On March 6, 2017, the House Republicans released the American Health Care Act (AHCA) to repeal and replace the Affordable Care Act (ACA). Recently, the 123 page proposed legislation has been assessed within the House of Representatives mark-up process. The AHCA is expected to reach a floor vote on March 23, 2017, which is seven years, to-the-day, since the passage of the ACA.

The GOP issued a Managers Amendment to the proposed AHCA on Monday, March 20th with minor modifications. House Republicans will either coalesce behind this legislation by the 23rd for a vote as the initial replacement step, or start-over.

Additionally, this week, President Trump, along with the newly confirmed director of the Department of Health and Human Services (HHS), Dr. Tom Price, made a rare appearance on Capitol Hill to rally necessary votes. Typically, the House requires a majority vote (218 votes) for legislation to pass; yet, this year, due to House seat vacancies, the Republicans need only 216 votes.

As we look ahead towards the Senate process, if the AHCA advances, the language will be further modified. Most importantly, for those awaiting a solid first step following years of ACA “repeal and replace” discussions, the initial House vote is anticipated on March 23rd. If the vote does not occur, this simply means the House Majority Leader, Paul Ryan (R-WI), does not have the vote tally. And, so, another version of a replacement bill is anticipated within the next month as the GOP seeks to deliver campaign promises.

If the AHCA passes, the GOP proposes two additional phases of the repeal and replace process.

Repealing & Replacing the ACA – Three Phases

1) Budgetary Reconciliation Bill -- The American Health Care Act (AHCA)

Within a budget reconciliation bill, the legislative 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.

2) HHS Department – Regulatory Directives, as instructed by President Trump's Executive Order and by the AHCA.

Similarly to the ACA, the language “HHS Shall...” appears in the AHCA for the Department of HHS to direct additional government agencies to execute the law’s intent. Of note, when the ACA first passed in March 2010, the ACA language authorized HHS to issue regulatory directives over 900 times.
3) Future Bi-Partisan Legislation -- Requiring 60 Senate Votes

If the AHCA passes, the last phase of issuing additional legislation will require 60 votes rather than a simple majority of 51 in the Senate. As proposed, the GOP leadership has specifically mentioned:

- Expanding access to insurance markets across state lines
- Tort reform to address increasing defensive medicine; and
- Changes to state-by-state mandates defining Essential Health Benefits (EHB).

All details are to-be-determined with bipartisan support

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. According to Chairman Kevin Brady (R-TX), the 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 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. Please look for weekly Oswald updates and contact us with any questions.