

## **REPEAL & REPLACE ACTIVITY REPORT** **FOR THE WEEK OF MARCH 10<sup>th</sup>, 2017**

### **ACA Repeal and Replace**

#### **ACA repeal bill passes Ways & Means and Energy & Commerce Committees**<sup>1</sup>

In both the House's Ways & Means and the Energy & Commerce Committees mark ups of drafted legislation there was heated debate, but ultimately the bills passed and are headed to the Budget Committee before being sent to the House floor for debate. The official CBO scoring of the bill is expected on Monday, March 13<sup>th</sup>. The bill, known as the American Health Care Act (AHCA), was similar to the leaked draft from February. Key provisions include:

1. Repeal of individual and employer mandates
2. Continuous coverage requirement – individuals who have a gap in coverage of more than 63 days must pay premiums that are 30% higher for 1 year in the individual market.
3. Age-based tax credits to replace the ACA's advanced premium tax credits. The credits range from \$2,000 for those under 30 to \$4,000 for those aged 60 and older, and phase out \$100 for every \$1,000 of income an individual makes over \$75,000 (\$150,000 for a couple).
4. Changes federal funding for Medicaid to a per capita cap model, starting in 2020
5. Removes the enhanced FMAP for the Medicaid expansion population starting in 2020, except for individuals who are enrolled prior to 2020 and who do not have a gap in eligibility for more than a month
6. Repeals the ACA's cost-sharing reduction subsidies starting in 2020
7. Creates a Patient and State Stability Fund for states to use for a variety of purposes aimed at stabilizing the insurance market
8. Delays implementation of the "Cadillac" tax until 2025

Early analyses of the bill estimate that 15 million could lose coverage,<sup>2</sup> 30 million could get hit by a premium surcharge under the continuous coverage requirement,<sup>3</sup> and 11 states would see their tax credits by at least a half.<sup>4</sup>

Speaker Ryan also suggested that further legislation would be coming soon and expects that the House will vote on a second health bill alongside the AHCA. The second bill would include a provision to allow people to purchase insurance through association health plans.

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<sup>1</sup> <http://www.politico.com/tipsheets/politico-pulse/2017/03/the-gop-health-bill-how-bad-will-it-hurt-219156>

<sup>2</sup> <https://www.brookings.edu/blog/up-front/2017/03/09/expect-the-cbo-to-estimate-large-coverage-losses-from-the-gop-health-care-plan/>

<sup>3</sup> <http://www.commonwealthfund.org/publications/blog/2017/mar/premium-surcharge-under-aca-repeal-bill>

<sup>4</sup> <http://www.cbpp.org/research/health/house-tax-credits-would-make-health-insurance-far-less-affordable-in-high-cost>

### **Doctors, hospitals, insurers and lawmakers critique GOP plan**<sup>5,6</sup>

While some Republicans criticize the American Health Care Act (AHCA) as not going far enough, and others are worried about the consequences for their constituents, major groups are coming out in opposition to the proposal. The American Medical Association, AARP, and the American Hospital Association have all openly opposed the plan. Further, America's Health Insurance Plans (AHIP) stated that changes to Medicaid "could result in unnecessary disruptions in the coverage and care beneficiaries depend on." AHIP also wants the tax credits to be based on both age and income. Blue Cross Blue Shield Association also came out against the premium surcharge for individuals who have a gap of 63 days or more in their coverage, as they expect it will keep younger, healthier people out of the insurance market. The legislative process to create the AHCA did not involve an extended period of negotiation with interest groups or consultation with Democrats, and this has produced a backlash. Some insurers, including Molina Healthcare and the Alliance of Community Health Plans, said they did not get to offer any input into the House proposal. The Chamber of Commerce, on the other hand, supports the bill's repeal of ACA taxes and the delay of the Cadillac tax, among other provisions.

