

Romney versus the ACA: Differences and Similarities

Summing it up

With one presidential debate down and two more to come, health care reform remains a big issue for voters. Leading up to the debate, both candidates were more vocal about jobs and the economy than about health care reform. However, health care reform shot to the forefront during the first presidential debate. President Barack Obama pointed out the similarities between the Patient Protection and Affordable Care Act (ACA) and the [Massachusetts health care reform](#) law that Governor Mitt Romney signed into law in 2006. Before the debate, Governor Romney distanced himself from the Massachusetts law. During the debate, however, he seemed to embrace it, emphasizing states' rights and the private market. He also emphasized that what works for Massachusetts might not work for the rest of the country and that, under his plan, states would have the right to decide what works for them. Most important for employers, the Governor's platform does not mention an employer or individual mandate.

Nevertheless, other than repealing the ACA, details of Governor Romney's plans for health care reform remain vague, with many unanswered questions. Below is a comparison of Governor Romney's health care proposal (quoted directly from his [official web page](#)) and current health care law.

The comparison

Governor Romney's Proposal	Current Law
State Flexibility	
Block grant Medicaid and other payments to states.	Under the ACA, states have the option to expand Medicaid to cover individuals with income below 138% of the Federal Poverty Level. Initially, the federal government will fund 100% of the expansion, gradually decreasing to 90% in 2019.
Limit federal standards and requirements on both private insurance and Medicaid coverage.	The ACA imposes mandates on issuers and private and non-federal governmental health plans, such as coverage for children up to age 26, limitations on pre-existing-condition exclusions, prohibitions on lifetime and annual dollar limitations, and coverage of certain preventive services at 100%.
Ensure flexibility to help the uninsured, including public-private partnerships, exchanges, and subsidies.	The ACA requires each state to set up an Exchange to act as a clearinghouse where individuals may obtain private health care coverage and federal premium and cost-sharing subsidies. The ACA does not prohibit private exchanges.

Governor Romney's Proposal	Current Law
Ensure flexibility to help the chronically ill, including high-risk pools, reinsurance, and risk adjustment.	The ACA established a federal, high-risk health care plan for individuals with chronic conditions who had been without coverage for six months. The ACA also establishes a temporary reinsurance program for the individual market and a permanent risk adjustment program.
Offer innovation grants to explore non-litigation alternatives to dispute resolution.	No provision.
Free Market and Competition	
Cap non-economic damages in medical malpractice lawsuits.	No provision.
Empower individuals and small businesses to form purchasing pools.	Current law does not prohibit businesses from forming multiple employer welfare arrangements. The ACA also provides loans and grants for the establishment of CO-OPS, which can be established by a qualified nonprofit health insurance issuer.
Prevent discrimination against individuals with pre-existing conditions who maintain continuous coverage.	Starting in 2014, the ACA prohibits pre-existing-condition exclusions for all plans and all individual policies, regardless of continuous coverage. Currently, both group health plans and nongrandfathered individual policies cannot have a pre-existing-condition limitation with respect to individuals under age 19 and individuals who had continuous coverage under another plan.
Facilitate IT interoperability.	HITECH provides monetary incentives to providers and plans that meet certain health IT measurements.
Consumer Choice	
End tax discrimination against the individual purchase of insurance.	Current law only allows self-employed individuals to deduct health care premiums (however, individuals who purchase health care coverage from their employer generally pay premiums on a pre-tax basis). In addition, for taxable years beginning after December 31, 2012, the ACA permits a deduction for medical expenses (including premiums) to the extent they exceed 10% (7.5% for prior years) of an individual's adjusted gross income.
Allow consumers to purchase insurance across state lines.	The ACA allows states to enter into interstate compacts to allow issuers to offer coverage in the states that sign the compact. The ACA also allows the Office of Personnel and Management to enter into contracts with issuers to offer a multi-state plan in each state in which it participates in an Exchange.
Unshackle HSAs by allowing funds to be used for insurance premiums.	HSA funds can be used in limited circumstances to pay premiums for the following: qualified long-term care insurance, COBRA health care continuation coverage, and health care coverage while an individual is receiving unemployment. For individuals over age 65, HSA funds can be used to pay premiums for Medicare Part A or B, a

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	Medicare HMO, and the employee share of premiums for employer-sponsored health insurance, including premiums for employer-sponsored retiree health care coverage.
Promote "co-insurance" products.	Not clear what this is, but most likely no provision.
Promote alternatives to "fee for service."	The ACA revised certain Medicare payment models to include bundled payment models and incentives to reduce hospital readmissions.
Encourage "Consumer Reports"-type ratings of alternative insurance plans.	The Secretary of HHS must establish quality, price, and satisfaction rating systems for Exchange-qualified health plans and the resulting information will be made available to enrollees and potential enrollees.

The year to come

No one can be sure of the outcome of the election and the resulting impact on health care reform. However, even in the current environment, it is important to let employees know that, regardless of who wins the presidential race, 2013 benefits are predictable. After that, it is anyone's guess. Although we may know where the presidential candidates stand on this issue, only Congress can change the law, and the makeup of Congress in 2013 is as uncertain as the outcome of the presidential race.

This legislate is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.