The Future of Healthcare Reform:

ACA Repeal and Replace – What’s Next?

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Today’s Agenda

- Brief Background & History of the ACA
- Recent Actions Under New Administration
- ACA vs. AHCA + Anticipated Impact/Changes
- Current State of ACA & Impending Repeal Efforts
- Q&A Session
When passed on March 23, 2010, the primary goals of the Patient Protection and Affordable Care Act (PPACA) were to:

1. Extend access to affordable health insurance coverage to the uninsured and underinsured
2. Reduce overall health care costs
3. Establish nationwide consumer protections that apply to all insurance policies
ACA Implementation History

Provisions Affecting Employers

2010-2014
- PCORI Fee for plan years ending on or after 9/30/2012
- New notice requirements: SBCs & Marketplace
- Dependent coverage to age 26
- Waiting period limitation (no more than 90 days)

2015-2016
- Employer Mandate coverage requirements & penalties
- Annual 1094 & 1095 IRS reporting & penalties
- Form W-2 Reporting of Employer-Sponsored Health Coverage
Timeline of HCR Under New Administration

Jan. 20, 2017: President Elect Trump takes office and issues an Executive Order calling upon federal administrative agencies to minimize the economic burden of the ACA

Feb. 28, 2017: During his first address to Congress, President Trump outlines key measures he wants lawmakers to adopt in ACA replacement legislation

March 6, 2017: House Republicans release text of ACA replacement legislation, the American Health Care Act (AHCA)

March 9, 2017: AHCA passes House Energy & Commerce Committee and the House Ways & Means Committee

March 13, 2017: Initial CBO Analysis of AHCA Released

March 16, 2017: AHCA Passes House Budget Committee

March 20, 2017: ACHA Manager’s Amendment Added

March 23, 2017: Full House Vote Postponed

March 24, 2017: AHCA bill withdrawn from Congress due to lack of votes
ACA vs. AHCA

A Side by Side Comparison
## Fees & Taxes

<table>
<thead>
<tr>
<th>Current ACA Provision</th>
<th>Proposed Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comparative Effectiveness Research Fee (PCORI Fee)</td>
<td>No change; <em>In effect through 2020</em></td>
</tr>
<tr>
<td>Excise tax on high-cost coverage (Cadillac Tax)</td>
<td>Delay until 2025</td>
</tr>
<tr>
<td>Additional Medicare tax on high earners</td>
<td>Repeal as of 2018</td>
</tr>
</tbody>
</table>
## Health Plan Requirements

<table>
<thead>
<tr>
<th>Current ACA Provision</th>
<th>Proposed Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eligibility for children up to age 26</td>
<td>No change</td>
</tr>
<tr>
<td>Coverage of routine care for clinical trial participants</td>
<td>No change</td>
</tr>
<tr>
<td>Coverage of certain preventive services at 100%</td>
<td>No change</td>
</tr>
<tr>
<td>Exclude non-prescribed OTC meds from tax-free coverage</td>
<td>Repeal as of 2018</td>
</tr>
<tr>
<td>General definition of Essential Health Benefits (EHBs)</td>
<td>No change</td>
</tr>
<tr>
<td>Limits on out-of-pocket maximums for EHBs</td>
<td>No change</td>
</tr>
<tr>
<td>No annual or lifetime dollar limits for EHBs</td>
<td>No change</td>
</tr>
<tr>
<td>No pre-existing condition exclusions</td>
<td>No change</td>
</tr>
<tr>
<td>Parity between in-network and out-of-network emergency care</td>
<td>No change</td>
</tr>
<tr>
<td>Patient protections (PCP selection; OB/GYN care without precertification)</td>
<td>No change</td>
</tr>
<tr>
<td>Prohibition against coverage rescissions</td>
<td>No change</td>
</tr>
</tbody>
</table>
## Employer Requirements

<table>
<thead>
<tr>
<th>Current ACA Provision</th>
<th>Proposed Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer Mandate (Play or Pay)</td>
<td>Repeal as of 2016</td>
</tr>
<tr>
<td>Employer Marketplace (Exchange) Notice</td>
<td>No change</td>
</tr>
<tr>
<td>Employer reporting requirements (1094-C and 1095-C)</td>
<td>No change</td>
</tr>
<tr>
<td>W-2 reporting of health coverage cost</td>
<td>No change</td>
</tr>
</tbody>
</table>
## Miscellaneous

<table>
<thead>
<tr>
<th>Current ACA Provision</th>
<th>Proposed Change</th>
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</thead>
<tbody>
<tr>
<td>Annual limits on health savings account (HSA) contributions</td>
<td>Increase as of 2018</td>
</tr>
<tr>
<td>Increase penalty on non-qualified HSA distributions from 10% to 20%</td>
<td>Repeal as of 2018</td>
</tr>
<tr>
<td>Limit on annual health FSA contributions</td>
<td>Repeal as of 2018</td>
</tr>
<tr>
<td>Summary of Benefits (SBC) requirements</td>
<td>No change</td>
</tr>
<tr>
<td>Small business tax credit</td>
<td>Repeal as of 2020</td>
</tr>
</tbody>
</table>
A Closer Look at Proposed Changes
Health Savings Accounts:
- Reduce the applicable tax rate on HSA distributions not related to health care from 20% (under the ACA) to 10%
- Increase annual contribution limits to at least $6,550 for an individual and $13,100 for a family to match OOPM limits (up from 2017 limits of $3,400 & $6,750)
- Allow catch-up contributions by spouses to same HSA

