Center for American Progress Action Fund

AP PHOTO/CHARLES DHARAPAK

Exposing the Anti-Obamacare Sabotage Campaign

Tony Carrk September 2013

Center for American Progress Action Fund

Exposing the Anti-Obamacare Sabotage Campaign

Tony Carrk September 2013

Contents

1 Introduction and summary

3 Sabotage at the federal level

7 Sabotage at the state level

12 A better approach

14 A closer look at states

19 About the author and acknowledgements

20 Endnotes

Introduction and summary

Since the Affordable Care Act, or ACA—commonly referred to as Obamacare—was signed into law in March 2010, its opponents have tried everything they can to undo it at both the federal and state levels. Their motivations are clear: Not only do they dislike the law, but they are also afraid of the consequences of it working the way it should. A successful law that provides millions of Americans with access to health care, better benefits, and lower costs undermines these opponents' extreme conservative ideology. The effort to undermine the law is a sabotage campaign, plain and simple.

This report intends to expose the sabotage campaign in its many forms. Some methods of sabotage are obvious; other methods are more stealth. All of these methods, however, have one purpose: to make implementing Obamacare impossible, and thereby stop people from gaining access to better health coverage at more-affordable costs.

The methods of sabotage discussed in this report include:

- How the House of Representatives has voted 41 times to repeal or dismantle the Affordable Care Act
- How federal lawmakers have used intimidation to keep people from educating the public about the law and hinder those who enroll members of the public
- How Georgia Insurance Commissioner Ralph Hudgens, for example, said he would do anything he could to be an Obamacare "obstructionist"
- How 22 states have refused to expand Medicaid, putting access to health coverage at risk for millions of Americans
- How 27 states decided not to run their own state marketplace, instead forcing the federal government to step in

- How six states informed the federal government that they would not be enforcing the consumer protections of the law, including stopping insurers from denying coverage based on a preexisting condition

- How 16 states have imposed their own regulations on navigators. The restrictions vary, and some have the effect of making it near impossible for organizations to enroll residents in the new marketplaces.

- How some states have prohibited officials and navigators from even talking about the benefits of the law with residents

- How some states want to make it a felony to enforce or implement the Affordable Care Act

The campaign against the law after it was enacted, the range of steps taken, the effort to delegitimize it—it is unprecedented.

As Thomas Mann of the Brookings Institution said:

> *There has been a full-court press from Day One from the opposition to characterize and demonize the [Affordable Care Act.] The campaign against the law after it was enacted, the range of steps taken, the effort to delegitimize it—it is unprecedented. We'd probably have to go back to the nullification efforts of the Southern states in the pre-Civil War period to find anything of this intensity.*[1]

It is unfortunate that many conservatives are resorting to a sabotage campaign to refight old political battles, but this is not the only possible approach. A better approach would be for Congress and state lawmakers—regardless of where they stood when it was passed—to work together to make the Affordable Care Act work as well as possible. Even among those who oppose the law, a majority wants to see elected officials work together to make it work.[2] The Affordable Care Act is the law of the land. There will undoubtedly be bumps in the road and problems that arise, but we can identify and fix them.

On this approach, the evidence is clear: In those states where lawmakers are working together to implement the law, the law is working. Implementing the Affordable Care Act will be a serious undertaking and will require all of us to do our part, but the country—and millions of Americans—will be better off for it.

Sabotage at the federal level

Defund, default, delay

To date, the Republican-controlled House of Representatives has voted 41 times[3] against the Affordable Care Act. These votes range from full repeal of the law to banning federal money that would be used to implement the law to targeting certain provisions to undo or postpone implementation of the law.

Not content with what they say are symbolic measures, however, some Republican members of Congress have employed a more confrontational strategy that carries serious economic consequences. A growing number of Republican House[4] and Senate[5] members insist that the continuing resolution that keeps the government open include an amendment to defund the Affordable Care Act—or they will vote against it. In other words, unless the Affordable Care Act is stopped, they will shut down the government. A government shutdown would severely hurt our economy, immediately throwing hundreds of thousands of people out of work and potentially leading to disruptions in things such as Social Security checks and paychecks to our troops on the frontlines.

Another sabotage strategy is to insist on defunding the Affordable Care Act when Congress considers raising the debt ceiling this fall. An aide to House Majority Leader Eric Cantor (R-VA) said last month that the debt limit debate is a "good leverage point"[6] to force action on the Affordable Care Act. Two years ago, the mere threat of the government defaulting on its obligations led to the first-ever downgrade of the nation's credit rating.[7] Actually defaulting would cause a worse global financial crisis than what we experienced in 2008.

Not surprisingly, the defund strategy is unpopular with the vast majority of Americans. In a recent Kaiser Health survey,[8] 57 percent of respondents disapproved of the strategy to defund the law. Another poll found that just 6 percent of registered voters surveyed—and only 7 percent of Republicans—agreed with the defund strategy.[9]

Increasing opposition among Republicans to the defund strategy has led to an emerging proposal that would ask for a one-year delay in the implementation of the Affordable Care Act in exchange for Congress raising the debt ceiling.[10] Make no mistake: Their goal here is the same as that of all of the other strategies they have employed. While it would be nice to believe that these lawmakers are pursuing delaying implementation in an effort to work with the Obama administration to improve the law and ensure it is implemented smoothly, it would also be naïve. A vote to delay is a vote to repeal. Not only that, but delaying the law would leave more Americans without insurance and could raise premiums as much as 27 percent.[11]

Intimidation

Another anti-Obamacare sabotage-campaign tactic is intimidation. The goal of this strategy is to scare people and organizations away from helping the Obama administration enroll or educate Americans about the new marketplaces.

