

## House Democrats Plot to Overturn Trump Obamacare Maneuver

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- Democrats explore use of Congressional Review Act to overturn Trump health policy decision
- Republicans in 2017 used same law to stop several Obama-era rules

House lawmakers are taking steps to overturn Trump administration changes to waivers that states have used to forgo certain Obamacare requirements, a Democratic staffer told Bloomberg Law.

The House Energy and Commerce Committee staff is looking at using a law that allows Congress to reverse federal regulations shortly after they're enacted. The law only requires a simple majority in each chamber to pass a resolution disapproving of a rule.

Democrats took the first step to using the Congressional Review Act Feb. 6 when they sent a letter to the Government Accountability Office to ask if the law would be applicable to an Obamacare state innovation waiver guidance.

The Oct. 22, 2018, guidance from the Trump administration allowed states to use federal funds to pay for plans that don't cover people with pre-existing conditions, including short-term limited-duration plans and association health plans. Association health plans allow groups of small businesses to form health insurance plans for their employees.

Republicans used the Congressional Review Act to stop several Obama-era rules in 2017.

The use of the CRA would prevent the Department of Health and Human Services from putting out any "substantially similar" rules to the original guidance, and could put applications for these state innovation waivers in limbo.

No states have applied for or been approved for waivers since the guidance was released.

Democrats had considered discussing use of the CRA on this guidance at a House Energy and Commerce Committee hearing Feb. 13, but decided against it, a Democratic staffer said.

Democratic staffers discussed using the CRA as a central lever to rolling back Trump administration policies they see as harmful to the ACA's pre-existing conditions protections but decided instead to pursue another route to the same goal, a Democratic staffer said.

The committee is moving forward for now with a bill that would require the Trump administration to rescind that guidance. However, the bill would be subject to normal Senate rules and would require 60 votes, which is less likely.

Democrats are awaiting a reply from the GAO to move forward on using the CRA on the state waiver guidance.

A GAO spokesman, Charles Young, said the agency has received the request but that it has not responded yet.

Overturing the guidance through the CRA could stand a chance in the Senate, where it can come to a vote even without the support of the majority leader and only requires 51 votes to pass.

Democrats could gain the support of Republican senators by framing it as a vote to protect health care for people with pre-existing conditions. It has become politically untenable for Republicans to not support protections for people with pre-existing conditions.

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