

What health care providers need to know about the American Health Care Act



Elizabeth Sullivan | Friday, March 10, 2017

On Monday, March 6, the House Republicans released the American Health Care Act - the [long-awaited plan](#) to repeal and replace the Affordable Care Act (ACA), more commonly known as “Obamacare.” When the ACA was enacted in March 2010, major themes included expansion of coverage, improving the efficiency and quality of healthcare, and lowering the overall cost of insurance. While the goal for Republicans has been to repeal the ACA, the new bill leaves much of the existing legislation in place. The House’s proposed repeal and replace legislation attempts to reduce the federal government’s investment in the ACA’s expanded insurance coverage by repealing many of the taxes that were implemented to fund the ACA, restructuring the federal subsidies for health insurance premiums as flat tax credits, and reforming Medicaid.

The reason why the proposed bill does not repeal more of the ACA stems from the rules for the process in which Republicans seek its passage: [budget reconciliation](#). The advantage of passing the ACA repeal and replace legislation as a reconciliation bill is that only a simple Senate majority is required for passage (some may recall that parts of the ACA were enacted using the same mechanism). The downside to using budget reconciliation is that it must be revenue neutral, meaning that any reduction in the federal revenues (i.e., tax cuts) must be offset by reduction in credits or spending.

In addition, only legislation that is germane to the management of the budget is allowed to be passed using this fast-track method. This explains why the technical components of the ACA, in particular, its

changes to the health care delivery system through quality initiatives and program integrity, are left unchanged at least for now.

We anticipate that the legislation, as currently proposed, would impact health care providers in two significant ways:

1. It is likely to reduce the size of the insured population as a result of its aims to control Medicaid costs and changes to the individual market.
2. It will impact providers' day-to-day operations from an employer and tax perspective.

Changes impacting size of insured population

Included in the changes to the Medicaid program is a "freezing" of the ACA's Medicaid expansion program in 2020. This would mean state Medicaid programs could continue to serve current enrollees, but will not be able to accept new applicants into the expanded program. In addition, in 2020, the bill changes Medicaid's funding model from an open-ended commitment by the federal government, to a capitated model that would provide each state with an annual amount related to the number of Medicaid beneficiaries. Based on changes to the Medicaid program and others affecting the individual insured market, [S&P Global Ratings estimates that as many as 10 million Americans could lose coverage if the bill becomes law](#). Providers and facilities that routinely treat uninsured patients and Medicaid patients are likely to be the first to feel the impact of reduced coverage.

Also, the replacement of the individual penalty with a continuous coverage incentive will make health insurance more expensive for individuals that lose their coverage and then decide to reapply for insurance after a 63-day gap. While these individuals will not have to contend with the penalty, they will face a 30 percent markup on any new insurance plan if they decide to purchase coverage. It is likely that this will discourage individuals from getting coverage until they are sick enough that a 30 percent markup makes the coverage worthwhile. When they do buy insurance their costs will be higher, which will raise insurance premiums for the rest of the covered population.

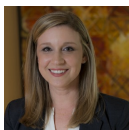
Employer impact

The second potential impact is to health care providers' day-to-day operations from an employer and tax perspective. For more information relating to employer obligations, please see the alert from our employee benefits and tax team "[What employers need to know about the American Health Care Act](#)."

Status of the American Health Care Act

As of this publication, the American Health Care Act has passed the House Ways and Means Committee and the House Energy and Commerce Committee. Now it will be reviewed by the House Budget Committee. Still, Republicans remain divided on the proposed legislation. In addition, the [American Medical Association](#), the American Hospital Association, and other industry stakeholders have released statements rejecting the legislation as currently proposed. The bill has not yet been scored by the Congressional Budget Office (it has been reported that scoring will be released by March 13) and it is likely that this draft bill will change. It will be important to continue to monitor the developments that take place in the coming days and weeks.

McDonald Hopkins will continue to monitor the progress of the legislation as it makes its way through the reconciliation process. For more information about how the potential ACA repeal and replace legislation will affect your business, please contact one of the McDonald Hopkins attorneys listed below.



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