Starting October 1, millions of Americans will be able to sign up for a health plan that fits their needs and budget; coverage will begin on January 1, 2014. The new marketplaces allow consumers to choose from a variety of plans that work best for them. They also provide consumers better benefits and more protections. Insurers offering plans on the new marketplaces cannot deny coverage based on a preexisting condition, and they cannot charge women more than men for the same coverage. To help make coverage more affordable, consumers can be eligible for premium tax credits, and the law sets limits on how much consumers can spend out of pocket for medical costs, including on deductibles and co-pays. The new plans will have to offer a set of benefits called essential health benefits. These plans will offer better coverage at affordable costs.[12]

In June of this year, Health and Human Services Secretary Kathleen Sebelius said that she was in talks with the National Football League, or NFL, about partnering with it to help educate Americans about the benefits of the Affordable Care Act.[13] Days later, however, Senate Minority Leader Mitch McConnell (R-KY) and Senate Minority Whip John Cornyn (R-TX) sent a letter to not just the NFL but also to Major League Baseball, or MLB; the National Hockey League, or NHL; the National Basketball Association, or NBA; NASCAR; and the Professional Golfers' Association, or PGA, warning them not to do so. "Given the divisiveness and persistent unpopularity of this bill, it is difficult to understand why an organi-

zation like yours would risk damaging its inclusive and apolitical brand by lending its name to its promotion," the senators wrote.[14] Moreover, House Republican Study Committee Chair Steve Scalise (R-LA) sent his own letter[15] to the commissioners of the NFL and NBA, requesting information on what the Department of Health and Human Services asked for regarding help raising awareness for the Affordable Care Act.

Having sports teams promote health care marketplaces is not new. After all, the Boston Red Sox began partnering with the Commonwealth Health Insurance Connector Authority in 2007 to educate residents of Massachusetts about the landmark health legislation signed by former Massachusetts Gov. Mitt Romney (R) in 2006.[16] Still, the sabotage tactic had some effect. A spokesman for the NFL responded, saying that the league had "no plans" to engage with the Affordable Care Act.[17] But this tactic has its limits. One promising development was the Baltimore Ravens' announcement that the team would help Marylanders learn about the new marketplaces that begin enrolling people October 1.[18]

Obamacare opponents have also spread their tactics of intimidation to the very organizations that are helping enroll Americans in the new health care marketplaces. In late August, Republicans on the House Committee on Energy and Commerce sent letters to more than 100 organizations that received federal grants to serve as navigators of the Affordable Care Act.[19] Many of these civic and charitable organizations, such as the Ohio Association of Foodbanks and the Epilepsy Foundation of Florida, are not accustomed to the daily Washington political fight. The timing is questionable as well, given that they received the letter requesting voluminous amounts of information as they are preparing for open enrollment in the new marketplaces to begin on October 1. And Commerce Committee Republicans did not target every navigator grant recipient; organizations were targeted in a handful of states—Arizona, Florida, Georgia, Indiana, Louisiana, Missouri, North Carolina, New Jersey, Ohio, Pennsylvania, and Texas—which are also among the states with the highest rates of uninsured populations.[20]

This sabotage tactic has been met with strong condemnation. As the American Enterprise Institute's Norm Ornstein stated:

> *Requests for documents are not unprecedented; the Oversight and Investigations Subcommittee of Energy and Commerce did it all the time under Democrats. But this is qualitatively different. The scope and the timing simply smell. Oversight would commonly mean that after a program has been implemented*

you look to see if it was done well and if there was fraud or malfeasance or misfeasance. This is intimidation and another effort at sabotage.[21]

Washington and Lee University School of Law Professor Timothy Jost added that the letter was "an obvious attempt at intimidation of navigator programs, most of which are nonprofits that don't have the resources to hire lawyers to fight this, nor the time to respond at this very busy time. ... This attempt to bully these programs is shameful."[22] The executive director of the Ohio Association of Foodbanks, Lisa Hamler-Fugitt, called the letter "quite offensive" and said it was "absolutely shocking."[23]

Refusing to help

Another method of sabotage that Obamacare opponents plan to use is simply doing nothing.[24] That is what Reps. Tim Huelskamp (R-KS) and Jason Chaffetz (R-UT) appear to be doing. Both have stated that they will not help constituents who call and ask for more information about the benefits of the Affordable Care Act and how to enroll. "We know how to forward a phone call," Chaffetz said.[25] It will be interesting to see if their Republican colleagues follow suit as open enrollment approaches.

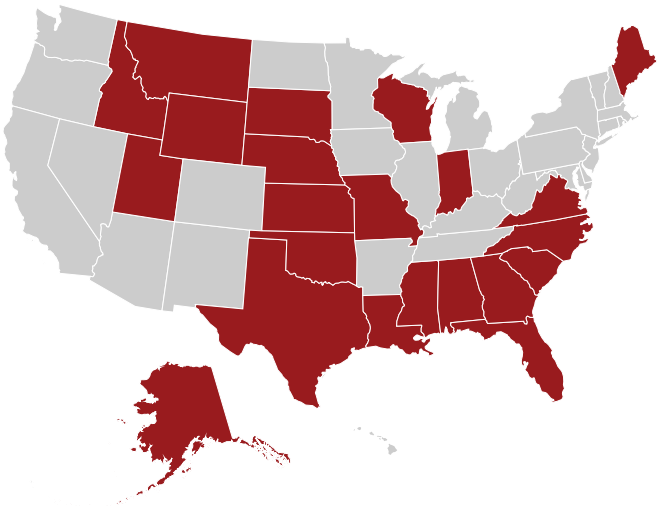
Sabotage at the state level

Opting out of Medicaid expansion and running a marketplace

The Affordable Care Act extends access to affordable health insurance to millions of Americans. One of its provisions to provide coverage was to expand Medicaid, the federal-state health program for low-income people. Under the law, eligibility for Medicaid would expand in 2014 to allow those with incomes up to 133 percent of the federal poverty line to enroll,[26] which in 2013 is $15,417 for individuals and $26,347 for a family of three.[27] The federal government agreed to pay for the full cost of expanding the program for the first three years and no less than 90 percent of the cost after that.

FIGURE 1

22 states refusing to expand Medicaid so far



Source: Kaiser Family Foundation, "Status of State Action on the Medicaid Expansion Decision, as of September 3, 2013," available at http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/ (last accessed September 2013).

Shortly after the Affordable Care Act was signed into law, however, the state of Florida filed a lawsuit challenging its constitutionality, specifically the Medicaid-expansion provision. Twenty-six other states would eventually join the lawsuit.[28] When the Supreme Court upheld the Affordable Care Act in 2012, it also ruled that each state could opt out of expanding Medicaid without losing its entire federal Medicaid funding. To date, 22 states are not currently expanding Medicaid. As a result, millions of Americans in those states will not have access to this affordable health care option—the only option for many.[29]

Another provision of the law allows states to set up their own "marketplaces," or exchanges, for individuals and small businesses to shop for the right health plan. If a state decided not to run its own marketplace, the federal government operates

it. Only 16 states and the District of Columbia chose to run their own marketplaces, and seven states are running exchanges in partnership with the federal government. The remaining 27 will default to federally run marketplaces.[30] While having the federal government run the marketplace with no state assistance does not jeopardize the access to health care for those states' residents, it is an indication of whether the state is willing to cooperate to make the law work or could take a more combative approach.

