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Commentary: “Skinny Repeal Bill” — a Trojan Horse for Broader ACA Repeal and Deep Medicaid Cuts

By Robert Greenstein

Senate Republican leaders have tried and failed this week to pass two measures to repeal the Affordable Care Act (ACA) — a modified version of their “repeal-and-replace” bill and a straight ACA repeal bill. Both measures, like all previous versions of ACA repeal that Congress has considered, would cause tens of millions of people to lose their health coverage and millions more to pay much more, get skimpier coverage, or both.

Now, Senate Majority Leader Mitch McConnell is promoting a new version, referred to as a “skinny repeal” or a “least common denominator” bill. It reportedly would repeal the ACA’s individual and employer mandates, along with its medical device tax.

But no one should be fooled. As Senate Republican leaders have made clear, their goal in advancing the “skinny repeal” is simply to pass something that will advance health legislation to a conference with the House, which passed its own repeal-and-replace bill in May. That way, a House-Senate conference committee could produce a modified version of repeal-and-replace legislation for final votes in the House and Senate this fall.

GOP leaders would craft that version behind closed doors during Congress’ August recess and in early September. They would then present it to the House and Senate for final votes later in September, with limited debate and no amendments allowed — and with GOP leaders applying maximum pressure on Republican senators and House members to fall in line.

In short, the “skinny repeal” bill is a Trojan horse designed to resuscitate the effort to repeal large parts of the ACA and impose big Medicaid cuts that would jeopardize coverage for millions of the nation’s neediest people. Indeed, when asked today whether Medicaid cuts would be in the “skinny repeal” bill, Senate Majority Whip John Cornyn replied, “No, I think people understand we’ll address the Medicaid issue when we conference with the House.”

Senator John McCain called yesterday for a return to “regular order,” with hearings and a bipartisan process on health reform. But a vote for Senator McConnell’s “skinny repeal” bill is a vote to quash such a process — indeed, to move further away from it. Under the course that Senator McConnell wants the Senate to embark on now, the most consequential piece of domestic legislation in years — with a strong potential to hurt tens of millions of people and destabilize the

nation's health insurance markets — would almost certainly be written in secret by Republican leaders and sprung on rank-and-file members in September. GOP leaders would then undoubtedly tell Republican senators and House members that if they had the temerity to vote no, they should expect to be pummeled for months (or years) for enshrining Obamacare as a permanent piece of law — and to expect to face well-funded primary challengers.

By contrast, if the Senate rejects the “skinny repeal” gambit this week, the bipartisan process that McCain and various governors and members of Congress of both parties are advocating could finally commence.

“Skinny Repeal” Considered

To be sure, a “skinny repeal” itself would be a very damaging piece of legislation if enacted. Based on prior Congressional Budget Office analyses, repealing the individual and employer mandates would likely trigger an extensive disruption of insurance markets, add millions to the ranks of the uninsured, and cause premiums to rise sharply. But that's *not* where Republican congressional leaders want the process to end up.

Instead, under the strategy that Senate leaders are clearly pursuing, House and Senate leaders would officially appoint a conference committee, but the full conference committee — including its Democratic members — would virtually never meet. Instead, House and Senate GOP leaders (and those they would hand-pick) would meet in secret to craft a new repeal-and-replace bill, without hearings, and without making the drafts of their legislation available for public scrutiny and review by health care experts. And in doing so, they almost certainly would use the House's harsh bill as their starting point. As Senator Cornyn said this morning, “We [would] use the template of the House bill that addresses all of these issues and come up with the best of the ideas we've developed...”

The bill that emerges from this process almost certainly would include the major structural features that every version of repeal-and-replace bills in the House and Senate to date has included: effectively ending the ACA's Medicaid expansion, which has extended coverage to 11 million low-income adults; imposing a “per-capita” cap that would fundamentally alter Medicaid's financing structure and fuel hundreds of billions of dollars in Medicaid cuts and cost shifts to the states, with the cuts growing deeper with each passing year and ultimately jeopardizing coverage for many seniors, people with disabilities, and children; making stiff cuts in financial assistance to help consumers with modest incomes buy coverage and meet deductibles and copayments in the individual insurance market; and weakening important consumer protections, such as protections for older Americans and those with pre-existing conditions. Because every repeal-and-replace bill has included these features, they won't suddenly vanish in the closed-door GOP bill-drafting sessions that will ensue if the Senate approves “skinny repeal” this week.

Finally, the process of writing a repeal-and-replace bill in secret and unveiling it in September for a final up-or-down vote would give Republican leaders added leverage to muscle the legislation through Congress. Yesterday's Senate vote on the “motion to proceed” (allowing the Senate to begin debate on health care legislation) showed how leaders can apply pressure on both moderate and conservative dissenters to vote for measures they might otherwise oppose. And the conference process that Senator McConnell now would use would only strengthen his hand. A conference report on a reconciliation bill (which the final health legislation would constitute) receives only ten

hours of debate and — most important — is not open for amendment. House members and senators would have only two choices: vote yes or vote no. The threats that leaders and outside groups would level at Republicans who were considering voting no would almost certainly exceed anything we have seen to date.

Thus, everyone should see the “skinny repeal” proposal for what it is. It’s not a serious policy proposal, but a clever device to move to the next step of the ongoing effort to undo the ACA — one that would give GOP leaders their maximum leverage. Senators who vote for the “skinny repeal” proposal would be creating the conditions for deep cuts that aren’t in the “skinny” bill itself but would emerge from the conference.

For senators concerned about the potential impacts on hundreds of thousands, if not millions, of their constituents with low or modest incomes or pre-existing conditions, the appropriate path now is *not* to support a maneuver to open the door for enacting legislation in September that would harm their constituents. Instead, those concerned about the millions of Americans whose health coverage is at risk should bring this reconciliation process to a close — and, instead, pursue an open, bipartisan approach to strengthening the nation’s health care system.