

March 7, 2017

The American Health Care Act

On Monday evening House Republicans released the “American Health Care Act,” draft legislation intended to repeal and replace Obamacare (the ACA). Committee mark-ups are scheduled for March 8th and although revisions may occur, it is expected to advance to the House and Senate before eventually being presented to President Trump for signature, possibly as early as April.

Key Points:

- Delays Cadillac Tax until 2025 but does not repeal it.
- Delays repeal of many of the ACA's tax increases until 2018, a year later than previous versions.
- Continues to prohibit health insurers from denying coverage or charging higher premiums for patients with pre-existing conditions and would allow children to stay on their parent's plan until age 26.
- Creates new tax credits (between \$2,000 and \$14,000 per year) for low and middle-income individuals and families who don't have employer group health coverage (and aren't covered under a government program).
 - Credits are adjusted by age.
 - Credits are reduced for individuals with incomes above \$75,000 and households earning more than \$150,000.
 - Credits are completely phased out for individuals making more than \$215,000, with a \$290,000 cap for joint filers.
- Repeals the small business tax credit beginning in 2020.
- Phases out the ACA's Medicaid expansion.
- Effectively repeals both the Individual and Employer Mandates by reducing the penalties to zero (\$0) for failure to maintain minimum essential coverage (MEC).
 - These provisions include a *Retroactive Effective Date* (beginning 1/1/16).
 - At this point, Employer Reporting is still required. The reporting requirements will have to be streamlined or repealed through regulatory process/procedures and can't be done through reconciliation.
- Addresses many Health Savings Account (HSA) Enhancements (beginning in 2018).
 - Maximum contributions to HSAs increased to the sum of the annual deductible and out-of-pocket limit permitted under a High Deductible Health Plan (HDHP) (i.e. at least \$6,550 for single coverage and \$13,100 for family coverage in 2018).

- Withdrawals from an HSA to pay for qualified medical expenses will be allowed before an HSA is established, if the HSA is established within 60-days of coverage in an HDHP plan beginning.
- Both spouses may make catch-up contributions to one HSA.
- Repeals increase of tax (currently 20%) on HSA distributions not used for qualified medical expenses (rate lowered to pre-ACA percentage).
- Repeals the tax on over-the-counter (OTC) medications beginning in 2018 (i.e. individuals will be able to use pretax accounts such as an HSA, FSA, or HRA to pay for OTC medications).
- Repeals the limit of contributions to FSAs (\$2,500, indexed) beginning in 2018.
- Adds the Continuous Health Insurance Coverage Incentive.
 - Starting with Open Enrollment in 2019 (and any Special Enrollment in 2018), a 12-month lookback period will be used to determine if an applicant went longer than 63 days without continuous coverage.
 - Issuers will assess a flat 30% late enrollment surcharge on top of the base premium for any lapses of over 63 days. This surcharge will be the same for all and discontinued after 12 months.

Until the government passes a final bill that becomes the new law of the land regarding health care, employers are advised to continue to comply with the ACA's requirements. For more information, the proposed bills that make up the American Health Care Act, as well as section by section summaries of each, can be found below:

[The American Health Care Act – Ways and Means Committee](#)

[Summary of Provisions – Ways and Means Committee](#)

[The American Health Care Act – Energy and Commerce Committee](#)

[Summary of Provisions – Energy and Commerce Committee](#)

As always, AssuredPartners will keep you apprised of all developments that affect your health care plans. Additionally, AssuredPartners will host a webinar on this topic on Wednesday, March 22nd from 3-4 pm EST. Please mark your calendars. Invitations will be forthcoming.

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