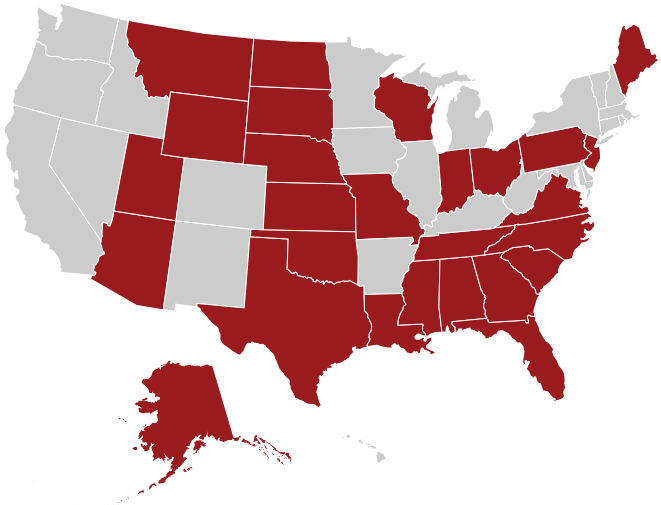
Restricting navigators

Similar to federal lawmakers, state lawmakers have targeted navigators—the groups who will help millions of Americans sign up for insurance in the new marketplaces—as a way to sabotage the law. In July, the Department of Health and Human Services released its final rule regulating navigators in federally facilitated marketplaces, including those states partnering with the federal government.[31] States have suggested these rules are insufficient. Attorneys general from 13 states wrote Secretary Sebelius requesting more information on navigator standards and guidelines.[32] Other states have imposed their own requirements on navigators. The Commonwealth Fund found that 19 of the 34 states with federally facilitated marketplaces—including the seven states with a partnership exchange—introduced legislation imposing state requirements on the navigators.[33] Sixteen of those states have enacted these state-specific requirements.[34]

One might ask: What's the harm in making sure that groups charged with helping

FIGURE 2

Federally run marketplaces

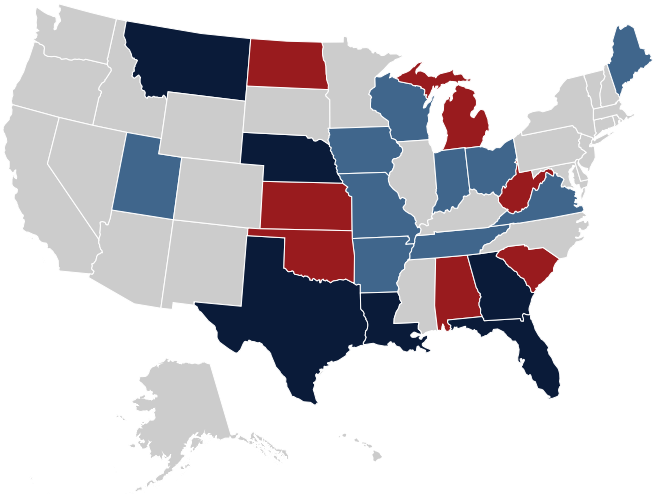


Source: Kaiser Family Foundation, "State Decisions For Creating Health Insurance Exchanges, as of May 28, 2013," available at http://kff.org/health-reform/state-indicator/health-insurance-exchanges/ (last accessed September 2013).

FIGURE 3

Restricting navigators

- States requesting more information on navigator standards
- State-specific navigator requirements
- Both



Source: Letter from Patrick Morrisey and others to Secretary Kathleen Sebelius, August 14, 2013; Katie Keith, Kevin W. Lucia, and Christine Monahan, "Will New Laws in States with Federally Run Health Insurance Marketplaces Hinder Outreach?", The Commonwealth Fund Blog, July 1, 2013, available at http://www.commonwealthfund.org/Blog/2013/Jul/Will-State-Laws-Hinder-Federal-Marketplaces-Outreach.aspx.

Americans enroll in the new marketplaces actually perform their duties? Many of the state laws require a navigator to obtain a state license, undergo a background check, and receive additional training. As The Commonwealth Fund found, though, some of these laws can have the opposite effect—making it near impossible for the navigators to successfully do what they are supposed to do. More-restrictive standards that impose more obstacles and hurdles over which navigators must jump could keep some of the navigator organizations from serving in the very areas that the law was intended to help, such as places with high uninsured populations.[35] States have passed laws banning navigators from offering advice about the benefits of health plans. How can a consumer make an informed decision without that type of information?

In Georgia, for example, navigators need a license from the state insurance commissioner, Ralph Hudgens, who notoriously commented that he would do "everything in [his] power to be an [Obamacare] obstructionist."[36] The state law also requires each navigator to pay a $50 fee and complete 35 hours of training—more training than required under the federal rule—undergo a background check, and pass a test.[37]

Missouri's navigator law is another extreme example. It prohibits navigators from receiving federal funds until they are state licensed. Moreover, navigators cannot "provide advice concerning the benefits, terms and features of a particular health plan, or offer advice about which exchange health plan is better or worse for a particular individual or employer."[38]

The Missouri navigator law appears to be an extension of the ballot measure that state residents approved in November 2012, which bans state officials from establishing or operating a state-based marketplace unless the people or state lawmakers approve. The measure went even further, however, saying that state and local officials cannot provide "assistance or resources of any kind" to help with the federal exchange unless federal law specifically requires it.[39]

Ohio has a similar law that does not allow navigators to negotiate with insurers or provide advice about health plans.[40] That law has led at least one navigator, the Cincinnati Children's Hospital Medical Center, to return its $124,419 grant to enroll uninsured people at its main hospital and two satellite locations. A West Virginia navigator grant recipient, West Virginia Parent Training, also returned its grant.[41]

A measure introduced in both Ohio and Missouri would "suspend the licenses of insurance carriers who accept federal subsidies" through one of the exchanges under the Affordable Care Act.[42]