Flexible Spending Accounts:
- Repeal ACA Maximum of $2,600 annual contribution limit (2017)
- Employers would have discretion to set contribution limits under their health FSA plans

*Repeals the tax on over-the-counter-medication without a prescription, allowing these to be purchased with HSA/HRA/FSA funds
Individual & Employer Mandate

- **Individual Mandate:**
  - Repeals ACA requirement that Americans obtain health insurance or face tax penalties
  - Replaced with a “continuous coverage incentive,” which charges people in the individual market a 30% penalty for any lapses in health insurance coverage

- **Employer Mandate:**
  - Repeals ACA requirement that larger companies provide affordable insurance to their employees or face financial penalties
  - ACA reporting requirements would remain in place but could be simplified
  - New tax credits not available to employees eligible for employer coverage
CBO Report Estimates

$ 52 million uninsured by 2026 (vs. 28m under ACA)

$ 150.3 billion decrease in the federal deficit over next 10 years

$ 15% to 20% premium hikes in 2018 & 2019

$ 10% premium decrease by 2026
Manager’s Amendment

March 20, 2017

- **Medicaid Expansion:**
  - Freeze in 2017 vs. 2020 from original version
  - Allow states to impose a work requirement as a condition of Medicaid coverage
  - Allow states to choose between a block grant or a per capita cap as funding mechanism

- **Tax Changes:**
  - Cadillac tax delayed additional year (2026) while repeal of other ACA taxes accelerated to 2017
  - Clarifies that 30% coverage lapse penalty applies in individual market only (not small group)
  - Additional funds allotted for age-based tax credits
  - Increases the Medicaid inflation adjustment for elderly enrollees
AHCA Vote Delays + Further Amendments

- On March 23, 2017 full House vote on AHCA postponed one day.
  - On same day, a further manager’s amendment was offered to garner additional votes

- On March 24, 2017 AHCA bill withdrawn from Congress due to lack of votes

- ACA remains “law of the land” for now→ Republican effort to repeal & replace is not over
What now for repeal & replace?

- Shortly after AHCA withdrawn from planned vote, Congress began a two-week recess

- One-page summary of amendments to AHCA (“MacArthur Amendment”) surfaced on April 20th
  - Allows states to seek waivers to requirements that insurers offer EHBs and not charge more to people with pre-existing conditions

- Major challenges:
  i. Bridging the divide between moderate and conservative Republicans
  ii. Revised language for a full bill hasn’t been agreed on
  iii. Other pressing Congressional matters
Final Market Stabilization Rules

1) A Shorter Enrollment Period
2) Restrictions on Special Enrollment Exemptions
3) Changes to Guaranteed Availability
4) Network Adequacy Enforcement
5) More Leeway on Actuarial Value Standards
ALEs must offer “full-time” (30+ hours/week) employees compliant health care coverage or may be subject to a penalty.

Two types of employer assessments, both may only be imposed if at least one eligible “full-time” employee seeks and receives a Marketplace subsidy.

- **Penalty A - 4980H(a):** $2,260/year per full-time employee (less 1st 30) if employer does not offer coverage to 95% of full-time employees
  - **Example:** Employer with 100 FT employees=$158,200 penalty

- **Penalty B - 4980H(b):** $3,390/year per employee who is not offered affordable, minimum value coverage AND receives a Marketplace subsidy
  - Affordable: 9.69% of calculated income
  - Minimum Value: Bronze actuarial value or higher

Employers also face potential penalties for failing to report on their compliance with the Employer Mandate via IRS 1094/1095 reporting.

- Implementation of the ACA Compliance Validation system has been delayed

- IRS is developing additional automation tools to identify non-filers and non-compliant applicable large employers

- Systems to go into effect sometime after May 2017

- Once the systems are in place, the IRS will be able to mass identify noncompliant employers and send bulk notices for all reporting years
PCORI Fee in 2017

- Annual fee to fund the Patient-Centered Outcomes Research Institute (PCORI)
- Paid by employers that sponsor HRAs and other self-insured health plans
- Filed 1x per year using IRS Form 720

<table>
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<th>Plan Ending Date in month of:</th>
<th>File return no later than:</th>
<th>Applicable rate:</th>
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<td>Mar - 2016</td>
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<td>Apr - 2016</td>
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<td>June - 2016</td>
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<td>July - 2016</td>
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<tr>
<td>Dec - 2016</td>
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Other Laws Effecting Group Health Plans

ERISA
Documentation, notice, procedural & reporting requirements

HIPAA
Special enrollment periods; Data privacy & security; Non-discrimination rules

COBRA
Continuation coverage; Notice & procedural requirements

IRS Regulations
Non-discrimination testing; Pre-tax contribution & plan documentation rules

Other Federal & State Laws
GINA; FLSA; USERRA; FMLA; WHCRA; NMHPA
Questions?

Q & A