Federal Relations Update

HFMA
South Texas Chapter
Annual Spring Institute
May 23, 2017
Overview

• Key issues
  ➢ Repeal & Replace of ACA
  ➢ Other issues

• Our strategies

• What you can do to help

• Election 2018
ACA Repeal and Replace

The Process

- Regulatory actions
Examples of Potential Actions

- Create additional exemptions to employer mandate
- Avoid IRS enforcement of individual penalties
- Fail to enforce employer mandate
- Revise medical loss ratio
- Extend availability of non-compliant ACA plans
- Stop Justice Department suits defending ACA
- Failure to pursue premium stabilization actions
- Increases barriers to enrolling in marketplace plans
- Disable or defund the CMS Center for Consumer Information and Insurance Oversight
- CMMI constraints
ACA Repeal and Replace

The Process

- Regulatory actions
- Reconciliation

1. A budget process that allows Congress to use a simple majority to pass a bill that repeals Obamacare, the same way Democrats passed the Affordable Care Act in 2010.

DailySignal.com
Repeal and Replace Process

Budget Resolution Passed by House and Senate

• Instructs the four authorizing committees—House Ways and Means and Energy and Commerce—and Senate Finance and Health, Education, Labor and Pensions to:
  
  ➢ achieve at least $1 billion each in savings in FYs 2017 through 2026 using the budget reconciliation process

  ➢ submit their legislation to their respective Budget Committee by Jan. 27, 2017
Obamacare repeal bill is the zombie GOP can’t kill — or bring back to life

Republicans seem trapped between the reality of their failed effort and Trump’s pledge to repeal the law before doing tax reform.

By JENNIFER HABERKORN and KYLE CHENEY | 04/14/17 05:06 AM EDT | Updated 04/13/17 08:06 PM EDT
Lack of GOP Unity

Groups that Influence Action in the House

• **Tuesday Group**
  - Informal caucus of approximately 50 moderate Republicans in the House

• **Freedom Caucus**
  - Smaller, more agile group of conservative Republican members of the House
What did conservatives want?

- Changes made to accommodate concerns:
  - Option for states to choose Medicaid block grant
  - Work requirements for Medicaid “able bodied” childless adults
  - State option to partially reduce essential benefits requirements
  - $15 billion/9 years to establish “invisible risk pool”
What did moderates want?

Allow states to opt-out (via waiver) of consumer/patient protections regarding requirements related to:

- Rating rules based on age
- Insurers can charge higher prices to those individuals who fail to maintain continuous coverage
- Minimum essential benefits
- Maintains ban on pre-existing conditions…but does not limit charging higher premiums to “older and sicker” consumer

$8 Billion over 5 years to States with waivers from community rating to reduce premiums or other out of pocket expenses of individuals who have an increase in monthly premiums due to waiver
AHCA – Major Provisions

- **Repeals individual mandate**
  - Continuous enrollment requirement
- **Repeals employer mandate**
- **Tax credits for private insurance**
- **Changes rating bands (age)**
- **Medicaid**
  - Repeals increased match for expansion population on December 31, 2019
  - $10 billion over 5 years for non-expansion states “safety net funding” – not hospital specific
  - Per-capita caps/block grants starting in FY 2020
- **State innovation fund: $138 billion over 9 years**
- **Authority for establishing essential benefits package given to states**
- **Promotes HSAs**
- **Prohibits funding for family planning and reproductive services**
- **Repeal prevention and public health fund**
- **Funding**
  - Repeals certain taxes
  - Delays “Cadillac tax” until January 1, 2025
  - Medicaid DSH reductions (2018 vs. 2020)
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<td>273</td>
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<td>275</td>
<td>276</td>
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<td>279</td>
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<td>27</td>
<td>27</td>
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<tr>
<td><strong>Change in Coverage Under the AHCA</strong></td>
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<td>-13</td>
<td>-13</td>
<td>-14</td>
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<td>Nongroup coverage, including marketplaces</td>
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<td>-7</td>
<td>-9</td>
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<td>-8</td>
<td>-6</td>
<td>-5</td>
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<td>-3</td>
<td>-5</td>
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<td>-7</td>
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<tr>
<td>Other coverage</td>
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<td>*</td>
<td>*</td>
<td>-1</td>
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<td>Uninsured</td>
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<td><strong>Uninsured Under the AHCA</strong></td>
<td>31</td>
<td>41</td>
<td>43</td>
<td>48</td>
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<td><strong>Percentage of the Population Under Age 65 With Insurance Under the AHCA</strong></td>
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<tr>
<td>Including all U.S. residents</td>
<td>89</td>
<td>85</td>
<td>84</td>
<td>83</td>
<td>82</td>
<td>82</td>
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<td>Excluding unauthorized immigrants</td>
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<td>87</td>
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<td>85</td>
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<td>84</td>
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Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.
Our Take... Cannot Support

