

# Health Care Legislation Status

## Senate Delays Vote on Health Care

June 27, 2017

On Tuesday, June 27<sup>th</sup>, Senate Majority Leader Mitch McConnell (R., Ky.), abruptly postponed the vote on the Senate's recently released 142 page discussion draft, the **Better Care Reconciliation Act of 2017 (BCRA)** until after the congressional July 4<sup>th</sup> recess. The BCRA follows the passage of the American Health Care Act (AHCA) to replace the Affordable Care Act (ACA) in the House of Representatives on May 6<sup>th</sup>. Opposition was significant enough not to move forward with a routine motion to proceed to the Senate floor.

The vote delay follows efforts to appease Senators on both ends of the GOP political spectrum, and now, McConnell must bridge this challenging gap. Consolidating the simple majority of 51 votes is a fragile balance of conservative and moderate Republicans. The conservative wing is focused on long-term funding with a spokesperson stating that the BCRA retains too many of the ACA's regulations to significantly lower premiums. The moderate GOP wing is focused on patient protections and Medicaid cut concerns. Several Senate Republicans stated the delay was unavoidable after the nonpartisan Congressional Budget Office (CBO) report found the BCRA may result in 22 M more uninsured individuals than the ACA over the next decade.

The Senate leadership is appearing to take comfort from the experience of House Republicans. The AHCA was initially declared dead following a delayed vote, yet House Republicans regrouped following additional negotiations and compromises.

During the July 4<sup>th</sup> congressional recess, deal-making and lobbying to sway Senators is expected as voters voice opinions in town-hall meetings. McConnell stated that a revised version of the BCRA will be introduced when Congress returns the week of July 10. Therefore, while the BCRA is another step in fulfilling long-standing GOP campaign promises, the deliberative steps within the Senate are historically slow. Meanwhile, the political stakes are high for those GOP Senators having ran years of campaigns on the "repeal and replace" platform.

### Week of June 26<sup>th</sup> News Recap

On the day of the vote delay, President Trump held a meeting with fifty of the fifty-two GOP Senators at the White House. Two key moderate Senators, Susan Collins of Maine and Cory Gardner of Colorado, sat very near the President. President Trump said, "We have really no choice but to solve the situation," implying the ACA is collapsing. Following the meeting, McConnell said "we made good progress" inside. He added that, "the one thing I would say is that I think everybody around the table is interested in getting to yes because we know the status quo is simply unacceptable and unsustainable, and no action is simply not an option."

McConnell can only afford to lose two of the 52 Republicans in the chamber with Vice President Pence to break a 50-50 tie.

## What to Expect Next

Senate procedural rules vary substantially from those in the House. If a revised version of the BCRA, or even an entirely different bill is introduced (and the vote tally rises to the point to proceed), an open amendment process on the Senate floor will begin. This amendment process, which is casually known as “vote-a-rama,” will provide all stakeholders with additional information and details prior to the Senate vote (if a vote occurs).

If the BCRA passes in the Senate, a new deliberation will begin in a conference committee with members from both chambers. Then, both the House and Senate must vote on the compromise bill.

Until the AHCA or the BCRA is signed by the President, the Affordable Care Act (ACA) remains the law today and all current compliance requirements remain in place.

## BCRA Highlights

- **Eliminates** the employer and employee coverage mandates
- **Eliminates** the individual coverage mandate
- **Eliminates / Phases out** the majority of ACA taxes
- **Delays** implementation of the Cadillac Tax
- **Retains** certain popular ACA provisions, including the dependent child coverage expansion to age 26, the ban on pre-existing condition exclusions and the ban on annual and lifetime limits
- **Expands** Health Savings Accounts (HSAs)
- **Alters** the approach to tax credits to purchase coverage. Tax credits will be offered to those with incomes up to 350% of the Federal Poverty Level (FPL) rather than 400% as is under the ACA
- **Continues** payments to insurers for the ACA's cost-sharing reductions for lower-income exchange enrollees until 2019, but then phases out these payments
- **Phases out** the ACA's Medicaid expansion. This may cause the 31 states that expanded Medicaid to eliminate this coverage
- **Funds** a temporary reinsurance and stabilization program through 2026 to assist with the rising premiums in the health insurance exchange, which is causing insurance carriers to exit several markets. Specifically, a short-term stabilization fund to provide \$15 B per year in 2018 and 2019 and \$10 B in each of the next two years

## Takeaways

As additional details and legislative developments continue, Oswald will provide ongoing guidance and strategic direction for employers. We will remain vigilant in monitoring all regulatory actions, and through our relationships with industry experts in Washington, DC, we will continue our proactive communication efforts to anticipate change. Importantly, until the AHCA or BCRA is signed by the President, the Affordable Care Act remains the law today; therefore, all current compliance requirements remain in place today.

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