

Win or Lose, Republicans to Target New Health-Care Law after November Elections

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"Repeal and Replace." That's what Republicans are saying about the new health-care law as they look toward the Nov. 2 midterm elections. If they win the House, and possibly the Senate, they say, among their top priorities will be to undo President Obama's signature legislative achievement.

"I am committed to doing everything that I can do . . . to prevent 'Obamacare' from being implemented," vowed House Minority Leader John A. Boehner (Ohio) at a recent news conference, adding, "Now, when I say everything, I mean everything."

But even in the unlikely event that an outright repeal bill could withstand a filibuster in the Senate, there is little doubt that Obama would veto it. The odds that Republicans will win a veto-proof majority in November are generally considered slim to nil.

With a few exceptions, Republican fallback plans to target discrete provisions of the law for piecemeal elimination seem similarly doomed.

So does all this talk of rolling back the law amount to mere sloganeering?

Not necessarily. But at least during the next Congress, the true battle will probably be fought at the margins, over initiatives Republicans are planning in order to slow or disrupt the administration's preparations for 2014, when the most far-reaching provisions of the new law will begin.

Perhaps even more important for the long term, Republicans hope to hold oversight hearings aimed at laying the groundwork for a broad-based public repudiation of the law. That could give them the political momentum to overturn it if they can retake the presidency in 2012.

"If we can do it in one fell swoop, great. But if it needs to be a multi-step process, that's how we'll do it," Rep. Dave Camp (Mich.), the ranking Republican on the House Ways and Means Committee and likely chairman of that panel if the GOP takes over, said in an interview.

In the short run, Congress's power of the purse may offer Republicans some of the most promising opportunities. The Congressional Budget Office has estimated that over the next 10 years, the administrative costs of implementation could run from \$5 billion to \$10 billion each for the Internal Revenue Service and the Health and Human Services Department - costs that could require budget increases.

Republicans say they would try to deny any additional money Obama requests for implementation over the next two years, either by refusing to include it in the appropriations bill covering each agency or by tightening their overall budgets.

A related tactic would be to include language in the measures that prohibits the use of funding to implement the health-care law in general or particular aspects of it, such as the requirement that virtually everyone buy health insurance or pay a tax penalty.

The president and Democrats in Congress have vowed to push back. And interviews with Republican members of Congress, staff members and conservative lobbyists suggest that their opinions vary about the likelihood of their prevailing in such a showdown.

Several predicted a standoff similar to the 1995 federal government shutdown that resulted when President Bill Clinton and the majority-Republican Congress could not agree on a budget. But some said privately that they are not eager to try a repeat.

Others questioned whether it would come to that, noting that spending bills always involve horse-trading between the president and Congress.

As one Republican congressional staff member put it: "It's going to be hard for the president to veto a bill that funds his own administration. . . . He's going to have to make a difficult choice of putting his signature on something he doesn't 100 percent agree with or forfeiting everything."

Mark B. McClellan of the Brookings Institution, who ran Medicare and Medicaid under President George W. Bush, agreed. "The president may not get all that he wants in terms of implementation funding. But it may not be worth the political fight of holding up an entire appropriations bill," he said.

The impact under that scenario is difficult to predict. So far, HHS and the IRS have managed to make do with existing budgets. That's noteworthy, considering that HHS has already hired several hundred new employees, written regulations to translate the law's broad brushes into fine print and disbursed grants to help states begin establishing the state-based "exchanges," or insurance markets through which many Americans can buy coverage after 2014.

HHS Secretary Kathleen Sebelius said much of the money that will be needed over the next two years will go to short-term bridge programs to help cover particular groups, such as early retirees and people with preexisting medical conditions, that would be politically difficult to defund. Only a small share of what will be needed from the next Congress will be for the administrative cost of implementation. So even if her agency were not fully funded by the next Congress, it could continue erecting the law's architecture.

"I've been a governor in tight budget times, and you do what you can with what you have," the former Kansas governor said at a breakfast with journalists last Thursday.

But she added that "the states, certainly, are counting on resources to set up these new marketplaces, and absent those resources, that will be difficult."

Several conservative analysts were less sanguine, noting that the law requires HHS to assess the readiness of states to run exchanges by 2013 and to be prepared to step in with a federal version in case any states are lacking.

Similarly, they said, by 2014 the Treasury Department must have a system in place for identifying the millions of Americans eligible to receive federal subsidies that the law will provide to help them buy insurance.

"I don't think you can underestimate how much needs be done by 2013, and it's very hard to do that at the last minute," McClellan said. "It could materially impact the implementation of the law if there isn't adequate funding for these activities."

Still, for all the legislative battles that might ensue, many contend that the more lasting effect of the election could be the opportunity it could give Republicans to hold hearings showcasing any downsides to the law. That could include spotlighting business owners who say they are hiring fewer workers because they cannot afford to offer the health insurance that the law mandates, or people who say their premiums skyrocketed because their insurer has been required to offer broader protections.

"If they can show the effect of the law and then tie it back to the state of the economy, I think that would be a pretty devastating one-two punch," said David Merritt, health policy adviser to John McCain's 2008 presidential campaign who is currently with the Gingrich Group, a consulting firm founded by former House speaker Newt Gingrich (R-Ga.).