



Wespath

BENEFITS | INVESTMENTS



CONFERENCE FORUM

Repeal/Replace/Repair

Health Care Policy Debate

Possibilities for Health Care

Repeal parts of the ACA through:



Budget reconciliation bills

- 51 Senate votes required

Normal legislative process (regular order)

- 60 Senate votes required

Budget Reconciliation Process

1974 Congressional Budget Act

Reconciliation path to legislation

- Budget resolution (51 Senate votes)
 - Target instructions to committees
- Committees develop proposals to hit targets
- House approves reconciliation bill (218 votes)
- Senate approves reconciliation bill (51 votes)
- Presidential signature



So Far ...

Senate passed budget resolution (January 12)

House passed same budget resolution (January 13)

Resolutions contained instructions to committees regarding ACA repeal (4 committees)

Committee proposals originally due January 27, 2017

2 House committees approved proposals last week

What's Next?

- House Budget Committee?
- House Rules Committee?
- Congressional Budget Office estimates?
- Proposals combined into “American Health Care Act” (AHCA)?
- House votes?
- AHCA sent to Senate?

Bills and Ideas—‘Better Way’



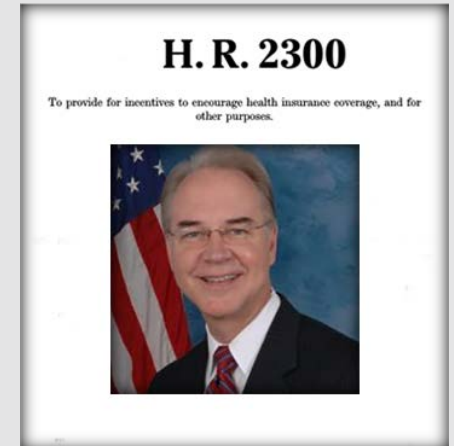
Speaker Ryan

- Full repeal of ACA
- Tax paid by individuals with employer plans that offer benefit values over a threshold amount
- Universal, refundable, advanceable tax credit *(amount aligned with cost of a typical pre-ACA health insurance plan)*

Bills and Ideas— Price (R-GA*); Bill (H.R. 2300)

- Full repeal of ACA
- Tax paid by individuals with employer plans that offer benefits worth:
 - \$8,000+ (individual)
 - \$20,000+ (family)
- Individuals without employer plans receive age-based refundable tax credit for purchase of individual insurance policy
 - \$900 for child
 - up to \$3,000 for over-50 individual
- Much less generous than ACA for many

* Now Secretary of HHS



Bills and Ideas— Roe (R-TN)/Republican Study Committee

- Full repeal of ACA
- Eliminate tax exclusion for entire value of employer-sponsored insurance
- Offer individuals new income tax deduction for health insurance value/premiums—individual or group:
 - Up to \$7,500 (individual)
 - \$20,500 (family)



Note: Deductions are worthless for those with no income vs. refundable tax credits that offer refund even if no income

Bills and Ideas— Cassidy (R-LA); Collins (R-ME)



Cassidy
(R-LA)



Collins
(R-ME)

Repeal most of ACA

Retain: Coverage to age 26; bans on coverage limits and pre-existing condition exclusions

Allow states to decide to:

- Reinstatement ACA
(with 95% of money ACA would have provided)
- Set own policy, with advanceable and refundable credits (totaling 95% of ACA money) for those without other coverage
- Create stand-alone program
(no federal money)

Bills and Ideas—Paul (R-KY)

- Repeal most ACA mandates
- Two-year window for those with pre-existing conditions to find coverage
- Tax individuals with employer plans on the value of the plan over the “universal deduction”
- HSA reforms:
 - No requirement for high-deductible plan
 - No maximum—unlimited contributions permitted



Bills and Ideas—President Trump



- Full repeal of ACA
- Allow insurance company with policy approved in one state to sell it in any state
- Allow tax deductions for premiums paid by individuals
- Allow contributions to HSAs to pass to heirs without “death penalty”
- Provide block grants to states for Medicaid

Some Provisions Suitable for Reconciliation

- Premium tax credit (exchange subsidies)
- Funding for Medicaid expansion
- Cadillac tax
- Tax penalty for employer mandate
- Tax penalty for individual mandate
- Other taxes to pay for ACA
(e.g., tax on high earners, medical device tax, etc.)
- Medicare provider payment cuts

Provisions Likely Requiring 60 Votes to Change

- Market reforms
 - Pre-existing condition coverage
 - Annual coverage limits
 - Preventive screenings with no co-payment/co-insurance
 - Dependent coverage to age 26
- Reporting requirements
- Etc.