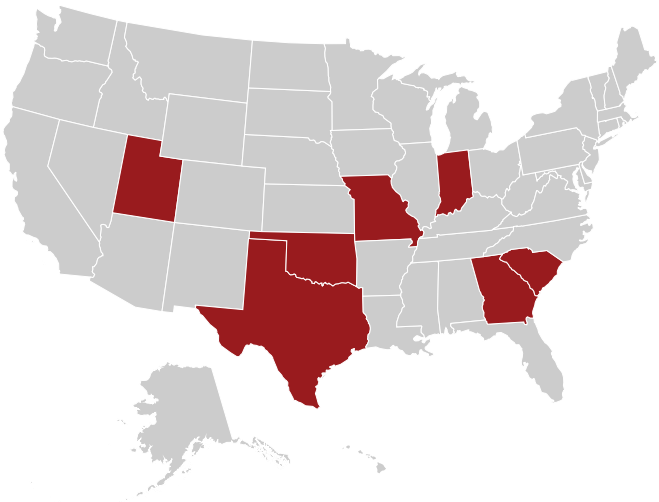
Florida is another example of a state that is finding ways to restrict navigators. Most notably, the state health department issued a directive to county health departments that they would not be permitted to conduct outreach at the offices.[43] This added scrutiny led a navigator in Florida, Cardon Outreach, to return more than $800,000 in federal money it has received to help enroll Floridians. Cardon Outreach's general counsel Charles Koble said in an email that, "The emerging state and federal regulatory scrutiny surrounding the Navigator program requires us to allocate resources which we cannot spare and will distract us from fulfilling our obligations to our clients."[44]

Refusing to enforce Obamacare

States have also tried to sabotage the Affordable Care Act by creating an interstate health compact. Seven states have signed statutes creating an interstate health compact, the goal of which is to essentially repeal the Affordable Care Act within the states that join the compact.[45] Congress must approve these statutes before the health compacts can take effect, so it is unlikely this will happen anytime soon.

FIGURE 4

Creating an interstate health compact



Source: National Conference of State Legislatures, "26 States Consider Health Compacts to Challenge Federal PPACA," June 2013, available at http://www.ncsl.org/issues-research/health/states-pursue-health-compacts.aspx.

As discussed, 27 states have decided to not create their own state-based marketplace and instead must have a federally facilitated one. Under the law, states must enforce the provisions and regulations related to the marketplaces and market reforms unless they notify the federal government that they will not. Six states have informed the federal government that they will not enforce these reforms,[46] such as prohibiting insurance companies from denying coverage because of a preexisting condition, charging women more than men, and ensuring that insurers use consumers' premium

dollars for care, not profits. Those states are Texas, Arizona, Alabama, Missouri, Oklahoma, and Wyoming.

Other states have proposed making it a crime to enforce the Affordable Care Act.[47] In Indiana, a lawmaker introduced a measure that declared the Affordable Care Act void and said that anyone who knowingly attempts to implement or enforce the Affordable Care Act in the state would be committing a Class D felony.[48] South Carolina introduced a similar piece of legislation, declaring the Affordable Care Act "null and void" and "establish[ing] criminal penalties and civil liability" for those aiding in its implementation.[49] Legislators in Oklahoma introduced a measure that would have made it punishable by up to five years in prison for anyone in the state to follow the Affordable Care Act.[50]

A better approach

The sabotage campaign that opponents of the Affordable Care Act are waging at the federal and state levels is not the approach we should take. A better approach is for lawmakers, irrespective of where they stood at the passage of the Affordable Care Act, to work together to make it work. A new *USA Today*/Pew Research Center poll released this week found that 51 percent of those who oppose the law want to see elected officials work together to make it work.[51]

That is not to say that Democrats and Republicans are not coming together to find solutions to help make the law work. States with Republican governors and state legislatures have agreed to expand Medicaid, as in Arizona,[52] or create a state-based exchange, as in Idaho.[53]

As Republican Kansas Insurance Commissioner Sandy Praeger, who is working with the Obama administration to make sure health plans meet federal standards, said, "We're just trying to do what's best for our consumers. … If state regulators are not going to do anything, then consumers will be the ones who suffer."[54] And Colorado State Rep. Bob Gardner (R), who voted against the state creating its own marketplace, now says he has "become convinced" that it is the right thing to do and that the new exchange "is on a road to success."[55]

First and foremost, the reason we should take this better approach is because the Affordable Care Act will provide access to health coverage to millions of Americans, some for the first time. It also provides better benefits and more protections by ending some of the worst insurer abuses, and it will lower costs.

Second, we need to recognize that the Affordable Care Act is the law of the land and highly unlikely to be repealed at the federal level, given that President Barack Obama won re-election in 2012 and the makeup of the Senate. The Supreme Court has upheld its constitutionality. Repeated attempts to sabotage the law do not move us forward; they just ensure that we keep refighting the same political battles.

Lastly, there is a growing amount of evidence showing that the law is working as it was intended to, debunking the attacks that opponents continue to make. One of the fiercest attacks against the law is that it would increase premiums, but a new report shows that nearly 6 in 10 of the uninsured are expected to obtain coverage next year for less than $100.[56] According to a Kaiser Family Foundation survey that analyzed premiums for the 2014 marketplaces in states that have already released that information, premiums were lower or lower than expected.[57] When federal tax credits are factored into the equation—something that many analyses conveniently forget to take into account—premiums were reduced even more.

The RAND Corporation released a study showing that these attacks are "overblown." In fact, workers at firms with fewer than 100 employees are expected to pay 6 percent less in premiums in 2016 than they would have had Obamacare not been passed.[58]

In states that are working to implement the Affordable Care Act successfully, the results show that the law is working:

- Minnesota, a state expanding Medicaid and running its own marketplace, released the lowest premium rates among all the states that have released their information.[59]

- In New York, another state that has set up its own exchange and is expanding Medicaid, regulators have approved premium rates that are at least 50 percent lower than those currently available. With federal subsidies, the rates will be even lower.[60]

- In Oregon and Maryland, state regulators forced insurers to lower premiums, and consumers can now save up to 30 percent in some cases.[61]

Make no mistake: Obamacare is working to make health coverage more affordable for millions of Americans.

It makes sense why opponents want to wage this sabotage campaign: They see that the law can succeed when people work together to make it succeed. Indeed, there will be some bumps in the road as the Affordable Care Act is implemented, but the coming weeks are an important time to begin enrolling millions of Americans in these new health marketplaces. Our mindset should be on working together to fix these marketplaces and finding ways to improve the law, not on putting up obstacles that set the law up for failure and then cheering when something goes wrong for political gain. We would all be better off if we helped make the Affordable Care Act work.