- Coverage losses in general
- Use of Medicaid restructuring as vehicle for program cuts
  - Lack of equity among expansion vs. non-expansion states
  - Per-capita cap/block grant design
- Coverage
  - Effectiveness of tax credits
- Maintaining funding dedicated to coverage expansions
Getting Ready in the Senate

• CBO Score: May 24; must save as much money as House bill
• Finish debate in Senate by July 4th or August recess?
• Key Areas:
  • More money for tax credits
  • Medicaid expansion
  • Pre-existing conditions
Key GOP Groups in the Senate

**Working Group #1**
Ted Cruz, Lamar Alexander, Mike Lee, Tom Cotton, Cory Gardner, Rob Portman, Pat Toomey, Mike Enzi, Orrin Hatch, Mitch McConnell, John Cornyn, John Thune, John Barrasso

**Working Group #2**
Susan Collins, Bill Cassidy, Dean Heller, Lindsey Graham, Dan Sullivan, Shelley Moore Capito; Heidi Heitkamp, Joe Donnelly, Joe Manchin
Another Key Player

Senate Parliamentarian

Elizabeth MacDonough
What Could be In?

- Repeal of employer mandate
- Repeal individual mandate
- Eliminate subsidies for exchanges
- End increased federal funds for Medicaid expansion
- Eliminate tax credits for small business that cover workers through exchanges
- Eliminate taxes on high cost “Cadillac” plans
- Eliminate medical device tax
- Eliminate fees on health insurance plans
- Eliminate fees on brand name prescription drugs
- Eliminate provider payment reductions
What Can’t Be In?

• Allow young adults to stay on parents’ coverage until age 26
• Prevent insurers from declining to cover pre-existing conditions
• Get rid of annual and lifetime coverage caps
• Limit the amount that insurers can charge older adults’ premium costs that are no more than three times the cost of younger people’s premiums
• Block insurers from rescinding coverage for consumers once they get sick
Our Strategy

- Link simultaneous replace to repeal
- Engage elected officials
- Put a face on repeal (data)
Governors planning 'active' role in ObamaCare rewrite

State leaders are positioning themselves to have a key voice in a potential rewrite of ObamaCare next year.

With the election of Donald Trump, Republican leaders in Congress have promised a dramatic overhaul of President Obama’s signature policy.

The National Governors Association (NGA), a proudly bipartisan group representing every state, is now eyeing a more public — and more aggressive — role alongside GOP leaders as they attempt to gut the massive federal program.

Read the full story here
Wednesday, April 12, 2017

Debate Continues on ACA Repeal and Replace During Congressional Recess

New Data Included to Assist You as You Contact Your Legislators

DATA SET #2 – Private Insurance and Medicaid

As Congress returns home for a two-week recess, the White House and House Republican leaders continue working to revise the American Health Care Act (AHCA), legislation to repeal and replace parts of the Affordable Care Act (ACA), with the goal of securing the 216 votes needed for House passage. Negotiations are serious and your voice continues to be critical.

The House Rules Committee April 6 accepted an amendment to the bill that would create a $15 billion Federal Invisible Risk Sharing Program to reimburse health insurers for high-cost individuals beginning in 2018, with states assuming operation of the program in 2020. In addition, policymakers are considering loosenng federal requirements related to essential health benefits, including potentially reverting authority to the states for setting minimum benefit and guaranteed issue standards. Potential changes also may be made to rules related to community rating, which could mean that medical underwriting will again occur at the individual level – potentially reducing rates for healthier individuals but increasing rates for older, sicker individuals (pre-existing conditions).

These proposed changes have not yet been scored by the Congressional Budget Office (CBO), the non-partisan federal agency that produces independent analyses of budgetary and economic issues to support the congressional budget process. However, CBO previously projected that the bill would result in 24 million fewer people covered in 2026, and a reduction of $839 billion in funding for the Medicaid program over 10 years.

