Repealing and Replacing Obamacare: The Role of Executive Branch Action

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Background

The Status of the Affordable Care Act (ACA) when Trump took office:

✓ Decline in the number of uninsured from 2010 to 2016

✓ The fragile insurance exchanges cover over 10 million

✓ 31 states plus DC had expanded Medicaid

✓ Higher quality insurance with some loopholes
Focus:

- The politics of repeal and replace in Congress
  – a partial triumph for Republicans

- Executive Branch Action to Undercut the ACA

  ✓ The rise of executive federalism

  ✓ The exchanges and administrative sabotage

  ✓ New themes for Medicaid waivers threaten program enrollments
The Rise of Executive Federalism

- Vast congressional delegation of authority to the executive branch – public administration more important than ever.

- President and key political appointees, rather than career civil servants, dominate the exercise of discretion:
  - Elevated role of the administrative presidency
  - Departure from conventional model of intergovernmental implementation

- State policymakers, especially governors but at times state legislatures, have considerable leverage in dealing with waivers and related federal administrative initiatives.
The Quest to Sabotage the Health Insurance Exchanges

“Obamacare unfortunately will explode. It’s going to have a very bad year.”
President Donald Trump, March 24, 2017

- Sabotage distinguished from other administrative efforts to deemphasize or disinvest in agencies or programs

- A wide range of administrative tools employed – executive orders, funding cuts, administrative rules, waivers, and more…

- Trump issues executive order the first day in office
Tactic 1: Reduce advertising and outreach for the exchanges while limiting enrollment periods

Tactic 2: Undermine the quality of insurance coverage thereby increasing prospects that exchange enrollments will decline and their risk pools will worsen

Tactic 3: Generate uncertainty over cost-sharing-reduction payments and then eliminate them

Tactic 4: Raise uncertainty about federal enforcement of the individual mandate

Limits to sabotage: 1332 waivers as well as federal exchange SOP and technology
Executive Federalism and Medicaid: Waivers to the Fore

• The Obama administration waiver legacy

• New waiver themes of the Trump administration:
  ✓ Reduce pressure for Medicaid expansion
  ✓ Secretary Price and CMS Director Verma send new signals to states

• States respond with waiver proposals
  ✓ Work requirements the dominant theme
  ✓ Other provisions increase administrative burdens and beneficiary costs

• CMS approves Kentucky and Indiana waiver proposals and advocates for enrollees file court challenge
Implications for ACA Durability

The Exchanges: Did administrative sabotage succeed?

• Uncertainty given absence of information on key indicators: e.g., companies participating on the exchanges the premiums charged the proportion of Americans lacking ACA-compliant coverage

• But 2018 decline in exchange enrollment relatively small

• Factors muting the effects of sabotage and bolstering the exchanges
**Medicaid**: New waivers threaten take-up rates and enrollments

Waiver provisions stigmatize beneficiaries, increase their administrative burdens, and otherwise deter applicants

**Caveat 1**: It remains unclear whether the courts will uphold the waivers

**Caveat 2**: It is uncertain how many states will pursue these waivers (especially those with the largest number of Medicaid enrollees)

**Caveat 3**: The ability to impose work requirements may prompt some hold-out states to join the ACA’s Medicaid expansion
Future Research

- Follow repeal-and-replace dynamics through the remainder of President Trump’s term

- Assess implications for who gets what, when, and how in American health care

- Distill lessons for theories of executive federalism and public administration more generally
Thank you!
Any Questions?