A closer look at states

Texas

Texas has the highest rate of uninsured residents in the nation, with more than one in four Texans under age 65 without health insurance—more than 5.7 million Texans.[62] The Affordable Care Act would have more of an impact in Texas, but unfortunately, Texas lawmakers have been at the forefront of sabotaging the law.

Texas Gov. Rick Perry (R) and Texas lawmakers have refused to expand Medicaid, which would have provided health coverage to more than 1.7 million Texans.[63] In addition, lawmakers refused to create their own marketplace for new health plans, defaulting to the federal government.[64] Almost half of Texas's uninsured population is estimated to be eligible to purchase insurance on the new marketplace, although the Perry administration is apparently not going to help publicize the exchange. Perry spokeswoman Lucy Nashed said the state was "not interested in implementing Obamacare, including the exchange."[65]

Texas is one of the six states that informed the federal government it would not implement insurance reforms under the Affordable Care Act, such as making sure that insurance companies cannot deny coverage based on preexisting conditions.[66] Texas is also one of the states trying to form an interstate health compact that would essentially repeal the Affordable Care Act within the state of Texas if it were enacted.[67]

While the state is not helping implement the new marketplace, the navigators helping enroll Texans are under increased scrutiny. Greg Abbott, the Texas attorney general, wrote the federal government asking for more information about guidelines for the navigators.[68] State lawmakers imposed their own regulations on the navigators in addition to the requirements the federal government has put in place,[69] and Commerce Committee Republicans targeted navigators in Texas with letters requesting additional paperwork.[70]

Florida

Florida has the second-highest rate of uninsured residents in the nation—nearly 25 percent of, or 3.8 million, Floridians.[71] Unfortunately, state lawmakers appear to be spending more time sabotaging the Affordable Care Act, which can help these millions of uninsured people, instead of helping implement it successfully.

Medicaid expansion was set to be a huge success story in Florida. Gov. Rick Scott (R-FL) endorsed accepting federal aid to expand eligibility for the program and provide health coverage to an estimated 1.3 million Floridians. The state legislature had other plans, however, and refused to endorse Gov. Scott's position.[72] What's more, Florida refused to establish its own state marketplace. The state also passed a law requiring insurers to send consumers a form that details how much of a premium increase is due to the Affordable Care Act. The form can be highly misleading, however, and not convey accurate comparisons of premium rates.[73]

Florida lawmakers also stripped the state insurance commissioner's authority to approve, modify, or outright reject premium-rate increases for two years.[74] That ability is one of the components that the Affordable Care Act calls for to prevent excessive premium-rate hikes.

Navigators have undergone intense scrutiny in Florida. When Commerce Committee Republicans sent letters to navigators requesting more information, they did not send them to every state, but they did send them to Florida navigators.[75] Florida lawmakers have kept the pressure on as well. Florida Attorney General Pam Bondi wrote Secretary Sebelius raising concerns about the navigator program.[76] Moreover, the state legislature passed and Gov. Scott signed a law mandating that navigators be fingerprinted and made to undergo background checks.[77] Perhaps most notably, the state health department issued a directive to county health departments, saying that navigators would not be permitted to conduct outreach at the county offices. Pinellas County Commissioner Kenneth Welch pushed back on the directive, calling it "purely political" and said it made "no sense whatsoever," that it was "ridiculous," and that the Scott administration was "reaching for any way to obstruct anything that's related to the Affordable Care Act."[78]

As a result of the added scrutiny, a navigator in Florida, Cardon Outreach, has returned the more than $800,000 in federal money it has received to help enroll Floridians. Said Koble, Cardon Outreach's general counsel, in an email, "The

emerging state and federal regulatory scrutiny surrounding the Navigator program requires us to allocate resources which we cannot spare and will distract us from fulfilling our obligations to our clients."[79]

Georgia

Georgia Insurance Commissioner Hudgens made clear comments last month on what the state is doing to implement the Affordable Care Act: "Everything in our power to be an obstructionist."[80]

True to that sentiment, Georgia has been at the forefront of the Obamacare sabotage campaign. There are more than 1.8 million uninsured Georgians—representing more than one in five people in the state under age 65[81]—yet the state refused to accept federal aid to expand the Medicaid program and has refused to establish its own state-run marketplace. Georgia is also a member of the interstate compact that would essentially repeal the law but needs congressional approval to go into effect.[82]

Navigators in the state have undergone increased scrutiny. The state attorney general, Sam Olens, wrote Secretary Sebelius about concerns over the program,[83] and state lawmakers imposed their own requirements on navigators above those the federal government has set, including requiring navigators in Georgia to obtain a license from the state insurance commissioner.

Each person helping the uninsured has to pay a $50 license fee and complete 35 hours of training, more than the federal government requires. Licenses must be renewed every year, and people are required to pay the fee upon each renewal.[84]

Missouri

Missouri has more-restrictive measures against the Affordable Care Act, placing it among the top states sabotaging the law.

For one, Missouri will not accept federal aid to expand Medicaid. In addition to making it harder for the nearly 351,000 Missourians who would have been eligible,[85] this decision has already had adverse consequences. St. Louis ConnectCare, a leading provider of outpatient medical services for the poor, announced last

month that it would lay off 88 employees—more than half of its staff.[86] Melody Eskridge, president and CEO of ConnectCare, said that the layoffs were a result of the state not expanding Medicaid. "Without Medicaid expansion, money to serve the uninsured and underinsured was going to dry up," she said.[87]

Navigators in Missouri have considerable obstacles standing in their way. State lawmakers passed very restrictive measures for navigators, forbidding them from even discussing the benefits of the law. The state law says that navigators cannot "provide advice concerning the benefits, terms and features of a particular health plan, or offer advice about which exchange health plan is better or worse for a particular individual or employer."[88] Another proposal in Missouri would "suspend the licenses of insurance carriers who accept federal subsidies" through one of the exchanges under the Affordable Care Act.[89] Not to mention that Commerce Committee Republicans sent a letter to navigators in Missouri asking for more information, essentially demanding more paperwork at the same time that navigators are focusing on reaching out to people and signing them up for the new marketplaces. [90]

About the author

Tony Carrk is the Director of the Health Care War Room at the Center for American Progress Action Fund and Center for American Progress. He previously worked at CAP and CAP Action, where he helped provide content and rapid response during the passage of the Affordable Care Act. He has worked on a variety of campaigns, including two presidential cycles.

Acknowledgements

The author would like to thank the CAP Action and ThinkProgress teams for contributing to the background research for this report.