Please contact your Representative and urge him or her not to support the AHCA. Continue to urge him or her to protect coverage for as many Americans as possible, particularly the 20 million Americans who have gained coverage, including our most vulnerable citizens – children, the disabled and the elderly.

House Majority Leader Kevin McCarthy (R-CA) has indicated the House could go into session before the end of the scheduled recess on April 23 if agreement on revised bill language is reached. Regardless, the bill will be a major priority for the House when they return from the recess.

Below we outline the impact that the AHCA would have on coverage, including new data on changes to private health coverage and federal subsidy spending, as well as the Medicaid impact data that were previously shared with you on March 21. Please note that CBO’s updated score, after incorporating several manager’s amendments, showed changes in the Medicaid spending impact but not in its Medicaid coverage estimates; these updated totals are reflected in Table 3.

Please share these data with your legislators and tell them how these reductions would hurt your community. We will keep you updated on further developments.

Table 1: Change in Private Health Coverage, Medicaid Coverage and Number of Uninsured Under the AHCA (# of Enrolees) in the U.S., Your State and Congressional District

<table>
<thead>
<tr>
<th>Category</th>
<th>2018</th>
<th>2026</th>
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<tr>
<td></td>
<td>U.S.</td>
<td>Your State</td>
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<tr>
<td>Employment-based Coverage</td>
<td>-2 M</td>
<td>-7 M</td>
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<tr>
<td>Increase in Uninsured</td>
<td>14 M</td>
<td>24 M</td>
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Note: Table 1 shows the change in coverage in the private insurance market and Medicaid, as well as the increase in the number of uninsured, under AHCA compared to current law in calendar years 2018 and 2026. Non-group coverage includes coverage purchased through the exchanges as well as outside of the exchanges. Loss of coverage in the private insurance market and Medicaid may not add up to the total number of uninsured due to CBO attributing additional loss of coverage in the Basic Health Program (which affects New York and Minnesota).

Table 2: Net Change in Tax Credits/Federal Marketplace Subsidies in the U.S., Your State and Congressional District

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>U.S.</th>
<th>Your State</th>
<th>Your District</th>
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<tr>
<td>2018</td>
<td>-$11 B</td>
<td></td>
<td></td>
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<tr>
<td>2026</td>
<td>-$38 B</td>
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Note: Table 2 shows the effect on federal spending under the AHCA, as compared to the ACA, in the non-group market. A reduction related to revised federal spending include the removal of the individual mandate penalty, repeal of the Basic Health Program (BHP), repeal of the cost-sharing reductions and advanced premium tax credits, and the implementation of age-based tax credits. The CBO score shows that these changes, along with other provisions impacting the non-group market, would result in a reduction of federal spending. The $11 billion reduction in 2018 is primarily the result of repeal of the individual coverage mandate. The reduction of $38 billion in 2026 also accounts for the AHCA tax credits, which go into effect in 2020. States and congressional districts may experience different results. This is explained by several factors such as changes in demographics, the number of uninsured, whether a state implemented a BHP, the income and age distribution of the tax credits, as well as the cost of coverage in a particular geography.
Advocacy Strategies

Television

Coalition to Protect AMERICA'S HEALTH CARE

House GOP proposal to replace Obamacare sparks broad backlash

Hospitals: “We cannot support The American Health Care Act in its current form”
Market Stabilization Rule

• **Special enrollment periods**
  - Limit use
  - Verify eligibility prior to enrollment using a SEP

• **Guaranteed issue**
  - Allows insurers to require repayment of past debt prior to re-enrollment

• **Actuarial value**
  - Allow greater variation in cost-sharing to reduce premiums

• **Network adequacy**
  - Rely on states for rules and oversight
  - Decrease essential community provider contracting from 30 percent to 20 percent

• **Bid submission timeline**
  - Extend deadline by six weeks

• **Open enrollment periods**
  - Reduce enrollment from 3 months to 6 months
April 12, 2017

The Honorable Paul D. Ryan
Speaker of the House of Representatives
House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Democratic Leader
House of Representatives
Washington, D.C. 20515

The Honorable Charles E. Schumer
Democratic Leader
United States Senate
Washington, D.C. 20510

Dear Mr. Speaker, Majority Leader McConnell, Madam Leader, and Minority Leader Schumer:

As providers of healthcare and coverage to hundreds of millions of Americans, we share many core principles and common priorities. We believe that every American deserves affordable coverage and high-quality care. We stand ready to work with all members of Congress and the Administration to keep this commitment.