Non-Legislative Possibilities

- Final regulations can be changed, but require notice and comment period
- Other agency “guidance” can be changed by agency immediately
 - Discretion to interpret or apply legal provisions in law or existing regulations

Example:

Trump executive order (January 20)—asks agencies to exercise discretion to waive or grant ACA requirement exemptions

Candidates for Guidance Change

Limited non-enforcement safe harbor?

- Employer shared responsibility reporting penalties
- Penalties for not sending required information reporting (Code 6055 for providers of coverage; 6056 for ALEs)

Note: Requested in February 7, 2017 letter from American Benefits Council to Trump

Other Possibilities

Reconciliation bill to end tax penalty on GHPs with annual limits (i.e., rule prohibiting stand-alone HRAs?)

- Annual limits ban not a revenue provision
- The revenue provision (Code 4980D) applies to all requirements from GHP chapter of Code

Trump IRS guidance changes?



Note:

Bill with Democratic support could end the ban on GHPs with annual limits

Question: Future of Exchanges?

- If a reconciliation bill ends subsidies for Exchange policies, even with delay:
 - How long will insurance companies continue Exchange participation?
- If a reconciliation bill ends the individual mandate penalty:
 - Will the young and healthy drop out of Exchanges?
 - How will this impact the ability of insurance companies to profit from Exchange participation?
- What will insurance companies decide this spring in view of uncertainty?

House Policy Brief



February 16, 2017

Speaker Ryan

- Updated rough outline
- Proposed timeline:
 - House bill coming some time after recess (recess ended February 26)
- Notes HHS proposed rule
 - Goal: Stabilize Marketplace

Policy Brief: Elements

Employer-provided coverage: No explicit plan

For individuals without employer coverage: Tax credit (refundable and advanceable)

- Higher credit if older
- Not higher credit if lower income
- Coverage need not be robust (catastrophic ok)
- Credits left over after premiums can go to HSAs
- Amount of credit not specified in Policy Brief

Potential Impact

Example: State that did not expand Medicaid

In individual market now	235,000
ACA subsidies in the state's Exchange	\$1 billion
Tax credits under Republican vision	\$210 million
Difference	About 80% less money
Estimated enrollment under Republican vision	115,000 (lose 130,000 enrollees who can no longer afford a policy; add 10,000 new)

Source: Analysis presented at Republican Governors Association

Leaked House Draft Bill



- **Draft Bill** (not introduced yet)
Dated February 10, 2017
- **Date of Leak to Media:**
February 24, 2017:

- Replaces ACA tax credits with new tax credits
- Eliminates individual and employer mandates
- Creates new tax for high-cost employer health coverage

The Big Variables

Tax Credits:

Age-Based vs. Income-Based

Cost of Plans:

Health-rated vs. Age-Rated

Incentive to Participate:

Continuous Coverage Rules
vs. Individual Mandate

Medicaid Commitment:

Limited vs. Unlimited

Tax Credits: ACA

ACA: Premium Assistance Credit (Code 36B)

- For those with household income of 100%-400% of federal poverty line
- At the low end, enrollee pays 2% of income for second-lowest Silver plan
- Some are also eligible for a cost-sharing (deductible, etc.) subsidy



Tax Credits: Leaked Bill

Leaked Bill: Refundable Tax Credits (Code 36C)

- For those with any level of income
- Maximum: Amount paid for eligible health insurance for self or family, or (if less):
 - Per person covered: \$2,000 (under 20) plus \$500 for every 10 years of age, up to \$4,000 (for 60+)
- “Eligible”= insurance offered in the individual market (but not employer-sponsored coverage, Medicare, Medicaid, etc.)

Leaked Bill: Tax Cuts

Bill would eliminate many ACA taxes and penalties

- Individual mandate penalty
- Employer mandate penalties
- Medicare tax increase for high-income individuals
- Medical device tax
- Tanning facility tax
- Etc.