Endnotes

1 Some House Democrats have joined the Republicans on some of these votes on the Affordable Care Act. Susan Page, "USA TODAY/Pew Poll: Health care law faces difficult future," *USA Today*, September 16, 2013, available at http://www.usatoday.com/story/news/politics/2013/09/16/usa-today-pew-poll-health-care-law-opposition/2817169/.

2 Ibid.

3 Paige Winfield Cunningham, "House passes Obamacare verification bill," *Politico*, September 12, 2013, available at http://www.politico.com/story/2013/09/house-passes-obamacare-verification-bill-96717.html.

4 Letter from House GOP members to House Speaker John Boehner and House Majority Leader Eric Cantor, August 21, 2013, available at http://meadows.house.gov/uploads/Meadows_DefundLetter.pdf.

5 Letter from Sen. Mike Lee to Senate Majority Leader Harry Reid, July 25, 2013, available at http://www.scribd.com/doc/155933054/Senator-Lee-s-Letter-to-Eliminate-ObamaCare-Funding.

6 Caren Bohan, "U.S. Republicans weigh using the debt limit as leverage on Obamacare," Reuters, August 21, 2013, available at http://www.reuters.com/article/2013/08/22/usa-obamacare-debtlimit-idUSL2N0GN01320130822.

7 Jim Puzzanghera, "S&P downgrades U.S. credit rating," *Los Angeles Times*, August 6, 2011, available at http://articles.latimes.com/2011/aug/06/business/la-fi-us-debt-downgrade-20110806.

8 Kaiser Family Foundation, "Kaiser Health Tracking Poll: August 2013," August 28, 2013, available at http://kff.org/health-reform/poll-finding/kaiser-health-tracking-poll-august-2013/.

9 Sam Baker, "Poll: Defunding is the least popular option for Obamacare," Healthwatch, September 4, 2013, available at http://thehill.com/blogs/healthwatch/health-reform-implementation/320235-poll-defunding-is-least-popular-option-for-obamacare.

10 David Lawder, "U.S. Republicans seek Obamacare delay for debt limit hike," Reuters, September 11, 2013, available at http://www.reuters.com/article/2013/09/11/us-usa-fiscal-debtlimit-idUSBRE98A0QR20130911.

11 Edwin Park, "Delaying the Individual Mandate Would Result In Millions More Uninsured and Higher Premiums" (Washington: Center on Budget and Policy Priorities, 2013), available at http://www.cbpp.org/cms/index.cfm?fa=view&id=4012.

12 Healthcare.gov, "What is the Health Insurance Marketplace?", available at https://www.healthcare.gov/what-is-the-health-insurance-marketplace/ (last accessed September 2013).

13 Sam Baker, "Sebelius in talks with NFL on promoting Obamacare insurance plans," Healthwatch, June 24, 2013, available at http://thehill.com/blogs/healthwatch/health-reform-implementation/307373-sebelius-nfl-might-help-promote-obamacare-enrollment.

14 Sahil Kapur, "GOP Leaders Warn Pro Sports Leagues Not To Promote Obamacare," TPMDC, June 28, 2013, available at http://tpmdc.talkingpointsmemo.com/2013/06/mcconnell-cornyn-letter-sports-leagues-obamacare.php.

15 Letter from Steve Scalise and others to Roger Goodell and David Stern, June 27, 2013, available at https://docs.google.com/viewer?url=http%3A%2F%2Fscalise.house.gov%2Fsites%2Fscalise.house.gov%2Ffiles%2Fdocuments%2FLetter%2520to%2520NFL%2520and%2520NBA.pdf.

16 Boston Red Sox, "Connector Teams Up with Red Sox to Build Enrollment in New Health Insurance Plans," Press release, May 22, 2007, available at http://boston.redsox.mlb.com/news/press_releases/press_release.jsp?ymd=20070522&content_id=1979252&vkey=pr_bos&fext=.jsp&c_id=bos.

17 Sandhya Somashekhar and Lenny Bernstein, "NFL says no to promoting Obamacare," *The Washington Post*, June 28, 2013, available at http://www.washingtonpost.com/national/health-science/nfl-says-no-to-promoting-obamacare/2013/06/28/1d02af1e-e026-11e2-b2d4-ea6d8f477a01_story.html.

18 Kyle Cheney, "Baltimore Ravens to aid Obamacare Enrollment Effort in Maryland," *Politico*, September 3, 2013, available at http://www.politico.com/story/2013/09/baltimore-ravens-obamacare-enrollment-maryland-96213.html.

19 Committee on Energy and Commerce Democrats, "Civic Organizations In Receipt of Letter Regarding Republican Investigation into Navigator Grants," available at http://democrats.energycommerce.house.gov/index.php?q=page/civic-organizations-in-receipt-of-letter-regarding-republican-investigation-into-navigator-gran (last accessed September 2013).

20 Brian Beutler, "GOP's heartless new scheme to prevent uninsured from getting care," Salon, September 4, 2013, available at http://www.salon.com/2013/09/04/gops_heartless_new_scheme_to_prevent_uninsured_from_getting_care/.

21 Jonathan Cohn, "These Documents Show What an Attempt to Sabotage Obamacare Looks Like," *New Republic*, September 3, 2013, available at http://www.newrepublic.com/article/114570/obamacare-sabotage-watch-house-commmitte-targets-aca-navigators.

22 Mary Agnes Carey, "GOP Lawmakers Demand Information from Groups Getting Navigator Grants," Kaiser Health News, August 30, 2013, available at http://www.kaiserhealthnews.org/Stories/2013/August/30/Republican-House-members-Obamacare-navigators.aspx.

23 Jenny Gold, "Navigators Say GOP Lawmakers' Information Requests Are 'Shocking'," Kaiser Health News, September 5, 2013, available at http://www.kaiserhealthnews.org/Stories/2013/September/05/navigators-respond-to-gop-letter-requesting-information-on-operations.aspx.

24 Elise Viebeck, "GOP to constituents: Questions on Obamacare? Call Obama," Healthwatch, June 15, 2013, available at http://thehill.com/blogs/healthwatch/health-reform-implementation/305777-gop-to-constituents-questions-on-obamacare-call-obama.

25 Ibid.

26 Medicaid.gov, "Medicaid Eligibility," available at http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Eligibility.html (last accessed September 2013).

27 Eleni Towns, "Ensuring Health Coverage for All" (Washington: Center for American Progress, 2013), available at http://www.americanprogress.org/issues/religion/report/2013/07/18/70008/ensuring-health-coverage-for-all/.

