

# The Affordable Care Act: On the Fast Track to Repeal

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On January 20, hours after his inauguration, President Donald Trump issued an executive order directing the heads of all executive departments and agencies to “waive, defer, grant exemptions from, or delay the implementation of” key provisions of the Affordable Care Act (a/k/a “Obamacare”). The order appears to target Obamacare’s individual mandate, which imposes a penalty on individuals opting not to purchase health insurance.

The impact of the order may not be realized for weeks or months, as the Trump administration is only beginning to take shape. The order effectively tasks the President’s new executive appointees with promulgating department-specific policies in an effort to carry out the directive.

Among the many areas of uncertainty are the newly-minted mandatory payment demonstration models authorized by the Centers for Medicare and Medicaid Innovation under President Obama. Section 3021 of the Act allows the Secretary of Health and Human Services to terminate or modify the design and implementation of demonstration models, and grants the Secretary waiver authority with respect to testing models. This means that some of the payment models, including controversial mandates such as the comprehensive joint replacement bundled payment model, may be terminated or entirely redesigned at the Secretary’s discretion.

Notably, the President cannot repeal Obamacare, or even nullify its individual requirements, by executive order. However, Congress is already laying the foundation for a repeal. On January 12, the Senate voted 51-48 in favor of a budget resolution that could allow Congress to repeal portions of the Act without facing a filibuster in the Senate.

Accordingly, although the Affordable Care Act remains intact despite President Trump’s first executive order, the message from the White House is clear: President Trump intends to deliver on his campaign promise to repeal Obamacare, and Congress is hard at work to support these efforts. Insurers, health care providers, and citizens alike will be monitoring the situation closely as more details about the plan for repeal emerges.

If you have questions about the President’s first step toward repeal or any subsequent changes to the health care landscape under President Trump, please do not hesitate to contact a member of our health care team.

