

Health Care Reform Implementation

Proposed Amendments to the Affordable Care Act (ACA)

April 12, 2017

In the weeks since the highly publicized American Health Care Act (AHCA) vote was pulled from the House floor, Speaker Ryan, along with other GOP leaders, are continuing to keep ACA-reform efforts in the news. Mixed messages by way of press releases, speeches and tweets flow from the Republican members of the House and Senate, as well as from the White House. President Trump recently said that he is optimistic that, out of the spotlight and without the pressure of deadlines, a deal will be reached either through achieving a consensus between the party's most conservative lawmakers and those from more centrist districts, or by reaching across the aisle to Democrats. **Many are simply asking: Is it possible that the GOP will not take any additional action after running on an ACA repeal and replace platform for years?**

In the News

- **March 29:** Senators Lamar Alexander (R-TN) and Bob Corker (R-TN) introduced a bill removing the ACA provision limiting the use of tax credits to plans on Healthcare.Gov (or on the state-based exchange) only. If this modification passes, individuals may use tax credits to buy approved coverage directly from an insurer or a broker with access to additional coverage options. Also, those whom do not purchase coverage would be exempt from the ACA penalty for being uninsured.
- **April 4:** Vice President Pence and Congressional leadership met behind closed doors in an evening meeting to restart/resume/continue efforts by beginning with common ground. At the end of the meeting, public statements offered no specific dates, but an assurance that "repeal, replace or repair" is far from over.
- **April 6:** Republican House leaders unveiled an ACA amendment creating a **\$15 Billion** fund to reimburse insurance companies when covering patients with chronic conditions. This amendment is intended to lower premiums and gain traction towards larger repeal measures. This ACA amendment is modeled after a program called an **invisible high-risk pool**.
 - This program was initially introduced in 2011 to address spiraling health insurance costs in Maine. Individuals with pre-existing conditions purchase policies in a state individual insurance market, and the government reinsured the cost of medical claims following a certain threshold. Maine's approach differs from a traditional high-risk pool because the sickest individuals are enrolled in **private market plans**, rather than a separate, publicly funded option. Overall, it removes costs from the larger insurance pool by allowing insurers to reduce premiums for healthier individuals.
 - Additionally, the House amendment increases the permissible age bands for community rating. Under the ACA, as is, the largest difference in premiums, based on age is limited to a 3 to 1 ratio. Under the newly proposed amendment, this increases to **5 to 1**. Average health spending among those age 64 is approximately 4.8 times as high as spending among those age 21, according to the Society of Actuaries.

- **April 11:** President Trump announced that efforts are continuing to repeal and replace the ACA in **advance of** reforms to the tax code. He stated that tax reform will be easier if the AHCA, or a revised version of it, is passed first since there are several repealed taxes within all ACA-reform legislation.
 - It is clear that the second prominent pillar of the 115th Congress' Republican platform remains **comprehensive tax reform**. Given the negative news coverage following the ACA-replacement effort, failing to pass tax reform is unlikely, as the GOP will need a success story before mid-term elections. Whether the ACA replacement or revising the IRS code moves forward, ACA-related tax provisions are anticipated.

Looking Ahead

Secretary of Health and Human Services, Tom Price, has significant authority and direction to implement the ACA, or to issue new regulations to execute the law's intent. At a minimum, HHS and members of Congress will need to consider options to **stabilize the individual health insurance marketplace**. As an example, a continuation of certain payments to insurance companies was included in the AHCA reconciliation bill to assist with market stabilization. If these payments end, insurance companies will lose funding, causing premiums to further increase. Republicans had been prepared to continue the payments during a transition if the AHCA had passed, but this question now remains. Pressure to take action will inevitably increase as insurance companies issue 2018 rates. Since underwriters need to issue initial rate projections based on the expected insurance pool, in advance, uncertainty continues and further increases the pressure on Republicans in Congress to deliver on seven years of campaign promises and pledges to fix what many deemed a broken, failing system as a key to prior campaigns.

As new legislation is proposed and assessed, whether in the form of another repeal and replace bill or via legislative "fixes" targeting certain provisions of the ACA, Oswald will continue to provide timely updates and strategic guidance for employers. We will remain vigilant in monitoring all legislative and regulatory actions, and through our relationships with **industry experts in Washington, DC**, we will continue our proactive communication efforts to anticipate change. Importantly, the Affordable Care Act (ACA) remains the law; therefore, all current compliance requirements remain in place today.

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Andrea Esselstein, J.D. | aesselstein@oswaldcompanies.com; 216.658.5012

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