28 Kaiser Family Foundation, "States' Positions in the Affordable Care Act Case at the Supreme Court," available at http://kff.org/health-reform/state-indicator/state-positions-on-aca-case/ (last accessed September 2013).

29 Kaiser Family Foundation, "Status of State Action on the Medicaid Expansion Decision, as of September 3, 2013," available at http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/ (last accessed September 2013).

30 Kaiser Family Foundation, "State Decisions For Creating Health Insurance Exchanges, as of May 28, 2013," available at http://kff.org/health-reform/state-indicator/health-insurance-exchanges/ (last accessed September 2013).

31 Government Printing Office, "Proposed Rules," *Federal Register* 78 (137) (2013): 42739–42746, available at http://www.gpo.gov/fdsys/pkg/FR-2013-07-17/pdf/2013-16955.pdf.

32 Letter from Patrick Morrisey and others to Secretary Kathleen Sebelius, August 14, 2013, available at http://www.wvago.gov/pdf/Letter%20to%20HHS%20re%20Data%20Privacy_%28final%208%2014%2013%29.pdf.

33 Katie Keith, Kevin W. Lucia, and Christine Monahan, "Will New Laws in States with Federally Run Health Insurance Marketplaces Hinder Outreach?", The Commonwealth Fund Blog, July 1, 2013, available at http://www.commonwealthfund.org/Blog/2013/Jul/Will-State-Laws-Hinder-Federal-Marketplaces-Outreach.aspx.

34 Ibid.; Virginia Young, "New Missouri Law Imposes Hurdle for Insurance Exchange," *St. Louis Post-Dispatch*, July 17, 2013, available at http://www.stltoday.com/news/local/govt-and-politics/political-fix/new-missouri-law-imposes-hurdle-for-insurance-exchange/article_dccc78f9-6171-5350-a84a-2a263a5f9db7.html.

35 Keith, Lucia, and Monahan, "Will New Laws in States with Federally Run Health Insurance Marketplaces Hinder Outreach?"

36 Alex Nussbaum and Alex Wayne, "State Laws Hinder Obamacare Effort to Enroll Uninsured," Bloomberg, August 23, 2013, available at http://www.bloomberg.com/news/2013-08-23/state-laws-hinder-obamacare-effort-to-enroll-uninsured.html; Jay Bookman, "Ga. insurance chief brags about sabotage of Obamacare," ajc.com, August 29, 2013, available at http://www.ajc.com/weblogs/jay-bookman/2013/aug/29/ga-insurance-chief-brags-about-sabotage-obamacare/.

37 *Nussbaum* and Wayne, "State Laws Hinder Obamacare Effort to Enroll Uninsured."

38 Young, "New Missouri Law Imposes Hurdle for Insurance Exchange."

39 Robert Pear, "Missouri Citizens Face Obstacles to Coverage," *The New York Times*, August 2, 2013, available at http://www.nytimes.com/2013/08/03/us/missouri-citizens-face-obstacles-to-coverage.html?_r=3&.

40 Associated Press, "Advocates question Ohio health 'navigators' rules," cleveland.com, August 12, 2013, available at http://www.cleveland.com/nation/index.ssf/2013/08/advocates_question_ohio_health.html.

41 Sarah Kliff, "Two groups quit Obamacare outreach program," Wonkblog, September 9, 2013, available at http://www.washingtonpost.com/blogs/wonkblog/wp/2013/09/09/two-groups-quit-obamacare-outreach-program/.

42 Michael Cannon, "Ohio, Missouri Introduce the Health Freedom Act 2.0," Tenth Amendment Center, April 9, 2013, available at http://tenthamendmentcenter.com/2013/04/09/ohio-missouri-introduce-the-health-care-freedom-act-2-0/#.UjTW4j9qF7z.

43 Dylan Scott, "Florida Takes Obamacare Obstruction to a Whole New Level," TPMDC, September 12, 2013, available at http://tpmdc.talkingpointsmemo.com/2013/09/floridas-obamacare-obstructionism-goes-awry.php.

44 Associated Press, "Company returns $800k 'navigator' grant as obstacles to implement Affordable Care Act mount," *The Washington Post*, September 15, 2013, available at http://www.washingtonpost.com/national/company-returns-800k-navigator-as-obstacles-to-implement-affordable-care-act-mount/2013/09/15/0514c920-1e40-11e3-9ad0-96244100e647_print.html.

45 National Conference of State Legislatures, "26 States Consider Health Compacts to Challenge Federal PPACA," June 2013, available at http://www.ncsl.org/issues-research/health/states-pursue-health-compacts.aspx.

46 Shefali Luthra, "State to Feds: We Won't Enforce Insurance Reforms," *The Texas Tribune*, August 7, 2013, available at http://www.texastribune.org/2013/08/07/state-not-enforce-key-health-reforms/.

47 Ryan Teague Beckwith, "The 11 States that Resisted Obamacare the Most," InsideBayArea.com, September 5, 2013, available at http://www.insidebayarea.com/politics-national/2013/09/the-11-states-that-resisted-obamacare-the-most/.

48 Indiana General Assembly, "Senate Bill 0230, 2013 First Regular Session," available at http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2013&session=1&request=getBill&doctype=SB&docno=0230 (last accessed September 2013).

49 Fox News, "South Carolina bill would make it a crime to implement Obamacare," May 3, 2013, available at http://www.foxnews.com/politics/2013/05/03/south-carolina-bill-would-make-it-crime-to-implement-obamacare/.

50 Wayne Green, "Opposite Oklahoma bills seek nullification of Obamacare, mandated participation in Medicaid expansion," *Tulsa World*, January 27, 2013, available at http://www.tulsaworld.com/site/printerfriendlystory.aspx?articleid=20130126_16_a1_cutlin316883.

51 Page, "USA TODAY/Pew Poll: Health care law faces difficult future."

52 Kaiser Family Foundation, "Status of State Action on the Medicaid Expansion Decision, as of September 3, 2013."

53 Kaiser Family Foundation, "State Decisions For Creating Health Insurance Exchanges, as of May 28, 2013."

54 Levey, "As healthcare law rolls out, its effect will depend on your state."

55 Eric Whitney, "Colorado Exchange Watchdog Likes What It Sees," Capsules - The KHN Blog, September 9, 2013, available at http://capsules.kaiserhealthnews.org/index.php/2013/09/colorado-exchange-watchdog-likes-what-it-sees/.