A critical priority is to stabilize the individual health insurance market. The window is quickly closing to properly price individual insurance products for 2018.

The most critical action to help stabilize the individual market for 2017 and 2018 is to remove uncertainty about continued funding for cost sharing reductions (CSR). Nearly 60 percent of all individuals who purchase coverage via the marketplace—7 million people receive assistance to reduce deductibles, co-payments, and/or out-of-pocket limits through CSR payments. This funding helps those who need it the most to access quality care: low- and modest-income consumers earning less than 250 percent of the federal poverty level. If CSRs are not funded, Americans will be dramatically impacted:

- Choices for consumers will be more limited. If reliable funding for the CSRs is not provided it may impact plan participation which would leave individuals without coverage options.
- Premiums for 2018 and beyond will be higher. Analysts estimate that loss of CSR funding alone would increase premiums for all consumers—both on and off the exchange by at least 15 percent. Higher premiums rates could drive out of the market those middle-income individuals who are not eligible for tax credits.
• New federal fiscal year begins (FY 2018)… government funding

• Medicaid DSH

• Medicare payment extensions

• CHIP extension

• User fee act expiration (Drugs and medical devices)
Other Items on Our Agenda

- Offsets (i.e. site neutral)
- Tax reform / tax exempt status
- Physician-owned hospitals
- 340B
- ACA coverage provisions (regulatory)
- Appropriations (health and education programs)
- Annual Medicare payment regulations
- Post acute care payment reform
- VA Choice
- Regulatory relief
- Antitrust reform (SMARTER Act)
- Drug pricing
Other Activity in Washington

WARNING
THIS SIGN IS ONLY A DISTRACTION
You Can Make a Difference

What you can do to HELP
New AHA Federal Update Podcast – March 8, 2017

In this edition of the AHA’s Federal Update podcast, AHA Executive Vice President of Government Relations and Public Policy Tom Nickels updates listeners on the latest from Washington as Congress begins the legislative process for the American Health Care Act.

House Republican Legislation – the American Health Care Act

The House Republican Bill:

- AHA Special Bulletin: Summary of House Republican ACA Repeal Legislation
- Energy and Commerce Committee “Health Care Central” portal
- House Republican Leadership Summary
- House Speaker Paul Ryan (R-WI) – A Better Way: Vision for policy changes in six major areas, including health care

Reaction from the Field:

- AHA Letter to Members of the House urging the protection of health coverage (March 7, 2017)

MESSAGE OF THE DAY

Health care coverage is vitally important to working Americans and their families. We ask Congress to protect our patients, and find ways to maintain coverage for as many Americans as possible. We look forward to continuing to work with the Congress and the Administration on ACA reform, but we cannot support The American Health Care Act in its current form.

Click here to download the AHA’s letter to members of the House.
Impact of the President

Source: Real Clear Politics, 5/19/17
Democrats need a three-seat net gain to win a 2018 Senate majority; Republicans are defending fewer seats

Democratic Senators Up in 2018

- Florida (Bill Nelson)
- Indiana (Joe Donnelly)
- Maine (Angus King)
- Missouri (Claire McCaskill)
- Montana (Jon Tester)
- North Dakota (Heidi Heitkamp)
- West Virginia (Joe Manchin)
- Wisconsin (Tammy Baldwin)
House Special Elections

- Kansas 4th (Pompeo-R) Estes (R)
- Georgia’s 6th (Price-R) Run off June 20
- Montana at-large (Zinke-R) May 25
- South Carolina 5th (Mulvaney-R) June 20
There is likely to be little volatility in the House in 2018

- There are **23 Republicans** sitting in districts carried by Hillary Clinton and just **12 Democrats** in districts won by Donald Trump.

- The party holding the White House usually loses House seats in midterm elections, but it’s unlikely that the House will flip.

- Republicans won the presidency **while losing House seats**, so they aren’t going into the midterm with a lot of new seats to defend.

- There is no route for the Democrats to win a majority in the House without winning at least one of the districts Trump carried in 2016.

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