

# Healthcare, ACA Are Key Campaign Issues

The Democratic presidential primary battle has focused primarily on candidates arguing over plans to expand coverage, with progressives touting “Medicare for all” and moderates arguing for building on and strengthening the ACA while adding a Medicare-like public option plan that would compete with private plans.

Many of these proposals are embraced in pending legislation. While support for Medicare-for-All does not appear to be broadening beyond the liberal wing of the Democratic party, the House Ways & Means Subcommittee on Health considered several bills in December that aim to broaden coverage either by expanding Medicare, creating a Medicare-like public option, allowing older individuals – for example, those age 50 and above who are not yet eligible for “free” Medicare under current rules to buy into Medicare — or otherwise improving the ACA. The bills included the Medicare Buy-In and Health Care Stabilization Act ([HR 1346](#)), Medicare-X Choice Act ([HR 2000](#)), Choose Medicare Act ([HR 2463](#)) and Expanding Health Care Options for Early Retirees Act ([HR 4527](#)).

Those bills have virtually no chance of passing the current Congress, however, and would not be easy to enact in the next Congress even if Democrats won the White House and the Senate, given the intra-party disagreements and intense opposition to a public option by the health care industry. A Medicare-based public option plan could enjoy some big competitive advantages over private plans, such as lower premiums, fueling concerns about potential cost-shifting to and erosion of private coverage if private insurers are unable to compete.

Notwithstanding the high-profile lawsuit by Republican-led states seeking to overturn the ACA (*Texas v. United States*), Republicans in Congress have largely turned away from the contentious ACA debate since their failure to repeal and replace the law in 2017. The party has refocused much of its attention on policies aimed at lowering health care costs such as ending surprise medical bills, controlling drug prices, increasing price and quality transparency, and providing consumers with more options for buying coverage, such as short-term, limited duration insurance and association health plans. Much of this agenda is being driven through executive orders and regulations from the Trump administration.

If the courts ultimately invalidate all or significant parts of the ACA, however, there is no consensus among Republicans around what a replacement plan would look like, though many — including President Trump — have promised to support restoration of protections for pre-existing conditions. For their part, Democrats want to

increase ACA subsidies to help lower-income individuals buy health coverage from the public marketplaces; boost funding for open enrollment in those marketplaces; and roll back Trump administration rules allowing non-ACA-compliant plans.

Any legislative changes to the ACA's employer shared responsibility mandate (ESR) this year are unlikely. After Congress zeroed out the law's individual mandate penalty as part of the 2017 tax overhaul, employer groups pushed to repeal the ESR mandate, arguing that it's moot with effective repeal of the individual mandate. The idea hasn't won much support from Democrats, however, due to concerns about large projected revenue losses and potentially rewarding noncompliant employers. An earlier Republican bid to provide retroactive relief from ESR assessments failed to gain traction for the same reasons.

Apart from penalty relief or repeal of the ESR mandate, employer concerns about enforcement have spurred reintroduction in this Congress of bipartisan proposals, the Commonsense Reporting Act ([HR 4070/S 2366](#)), that would streamline related reporting requirements. The bills propose a voluntary reporting system that would relieve employers from having to file Form 1094-C with the IRS. In addition, participants in the voluntary system would only have to distribute Form 1095-C individual statements to employees who purchased coverage through an ACA public marketplace. The legislation continues to languish, however, in part over fears the changes could harm the IRS's ability to properly administer the law's premium tax credit for eligible individuals.

While the outcome of ACA litigation and the Democratic party's eventual candidate will shape the general election debate about expanding coverage and the future of the law, it will also —like the 2018 mid-term elections — serve as a referendum on President Trump's and congressional Republicans' health policy agenda.