56 Kelly Kennedy, "For millions, insurance will cost less than $100/month," USA Today, September 17, 2013, available at http://www.usatoday.com/story/news/politics/2013/09/17/100-dollar-premiums-exchanges/2822979/

57 Alex Wayne, "Obamacare Insurance Costs Affordable, Kaiser Survey Finds," Bloomberg, September 5, 2013, available at http://www.bloomberg.com/news/2013-09-05/obamacare-insurance-costs-affordable-kaiser-survey-finds.html.

58 Laura Ungar, "Study: Obamacare rate concerns 'overblown'," *USA Today*, August 29, 2013, available at http://www.usatoday.com/story/news/nation/2013/08/29/study-obamacare-rate-concerns-overblown/2725441/.

59 Catherine Richert and Elizabeth Stawicki, "MNsure unveils costs of health plans," Minnesota Public Radio, September 6, 2013, available at http://minnesota.publicradio.org/display/web/2013/09/06/health/online-health-insurance-marketplace-mnsure.

60 Roni Caryn Rabin and Reed Abelson, "Health Plan Cost for New Yorkers Set to Fall 50%," *The New York Times*, July 16, 2013, available at http://www.nytimes.com/2013/07/17/health/health-plan-cost-for-new-yorkers-set-to-fall-50.html?pagewanted=all&_r=3&.

61 Levey, "As healthcare law rolls out, its effect will depend on your state."

62 U.S. Census Bureau, "Small Area Health Insurance Estimates: SAHIE Interactive Data Tool," available at http://www.census.gov/did/www/sahie/data/interactive/#view=data&utilBtn=&yLB=0&stLB=0&aLB=0&sLB=0&iLB=0&rLB=0&countyCBSelected=false&insuredRBG=pu_&multiYearSelected=false&multiYearAlertFlag=false (last accessed September 2013).

63 Maura Calsyn and Emily Oshima Lee, "Interactive Map: Why the Supreme Court's Ruling on Medicaid Creates Uncertainty for Millions," Center for American Progress, July 5, 2012, available at http://www.americanprogress.org/issues/healthcare/news/2012/07/05/11829/interactive-map-why-the-supreme-courts-ruling-on-medicaid-creates-uncertainty-for-millions/.

64 Associated Press, "Gov. Rick Perry officially refuses to set up Texas health insurance exchange under Obamacare," *The Dallas Morning News*, November 15, 2012, available at http://www.dallasnews.com/news/local-news/20121115-gov.-rick-perry-officially-refuses-to-set-up-texas-health-insurance-exchange-under-obamacare.ece.

65 Shefali Luthra, "Groups Work to Promote Health Insurance Exchange," *The Texas Tribune*, July 19, 2013, available at http://www.texastribune.org/2013/07/19/promoting-insurance-exchange-no-help-state/.

66 Luthra, "State to Feds."

67 National Conference of State Legislatures, "26 States Consider Health Compacts to Challenge Federal PPACA."

68 Letter from Morrisey and others to Secretary Sebelius, August 14, 2013.

69 Keith, Lucia, and Monahan, "Will New Laws in States with Federally Run Health Insurance Marketplaces Hinder Outreach?"

70 Beutler, "GOP's heartless new scheme to prevent uninsured from getting care."

71 Calsyn and Oshima Lee, "Interactive Map."

72 Sarah Kliff, "Florida rejects Medicaid expansion, leaves 1 million uninsured," Wonkblog, May 5, 2013, available at http://www.washingtonpost.com/blogs/wonkblog/wp/2013/05/05/florida-rejects-medicaid-expansion-leaves-1-3-million-uninsured/.

73 Mary Ellen Klas, "State requires health insurers to detail costs added by the Affordable Care Act," *Tampa Bay Times*, July 26, 2013, available at http://www.tampabay.com/news/health/state-requires-health-insurers-to-detail-costs-added-by-affordable-care-act/2133464.

74 Noam N. Levey, "As healthcare law rolls out, its effect will depend on your state," *Los Angeles Times*, September 6, 2013, available at http://www.latimes.com/nation/la-na-obamacare-disparity-20130907,0,2881371.story.

75 Beutler, "GOP's heartless new scheme to prevent uninsured from getting care."

76 Letter from Morrisey and others to Secretary Sebelius, August 14, 2013.

77 Greg Allen, "Fla. Balks At Insurance Navigators As Obamacare Deadline Nears," Shot: Health News from NPR, August 20, 2013, available at http://www.npr.org/blogs/health/2013/08/20/213873277/fla-balks-at-insurance-navigators-as-obamacare-deadline-nears.

78 Scott, "Florida Takes Obamacare Obstruction to a Whole New Level."

79 Associated Press, "Company returns $800k 'navigator' grant as obstacles to implement Affordable Care Act mount."

80 Bookman, "Ga. insurance chief brags about sabotage of Obamacare."

81 U.S. Census Bureau, "Small Area Health Insurance Estimates."

82 National Conference of State Legislatures, "26 States Consider Health Compacts to Challenge Federal PPACA."

83 Nussbaum and Wayne, "State Laws Hinder Obamacare Effort to Enroll Uninsured"; Letter from Morrisey and others to Secretary Sebelius, August 14, 2013.

84 *Nussbaum and* Wayne, "State Laws Hinder Obamacare Effort to Enroll Uninsured."

85 Calsyn and Oshima Lee, "Interactive Map."

86 Jim Doyle, "St. Louis ConnectCare cuts more than half of its staff," *St. Louis Post-Dispatch*, August 29, 2013, available at http://www.stltoday.com/business/local/st-louis-connectcare-cuts-more-than-half-of-its-staff/article_54c28689-a746-5620-87b8-2a88d2e002f2.html.

87 Ibid.

88 Young, "New Missouri Law Imposes Hurdle for Insurance Exchange."

89 Cannon, "Ohio, Missouri Introduce the Health Freedom Act 2.0."

90 Beutler, "GOP's heartless new scheme to prevent uninsured from getting care."

The Center for American Progress Action Fund transforms progressive ideas into policy through rapid response communications, legislative action, grassroots organizing and advocacy, and partnerships with other progressive leaders throughout the country and the world. The Action Fund is also the home of the Progress Report and ThinkProgress.

Center for American Progress Action Fund

1333 H STREET, NW, 10TH FLOOR, WASHINGTON, DC 20005 • TEL: 202-682-1611 • FAX: 202-682-1867 • WWW.AMERICANPROGRESSACTION.ORG