

# HCR ALERT

March 7, 2017

## GOP Announces New ACA “Repeal and Replace” Draft Legislation

Last week we [reported about a “discussion draft”](#) of Republican legislation intended to “repeal and replace” the Affordable Care Act (ACA), which was leaked to public prior to finalization.

Yesterday, House Republicans presented official draft legislation, called the [American Health Care Act](#) (AHCA), aimed at changing major elements of the ACA. This bill is largely similar to the discussion draft, but as anticipated, GOP lawmakers have made a few notable revisions to their proposal.

The modification most significant to employers and employees is a reversal on proposed changes regarding taxation of employer-sponsored health coverage. The discussion draft eliminated the ACA’s “Cadillac tax” on high-value health coverage, which is assessable on the plan insurer or self-insured employer-plan sponsor, and instead placed a limit on the value of employer-sponsored health coverage that can be excluded from employees’ taxable income, which would increase tax liabilities for employees with coverage exceeding the cap. The controversial cap on taxable income exclusion has been eliminated from the AHCA, but unfortunately for employers, it means no repeal of the Cadillac tax. Instead, the AHCA delays the effective date of the Cadillac tax from 2020 to 2025.

Another significant revision in the AHCA is the structure of health coverage tax credits that would replace the current ACA Marketplace subsidies. The GOP’s original plan for providing tax credits for purchase of individual market health coverage entailed credits scaled based on age without regard to income, which was a subject of debate among party members. The AHCA adds income considerations to the tax credit scale by gradually phasing out the age-based credits listed below when income exceeds \$75,000 for individuals or \$150,000 for married couples filing jointly:

- \$2,000 per year for individuals under age 30
- \$2,500 per year for individuals age 30-40
- \$3,000 per year for individuals age 40-50
- \$3,500 per year for individuals age 50-60
- \$4,000 per year for individuals age 60 and older
- \$14,000 per year overall aggregate family limit

The AHCA's treatment of the employer mandate is still good news for employers. Like the discussion draft, the legislation released yesterday would nullify the employer and individual mandates retroactive to January 1, 2016 by setting penalties to \$0. The AHCA retains the following additional provisions that were outlined in the discussion draft:

- Elimination of Medicaid expansion (2020),
- Elimination of health insurer tax (2020),
- Elimination of additional Medicare tax (2018),
- Elimination of additional net investment income tax (2018),
- Elimination of prescription drug tax (2018),
- Elimination of medical device tax (2018),
- Elimination of Patient-Centered Outcomes Research Institute (PCORI) fee (2020),
- Elimination of HHS' authority to define the scope of "essential health benefits" (2020),
- Implementation of HSA contribution limit increases (2018),
- Implementation of allowable premium surcharges if continuous coverage not maintained (2019),
- Implementation of individual and small group market premium rating age band increase (2019),
- Implementation of Medicaid reform (conversion from unlimited to capped funding to states), and
- Implementation of tightened ACA premium tax credit qualifications (while available).

### **What's Next**

The GOP's work on this matter is far from over. It's presumed the House Ways & Means and Energy & Commerce Committees will mark up the legislation again prior to sending it to the House floor for a vote, as party members still don't all see eye-to-eye on some details. While reining in federal spending is a key party objective, doing so without significantly impacting access to affordable coverage is an incredibly difficult mission with goals that, as a practical matter, are generally at odds. The Congressional Budget Office has not yet scored this version of the GOP plan, so the estimated cost of the plan and its impact on the number of insured is still an open question for Congressional lawmakers. As always, we will keep you informed as new developments occur.

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Your Trion Strategic Account Managers are here to answer any questions you might have as you prepare to comply with upcoming ACA requirements. If you are not currently a Trion client and would like assistance navigating the changes required by health care reform, please contact us today by emailing [trionsales@trion-mma.com](mailto:trionsales@trion-mma.com).

### ACA Regulations & Guidance Issued In the Last Two Months

- Feb. 2017: HHS Issues Proposed Regulations to Stabilize Individual Market
- Jan. 2017: HHS Issues Updated Standards for External Review Process
- Jan. 2017: President Issues Executive Order Regard ACA and Agency Memo
- Jan. 2017: DOL Issues Final Rule on Various Employee Benefit Plan Penalty Adjustments
- Jan. 2017: ACA FAQs 37 – HRA Integration
- Jan. 2017: ACA FAQs 36 – Preventive Care
- Jan. 2017: HHS Issues Notice of Benefits and Payment Parameters for 2018 Final Rule and Fact Sheet
- Jan. 2017: IRS Updates Q&As on Employer Shared Responsibility and Annual Reporting (Section 6056 Reporting and Forms 1094-C/1095-C)