

As pandemic rages, Trump administration calls on Supreme Court to strike down Obamacare

By Kate Randall
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The Trump administration asked the Supreme Court late on Thursday to overturn the Affordable Care Act (ACA), which was signed into law by Barack Obama in 2010. The filing came the same day the Centers for Medicare and Medicaid Services reported that nearly half a million Americans had signed up in April and May for health care plans under the program, popularly known as Obamacare, amid the economic devastation from the COVID-19 pandemic.

Ending the ACA would wipe out health care coverage for as many as 23 million Americans. In a week that has seen the highest number of new cases since the coronavirus outbreak began, the filing shows the indifference and contempt of the government for the American people, who are struggling with unemployment, sickness and death as a result of a pandemic that has been allowed to ravage the country.

Some 45 million people have lost their jobs over the past three months, in many cases losing their employer-sponsored health insurance as well.

The administration submitted an 82-page brief to the high court an hour before the midnight deadline on Thursday. It joined Republican officials in Texas and other states who argue that the then-Republican-controlled Congress had rendered the entire law unconstitutional when it reduced to zero the ACA's tax penalty for those not covered by employer- or government-provided programs who fail to buy insurance—the so-called individual mandate.

Solicitor General Noel Francisco argued in his brief: “Nothing the 2017 Congress did demonstrated it would have intended the rest of the ACA to continue to operate in the absence of these three integral provisions.” He added, “The entire ACA thus must fall

with the individual mandate.”

The Supreme Court has already ruled on two legal challenges to Obamacare, both times leaving most of the law intact. Trump had previously supported preserving the law's more popular provisions, such as guaranteed coverage for those with preexisting medical conditions and allowing those up to age 26 to remain on their parents' insurance coverage.

With his hardline stance against the ACA, Trump is playing to his base and the ultra-right in the lead-up to the November election. However, some officials in his administration, including Attorney General William Barr, had urged the president to take a less aggressive position against ACA, fearing the stance could backfire against Republicans in the election.

The Democrats seized on Trump's move as the occasion to posture as the champions of workers' health care. House Speaker Nancy Pelosi responded to the brief by saying, “President Trump and the Republicans' campaign to rip away the protections and benefits of the Affordable Care Act in the middle of the coronavirus is an act of unfathomable cruelty.”

Lost in this bluster is the reality that Obamacare has always served to enrich the private insurance companies. Its central component, the individual mandate, forces individuals to purchase coverage from a private insurer or face a penalty, thus funneling billions into the coffers of the insurance monopolies.

While this mandate was shot down by the 2017 Congress, private insurers, pharmaceuticals, giant hospital chains and their CEOs continue to enrich themselves, as the ACA provides little oversight of what these private entities charge for their products and services.

Former Vice President Joe Biden, the Democrats' presumptive presidential candidate, offered a particularly demagogic response to Trump's attack on Obamacare. He argued that if the ACA is struck down, Americans "would live their lives caught in a vise between Donald Trump's twin legacies: his failure to protect the American people from the coronavirus and his heartless crusade to take health care protections away from American families."

In remarks in Lancaster County, Pennsylvania on Thursday, Biden criticized Trump's filing, making promises about what his administration would do to improve health care that he knows would never be fulfilled.

While pointing out that ending the ACA under conditions of a pandemic would be devastating for the 23 million Americans who receive coverage under the program, he did not touch on the murderous return-to-work campaign now taking place across the county, in which meatpacking, auto and other industries are forcing workers back on the job under conditions of rampant COVID-19 infection and no personal protection against the virus.

Like Trump, the Democrats are concerned about corporations continuing to run their profit-making enterprises and boosting their stocks on Wall Street. Biden said, "We need to find a way to run the economy as we bring the number of cases down."

However, the former vice president provided no details on how he intends to go about this. The Democrats are complicit in the return-to-work campaign, presiding over states and cities across the country that are prematurely reopening in accordance with Trump's de facto policy of "herd immunity." Their major action in the course of the pandemic has been to authorize the doling out of trillions of dollars to big business through the CARES Act, while allocating pittance to workers in the form of supplemental unemployment pay, which is set to run out in a month, and a one-time stipend.

Among the promises Biden made Thursday was that he would restrict health insurance premiums to 8.5 percent of household income, and an undefined smaller percentage for those with low incomes. For a single individual making 200 percent of the official poverty income, an absurdly low \$25,520 a year, 8.5 percent would amount to about \$2,170 annually, or \$180 a

month. A household earning the median annual income of \$59,000 would pay over \$500 a month, or more than \$6,000 a year.

It is only under conditions where the health care system is entirely beholden to private interests that such out-of-pocket costs are presented as a major improvement!

Biden also pledged to introduce a public option on the ACA exchanges.

It is possible that the administration's suit against the ACA could be argued before the Supreme Court in October, before the November election. The earliest a ruling could be delivered is some time in 2021.

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