

# GOP Unveils Health Care Legislation

## The American Health Care Act

March 7, 2017

On March 6, 2017, House Republicans released legislation to repeal and replace the Affordable Care Act (ACA). The **123 page** proposed bill is expected to move to the House of Representatives mark-up process as soon March 8 and will continue through a revision and negotiation process. If the bill passes in the House and advances to the Senate, language within a final version may shift; however, for those awaiting traction and a pattern to emerge among the several prior “repeal and replace” proposals, the **American Health Care Act** is now in motion.

### Legislation Highlights

#### Tax Exclusion for Employer-Sponsored Health Care

A modification to the tax exclusion for employer-sponsored health plans is **NOT** included in the proposed legislation. During the first week of February, Oswald’s leadership spent several days in Washington, DC, advocating on behalf of our clients. On the Hill, we reiterated that changing the tax will further increase employer and employee costs when both are bearing the brunt of health insurance cost-shifting. While relieved by this result, given the current climate and approaching mark-up process, we will continue to monitor this issue closely.

#### Individual and Employer Coverage Mandate

The proposed legislation eliminates several ACA taxes and mandates, including the ACA employer coverage mandate (and penalty exposure). As the final version moves forward, Oswald will provide clarity as the timeline and potential retroactive impact is assessed.

Further, the individual coverage mandate is eliminated, yet the ban on pre-existing condition exclusions remains. As a result, healthier individuals may choose not to purchase insurance, which will increase premiums if there are a disproportionate number of older or less healthy individuals within the pool. To address this, the plan proposes a **30% penalty** for lapses in coverage.

#### Cadillac Tax

The ongoing challenge to repeal the 40 percent excise tax on high value plans (the “Cadillac Tax”) continues as the proposed legislation delays the tax from **2020 to 2025**. Predications indicate a significant number of plans will trigger the tax by 2025 if adjustments are not made to the threshold. Of note, during 2016, more than 2/3 of members of the House and 90 Senators supported repealing the tax.

## The Proposed Legislation

- **Expands** Health Savings Accounts (HSAs) by allowing individuals to add substantially more to their accounts and by permitting spouses to make additional contributions.
- **Delays** the repeal of many ACA tax increases until 2018, which is a year later than previously considered drafts.
- **Alters** the approach to tax credits to purchase coverage by using age, rather than income, to assess the available amount. Tax credits will be available in full to individuals earning less than \$75,000 and households earning less than \$150,000. The tax credits are unavailable for individuals earning more than \$215,000 with a \$290,000 cap for joint filers.
- **Retains** certain popular ACA provisions, including the ban on pre-existing coverage exclusions, dependent child coverage expansion to age 26 and the ban on annual and lifetime limits.
- **Phases out** the ACA's Medicaid expansion and returns many decisions to the states.

## What to Expect Next?

The proposed legislation is the combined efforts of two House Committees: The Ways and Means Committee and the Energy and Commerce Committee. Within the approaching mark-up process, members of the House will negotiate and persuade, as needed, to reach the necessary **218 votes**. The House has 237 Republican members and only able to lose 19 votes and still pass the bill.

Importantly, as a **budget reconciliation bill**, the scope is limited to budget-specific provisions. Importantly, a reconciliation bill requires a simple majority vote in the Senate, rather than the typical 60-vote requirement to avoid a filibuster.

According to Chairman Kevin Brady (R-TX), the high-level goals of the **Ways and Means Committee** are:

- Dismantling ACA taxes
- Expanding Health Savings Accounts (HSAs)
- Initiating a revised tax credit for those whom do not receive health insurance through an employer-sponsored health plan

According to Chairman Greg Walden (R-OR), the high-level goals of the **Energy and Commerce Committee** are:

1. Establishing a patient & state stability fund, offering greater state flexibility
2. Unwinding ACA Medicaid expansion
3. Strengthening Medicare

As we did when the ACA was introduced into the legislative process, Oswald will closely monitor all upcoming developments and provide timely updates. [Click HERE](#) for Oswald's Health Care Reform and Group Health Plan Compliance Website and blog, as we continue to evaluate how the approaching changes will affect your strategic plan in 2017 and beyond. Please look for weekly Oswald updates and contact us with any questions.

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