



The Replacement, Rebuilding, Reconstituting, Reviving, Restoring, Remaking or Whatever of Obamacare Begins

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A new report released this week finds that 55,710 U.S. bridges are “structurally deficient.” The report was released by the American Road & Transportation Builders Association (ARTBA) and it found that last year vehicles crossed these structurally deficient bridges close to 185 million times per day. The report went on to find that while the number of structurally deficient bridges decreased compared to 2015, it did so at a rate of only .5 percent. The report concluded that it would take more than twenty years to bring all the structurally deficient bridges up to par if the current pace of repairing and replacing these bridges is maintained.

The Internal Revenue Service (IRS) announced that they will accept tax forms this tax season that are missing the answer to the health insurance question. In the past, if a person did not indicate whether or not they had health insurance during the previous year, their tax form was rejected. The IRS cited President Trump’s executive order, which directed agencies to “reduce potential burden” when deciding how to enforce Obamacare regulations, for this change in policy. While taxpayers will not be required to indicate their previous year’s health insurance status, the IRS stated the mandate remains in place and those who did not have insurance are still required to pay a penalty.

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Yesterday, the Department of Health and Human Services (HHS), now led by Secretary Tom Price, issued a new rule. Now, in and of itself HHS issuing a rule is hardly news. During the Obama Administration, it finalized 274 rules — about one every week and a half — at a total cost of \$71 billion. What was unusual was that it came out on a Wednesday morning; the Obama approach was to dump rules out late on Friday evenings.

The other big difference was that this rule will be helpful. The so-called Market Stabilization Rule is a collection of common-sense changes to the operation of the ACA exchanges that will reduce the propensity for unexpected and expensive beneficiaries to materialize, run up costs, and then fail to finish paying their premiums. The result has been the widely-documented ever-upward pressure on premiums.

The rule changes are relatively modest and unexciting. For example, the open enrollment period will be shortened from November 1 to January 31, to November 1 to December 15 — something that was slated to happen in 2019 anyway. This reduces somewhat the number of people who discover they have a costly condition late in enrollment, sign up for insurance, and make the risk pool more costly. Similarly, on special enrollment periods — the ability to buy insurance outside of open enrollment due to special circumstances — HHS will now verify eligibility prior to enrolling individuals through [healthcare.gov](https://www.healthcare.gov) — a pretty sensible thing to do that limits people from buying insurance only when they need costly services.

At the other end of the transaction, people will have to pay for their insurance. A problem has been people buying insurance, using 12 months of health services, but taking advantage of the 90-day grace period provision to allow them to stop paying premiums for the final three months. Until today, insurers had no choice but to let them re-enroll even though they had been stiffed. The rule guarantees that the individual can re-enroll, but insurers will be able to require individuals pay any debt owed from previous nonpayment of premiums.

There are other modest changes in the valuation of benefits and evaluation of the adequacy of health services networks.

All told, the HHS actions represent a signal to insurers that the Administration does not intend to let the individual markets simply melt down. However, by themselves these provisions are not enough to do the job. It will require additional, legislative, actions by the House and Senate to stabilize the markets. These efforts have a natural place in the repeal and replace agenda being pursued on Capitol Hill.