Still, the most imminent threat GOP leaders must contend with comes from the far right. The speaker can lose only 21 Republican votes if the AHCA is to pass, and opponents are promising to use that leverage to force changes to the bill. Rep. Thomas Garrett (R-Va.), a freshman member of the conservative House Freedom Caucus, said he was confident that his camp could help reshape the legislation. Vice President Pence met with two House Freedom Caucus leaders Tuesday, and caucus members have been invited to visit the White House next Tuesday. Wednesday night, Trump met with leaders from Americans for Prosperity, the Club for Growth, FreedomWorks, the Heritage Foundation and its political arm, Heritage Action, and the Tea Party Patriots.

But the hard reality for Republicans is that any changes made to appease House conservatives could threaten the bill's support among moderates. Sen. Susan Collins of Maine, a pivotal Republican moderate, said in [an interview](#) Wednesday that the current House measure would "not be well received in the Senate" and stood no chance of passing as is. "I want us to slow down to take more time to be sure we get this right."

### **Trump tries to play dealmaker for repeal and replace effort**<sup>7</sup>

President Trump is moving to quiet conservative opposition to the House GOP ACA replacement. Trump on Tuesday night turned his massive Twitter following on one of the most vocal opponents of the repeal bill: conservative firebrand Sen. Rand Paul. The Kentucky Republican had blasted Speaker Paul Ryan's ACA alternative as "Obamacare-lite." But Trump tweeted, "I feel sure that my friend @RandPaul will come along with the new and great health care program because he knows Obamacare is a disaster!"

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<sup>5</sup> [https://www.washingtonpost.com/powerpost/doctors-hospitals-and-insurers-oppose-republican-health-plan/2017/03/08/d9f0f5c2-0426-11e7-ad5b-d22680e18d10\\_story.html?utm\\_term=.046af600e4d8](https://www.washingtonpost.com/powerpost/doctors-hospitals-and-insurers-oppose-republican-health-plan/2017/03/08/d9f0f5c2-0426-11e7-ad5b-d22680e18d10_story.html?utm_term=.046af600e4d8)

<sup>6</sup> <http://www.politico.com/tipsheets/politico-pulse/2017/03/house-dems-stall-but-repeal-effort-moves-forward-219131>

<sup>7</sup> <http://www.politico.com/story/2017/03/trump-conservatives-obamacare-replacement-235813>

Trump also told a group of 20 House GOP whips that he would use all the powers in his Oval Office arsenal to get the GOP alternative over the finish line, and he vowed to summon to the White House opponents of the bill. The White House also dispatched budget director Mick Mulvaney to a closed-door meeting of House conservatives Tuesday night to reassure the health plan's harshest critics that the details aren't set in stone. Mulvaney, a former House Freedom Caucus (HFC) member himself, told the HFC that the White House is open to changes and encouraged them to try to amend the bill to their liking in committee and on the floor.

At the crux of the president's involvement is a frustration that the bill hasn't moved yet amid GOP infighting. He told the House GOP whips that "we've been promising for years to repeal Obamacare and now we have the chance to get it done," according to Rep. Luke Messer (R-Ind.), one whip in the room. Trump's involvement is a welcome development for House GOP leadership, who have been hoping that Trump will use his microphone to help them get the bill "across the finish-line," as one leadership source said. During the meeting, Republicans made a point of telling Trump that the conservatives threatening to tank the proposal are big Trump supporters. At the same time, Trump isn't putting his foot down in demanding that GOP leadership stick to the current bill. Trump instructed the deputy whips "several times" that "if someone has constructive suggestions that make the bill better, let them have at it," summarized one source in the room.

### **Repeal of health law faces a new hurdle: older Americans**<sup>8</sup>

With the release of the Republican health plan, they now face opposition from a specific affected population: older Americans. Under their plan, seniors will face significant increases in their health insurance premiums. According to AARP, these increases range from \$2,000 to \$3,000 a year or more, or about 20-25% increase. The current rules allow insurers to charge older adults more than three times they charge younger adults. Under the new GOP plan, the ratio would allow for a rate five times higher, if states allow. Insurers support this proposal in hopes of enrolling a higher number of younger adults.

