



March 2017

## CLIENT ALERT: American Health Care Act in the U.S. House of Representatives

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### Introduction

On January 13th, Congress passed the Fiscal Year 2017 Budget Resolution (S. Con. Res. 3) which included reconciliation instructions for the House Committees on Energy and Commerce and Ways and Means and the Senate Committees on Finance and Health, Education, Labor and Pensions (HELP). The Budget Resolution instructed these four committees to report legislation, including repeal and replacement of the Affordable Care Act (ACA), to their respective Budget Committees by January 27, 2017. None of the Committees met the January deadline. However, the House Committees did report their respective bills on March 8, 2017.

### Committee on Energy and Commerce

- Repeals Prevention and Public Health Fund
- Increases funding for Community Health Centers by \$422 million
- No provision for selling health insurance across state lines
- Denies funding to Planned Parenthood for one year
- Medicaid:
  - Repeals Medicaid expansion beginning in 2020
  - Changes Medicaid federal funding to a per capita system in 2020- penalizes states for exceeding its allotment
  - \$10 billion in safety net funding for non-Medicaid expansion states
  - Repeals Medicaid DSH cuts for non-Medicaid expansion states in 2018–

- Medicaid expansion states' DSH cuts restored in 2020
- Repeals “essential health benefits” requirement
- Requires state recertification of Medicaid beneficiaries every six months
- Repeals increase in Medicaid eligibility to 138% of FPL for children ages 6-19 as of December 31, 2019; and, the federal income eligibility limit for these children would revert to 100% FPL
- Repeals the ACA’s cost-sharing subsidies beginning in 2020
- Appropriates \$100 billion for a Patient and State Stability fund
- Creates a continuous coverage provision and allows insurance companies to charge a 30% late-enrollment surcharge on any applicant that has a lapse of health coverage for 63 days in a 12 month period

### Committee on Ways and Means

- Repeal limit on contributions to Flexible Spending Accounts
- Repeal annual limit on deduction for salary in excess of \$1 million paid to employees of publicly held corporations
- Tax provisions estimated to cost almost \$600 billion over 10 years
- Repeals ACA taxes effective January 1, 2018 which includes:
  - Individual & employer mandate penalties
  - Cadillac tax on high-cost employer-sponsored group health plans delayed until 2025
  - Increase in Medicare payroll tax (HI) rate on wages for high income individuals
  - Tanning beds
  - Pharmaceutical manufacturers
  - Health insurers

- Medical devices
- Chronic care
- Starting in 2020, replace ACA income-based tax credits with flat tax credits adjusted for age and payable monthly
  - \$2,000 per individual up to age 29
  - \$2,500 per individual age 30-39
  - \$3,000 per individual age 40-49
  - \$3,500 per individual age 50-59
  - \$4,000 per individual age 60 and older
- Families can claim credits for up to 5 oldest members, up to limit of \$14,000 per year
- Amounts are indexed annually to CPI plus one percentage point
- Increase annual tax free contribution limit to equal the limit on out-of-pocket cost sharing under qualified health deductible health plans (\$6,550 for self only coverage, \$13,100 for family coverage in 2017, and indexed for inflation)
- The Joint Committee on Taxation estimates the tax cuts would cost close to \$600 billion.

### Committee on Education and the Workforce

While the House Education and the Workforce Committee did not receive reconciliation instructions, it also met on March 8th and reported the following legislation that relates to ACA repeal efforts:

- H.R. 1304, the “Self-Insurance Protection Act” would prevent regulation of stop-loss insurance as traditional health insurance coverage. The bill’s report will include language stating that the intent of the bill is not to preempt state regulation of stop loss insurance.



- H.R. 1101, “The Small Business Health Fairness Act” would allow small businesses to group together to form association health plans to negotiate lower health insurance costs for their employees.
- H.R. 1313, the “Preserving Employee Wellness Programs Act” would provide employers with legal certainty to provide employee wellness plans.

The following information was distributed on March 13th, shortly after the Congressional Budget Office’s report on cost estimates and coverage estimates for the proposed American Health Care Act.

## Summary

The Congressional Budget Office (CBO) released its cost estimate of the American Health Care Act (AHCA) as reported by the Committees on Ways and Means and Energy and Commerce. CBO estimates that AHCA would reduce federal deficits by \$337 billion over ten years. The total consists of \$323 billion in on-budget savings and \$13 billion in off-budget savings. The outlays would be reduced by \$1.2 trillion over the same period, and revenues would be reduced by \$883 billion.

CBO and the Joint Committee on Taxation estimate that 14 million more people would be uninsured under the AHCA in 2018. CBO further projects that “following additional changes to subsidies for insurance purchased in the nongroup market and to the Medicaid program, the increase in the number of uninsured people relative to the number under current law would rise to 21 million in 2020 and then to 24 million in 2026.” By 2026, CBO estimates 52 million people would be uninsured, as compared with 28 million who would lack insurance that year under current law.

CBO and JCT estimate that average health insurance premiums in the individual market would be 15 percent to

20 percent higher than under the ACA. This is because the individual mandate penalties would be eliminated, leading to fewer healthy people signing up for insurance.

JCT and CBO estimate that the AHCA would result in private sector mandates totaling \$156 million in 2017, adjusted annually for inflation.

Finally, CBO is uncertain about part of its estimates as it cannot determine “the ways in which federal agencies, states, insurers, employers, individuals, doctors, hospitals, and other affected parties would respond to the changes made by the legislation...”

## Next Steps

In accordance with the Congressional Budget and Impoundment Control Act of 1974, the House Budget Committee is scheduled to meet this week to report the reconciliation bill. The Committee’s role is simply to package the two bills from the Energy and Commerce and Ways and Means Committees.

Following the Budget Committee’s action, the House Rules Committee will meet to develop a rule, which would govern floor debate for the American Health Care Act. It is possible the Rules Committee may fold bills reported by the Education and the Workforce Committee into the reconciliation package. The House Majority Leadership plans to take the AHCA to the floor next week.

In the Senate, Majority Leader Mitch McConnell [R-KY] plans to skip the committee process and take up the House-passed bill.

As this legislation works its way through the Congress, Polsinelli will provide further client alerts as necessary.

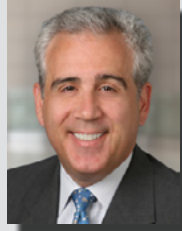


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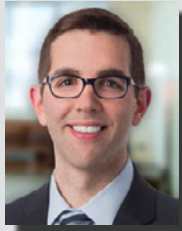
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## For More Information

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