

Release of the American Health Care Act

House Republicans released their initial legislation for repealing and replacing the Affordable Care Act on March 6, 2017. The American Health Care Act, was drafted by both the Ways and Means and Energy and Commerce Committees. This legislation initiates the process for both the House and the Senate to review the proposal and submit changes. In addition, the Congressional Budget Office will need to review the proposal to determine the financial and coverage (or loss of coverage) impact.

Key Provisions of proposed legislation include:

- Penalties – Retroactive to December 31, 2015
 - Eliminate the employer penalties associated with not providing employees insurance that meet the minimum coverage and cost requirements
 - Eliminate the individual penalties associated with not having insurance
- Delays the 40% excise tax (aka, Cadillac Tax) on high cost, employer sponsored plans until 2025
- Flexible Spending Accounts – Effective January 1, 2018
 - Allows for Over the Counter Drugs to be a FSA eligible expense
 - Allows for employers to determine the FSA contribution limit versus the current \$2,650
- Health Savings Accounts – January 1, 2018
 - Allows for Over the Counter Drugs to be a HSA eligible expense
 - Increases the HSA contribution limit to the out-of-pocket limit
 - Reduces the penalty from 20% to 10% for non-qualified HSA withdrawal penalties
 - Allows spouses over age 55 to make catch up contributions to the same HSA
 - Can submit expenses retroactive to original effective date of HDHP coverage as long as the HSA is set up within 60 days
- Eliminate the numerous taxes imposed by the ACA as of December 31, 2017
 - Health Insurer Tax
 - Tanning Tax
 - Prescription Tax
 - Net Investment Income Tax
 - Medical Device Tax
 - Reduces the medical deduction limit from 10% to 7.5%
- Individual Coverage
 - Beginning January 1, 2019, there will be a 12 month look back period to determine if the individual went longer than 63 days without continuous coverage. If the individual did, the insurance company will assess a flat 30% late enrollment surcharge on top of the individual's premium for the next twelve months, incentivizing the individual to maintain coverage.
 - The proposal maintains the current subsidies and tax credits available to individuals purchasing insurance on the Exchange until the end of 2019. At that point, advanced, refundable tax credits would be available to individuals based on age and income. The credits would increase from \$2,000 for an individual under age 30 to \$4,000 for someone over age 60. The credits are capped at no more than 5 family members to a max of \$14,000. Once an individual earns over \$75,000 (\$150,000 if a joint return), the tax credit reduces \$100 for every \$1,000 over that amount. This deduction would apply to individual plans and unsubsidized COBRA coverage.
 - Changes the permissible age variation in individual policies based on age from 1:3 to 1:5 as well as gives States the flexibility to set their own ratio.
- Medicaid changes as of January 1, 2020
 - Changes the federal Medicaid funding to a per capita basis
 - Funding would be based on the 100% of the federal poverty level (pre-ACA level) and not the ACA expanded 133%
 - Does not require State Medicaid plans to provide the same "essential health benefits" that are required by plans on the Exchanges

Again, this is the initial proposal which will begin the process. We hope that the final legislation will address what is at the heart of the issue with health care and that is how to control the cost. Provisions such as eliminating the coverage mandates and unlimited lifetime maximum requirements were not addressed. We will continue to keep you informed of the political environment and the impact upon you and your company.