However, the GOP now faces opposition from several advocacy groups serving older Americans including the powerful AARP. David M. Certner, the legislative policy director of AARP, said the proposal would have "a severe impact on Americans age 50 to 64 who have not yet become eligible for Medicare." Additionally, the Republican proposal could reduce the financial assistance available to help people pay insurance premiums.

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<sup>8</sup><https://www.nytimes.com/2017/03/05/us/politics/health-care-law-obamacare-repeal-older-americans.html>

## Medicaid

### **Medicaid in the American Health Care Act**<sup>9</sup>

The proposed legislation would convert federal Medicaid funding to a per capita allotment and limit growth beginning in 2020 using 2016 as a base year. The per enrollee caps for five enrollment groups—elderly, blind and disabled, children, expansion adults, and other adults—are based on 2016 expenditure. It would also eliminate the enhanced FMAP for the Medicaid expansion population as of January 1, 2020, except for those enrolled as of December 31, 2019 who do not have a break in eligibility of more than 1 month. Other aspects of the legislation concerning Medicaid include:

- Provide \$10 billion over 5 years (CY2018 – CY 2022) to non-expansion states for safety-net funding (applies to states not adopting the expansion by July 1 of the previous year).
- Require states to consider lottery winnings (and other lump sum payments including gambling winnings and liquid assets from an estate) as income over a period of months in determining Medicaid ineligibility for individual and spouse beginning, January 1, 2020.
- Eliminate 3-month retroactive coverage requirement (start eligibility “in or after” the month of application) beginning October 1, 2017.
- Repeal the essential health benefits requirement for those receiving alternative benefit packages, including the expansion group, as of December 31, 2019.

## Medicare

### **MedPAC March 2017 meeting report**<sup>10</sup>

The Medicare Payment Advisory Commission (MedPAC) convened for their second meeting with key takeaways:

1. MedPAC believes it is possible for a PAC prospective payment system (PPS) to be implemented as soon as 2021, with a three-year transition period.
2. MedPAC seeks to address Medicare Part B drug payments and is undertaking research and developing policy proposals to constrain price increases for existing drugs. Ideas include improving the current average sales price (ASP) system, specifically through ASP data reporting; implementing an ASP inflation rebate; consolidated billing codes; and updating the wholesale acquisition cost (WAC) payment.
3. Based on feedback from the January 2017 meeting, MedPAC believes the MIPS is unlikely to succeed at identifying or paying clinicians for delivering value to the program. As such, MedPAC currently is evaluating methods to help move clinicians away from MIPS to Advanced APMs, as well as how to encourage the uptake of providers in two-sided risk accountable care organization (ACO) models.
4. MedPAC has started to examine premium support for Medicare, which has been proposed by House Republican leadership in its Better Way Agenda. The Commission is

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<sup>9</sup> <http://kff.org/interactive/proposals-to-replace-the-affordable-care-act/>

<sup>10</sup> <http://www.lexology.com/library/detail.aspx?g=6a73c948-c359-4236-92f4-6592ab005287>

just beginning its exploration without taking a position on premium support. Commissioners recognize that this is an extremely complex topic, and they do express concern with the model and the impact the premium support model might have on beneficiaries.

The overall MedPAC report is expected to be released some time later this month and there will be one more meeting in April.

## Other news

### **Trump, Dems look for common ground on drug prices**<sup>11</sup>

This past Wednesday, U.S. Representatives Elijah Cummings (D-Md.) and Peter Welch (D-Vt) met with Trump and HHS Secretary Tom Price to discuss a House bill proposal that would expand the federal government's ability to negotiate drug prices. They reported feeling optimistic after the talk that Trump is willing to do something about it. Cummings claim that they are planning to file the bill within two weeks.

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<sup>11</sup><http://khn.org/news/trump-dems-look-for-common-ground-on-drug-prices>