate ACA-like systems. Presumably Massachusetts would be among them, but other states—including Colorado—may choose this option as well, since in many places hospitals and doctors are speaking out against ACA repeal, and this pressure would be more profound at the state level. However, it also means there will be 57 more fights about ACA repeal across the country as each state and territory decides which option to pursue under the new bill.
4. The summary of the bill explains that it, "keeps essential consumer protections, including guaranteed issue, guaranteed renewability, no annual or lifetime limits, dependent coverage through age 26, and prohibiting pre-existing condition exclusions, and prohibiting discrimination based on health status." The bill specifies that these regulations will stay in effect for all group and individual health insurance markets, regardless of which of the three options states choose for their health coverage. (See below for a related concern about this.)
5. The bill keeps a requirement that preventive services be covered by health insurance plans, UNLESS the employer is contributing to a Roth HSA (created & incentivized by this bill). That's a big "unless," since the bill encourages employers to create and contribute to HSAs for employees.

6. The federal government will continue to operate a health insurance exchange for consumers to use to shop for insurance.
7. Allows states to implement an “opt-out” system of enrolling individuals in default high-deductible insurance + HSAs if the individuals do not choose one themselves, unless the individual specifically opts-out. States that choose this option will have much lower uninsurance rates.

Concerns:

1. Some states may opt to forego federal funding to support their healthcare systems. This will leave millions of Americans without access to health care—and will disproportionately affect those in “red” states, which also tend to be states with lower per capita income.
2. Many states will likely choose the non-ACA block grant/per capita funding model. Block grants have a long history of leading to reductions in benefits over time. Block grants mean that once money is spent, others who might be eligible for support go on waiting lists. To reduce waiting lists, eligibility is trimmed. Many states will have to choose whether to reduce funding for long-term services & supports for older adults & people with disabilities, OR dramatically reduce coverage for children and parents. The bill does specify that funding formulas will be indexed to the “CPI Medical Care Component,” which is important because health care inflation is higher than standard inflation. However, it is unclear whether these increases will keep pace with health *insurance* costs—which may increase more quickly than healthcare costs, especially in light of the following concern:
3. States choosing the non-ACA option will be allowed to withdraw from Medicaid altogether, and instead can offer tax credits to people who would otherwise be Medicaid-eligible. People who are currently Medicaid eligible are very likely to be unable to purchase insurance, even with tax credits. This means that health insurance among the very poor in the US could decrease dramatically.
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5. Although the bill says it continues protections for those with pre-existing conditions, it also imposes a continuous coverage clause, which means that those who have periods of uninsurance of 63 days or more may be subject to denial of coverage or other underwriting. This may be particularly problematic for those low-income adults who find they cannot afford coverage, even with the support of HSA deposits. These folks will then be out of luck in terms of taking advantage of protections in this bill. Over time, this may cause many low-income people to lose access to healthcare altogether.
6. The preferred method for supplying individuals with financial assistance to access health coverage is a newly created Roth Health Savings Account (Roth HSA). Individuals will

receive the equivalent of a “subsidy” or tax credit as a deposit to their Roth HSA, which will then be available to help pay for premiums or healthcare expenses. It’s unclear how new enrollees will be educated about how these Roth HSAs work and how to use them appropriately. There does not seem to be a provision in the bill for education and outreach, and since money spent on non-healthcare expenses will be subject to penalties and taxes, education about proper use will be key.

7. Long-term financial sustainability of this bill is unclear, since it repeals the mechanisms that funded the current ACA financial supports. With repeal of the ACA-related taxes and fees, and reinstatement of things like the Medicaid DSH payments, it will be difficult for this program to remain sustainable over time. Furthermore, with repeal of requirements for individuals and employers to purchase insurance coverage, insurance premiums may rise substantially, causing more people to become uninsured (and then subject to underwriting & penalties if they choose to enroll in insurance later).