Leaked Bill: New Taxes

Tax employees on cost of employer-provided coverage over limitation amount



- Limitation set by Secretary of HHS
- Equal to 90th percentile of annual cost of coverage under group health plans
- “Cost” determined under rules similar to COBRA
 - **Note: Church plans exempt from COBRA**
- Cost includes employer and employee payments
 - **But not HSA contributions**

Comparison

Cadillac Tax

Cap on Tax Exclusion

Coverage provider pays

Employee pays

Limit: Dollar figure + COLA

90th percentile

Committee Proposals



2 House Committees

- Energy and Commerce
- Ways and Means

Released: March 6, 2017

Originally due January 27, 2017

- Neither committee recommends new taxes on employer-provided coverage
- Passed with committee mark-ups March 8 and 9

Energy and Commerce

- Repeal Medicaid expansion (2020)
- \$10 billion over 5 years for non-expansion states for safety net funding
- Repeal cost-sharing subsidy (2020)
- New continuous coverage provision (2019)
- Issuers may charge older individuals 5 times more than younger individuals (2018)



Ways and Means

- Delay Cadillac Tax (until 2025 tax year)
- Repeal various taxes and penalties:
 - Individual mandate (January 2016)
 - Employer mandate (January 2016)
 - Net investment tax for high income individuals (2018)
 - Medicare surtax (.9%)(2018)

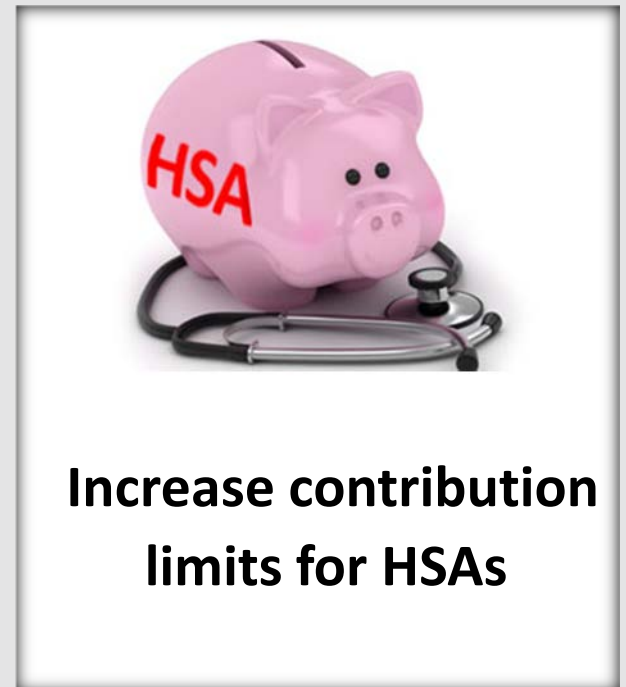


Ways and Means—Tax Credits

End Marketplace tax credit beginning in 2020

Create New Tax Credit (2020)

- For those without government coverage or employer offer
- Advanceable
- Refundable
- Increases with age, not income
- Phased out for higher incomes
- Amounts same as leaked bill



**Increase contribution
limits for HSAs**

Comparison

Example—Clergy

Income: \$55,000—includes \$15,000 housing allowance
(\$40,000 household income)

Age: 40

Age of Spouse: 35

Children: 2

ACA	Republican Bill
Tax credit amount (national average)	Tax credit amount
\$10,864/year	\$9,500/year

Comparison

Example—Clergy

Income: \$65,000—includes \$15,000 housing allowance
(\$50,000 household income)

Age: 55

Age of Spouse: 50

Children: 0

ACA	Republican Bill
Tax credit amount (national average)	Tax credit amount
\$8,756/year	\$7,000/year

Comparison

ACA	Republican Bill
Credit goes up as income goes down	Credit flat
Credit goes up in areas where premium/ costs are higher	Credit flat

Priorities for UMC Health Plans

- Preserve tax exclusion for value of employer-sponsored health plans to employees
- Acknowledge unique aspects of church/UMC health plans:
 - Cost may be higher because participants are older and less healthy (not because plans are too “rich”)
 - Clergy may need certain benefits due to nature of calling (itinerant positions, etc.)
 - Employer may not be same as payer for health plan

Recap

Employer-Sponsored Plans	Fewer proposals with direct impact, but some would tax employees on some or all of the value of employer-provided coverage (replacement for Cadillac Plan Tax)
Individual Policies	<ul style="list-style-type: none">• Exchange policies: Significant risk for changes and instability within the next year• Individual market policies: Potential secondary impact from other changes

Center for Health Resources

Health Care Reform webpage:
wespath.org/center-for-health/health-care-reform/

- Includes health care reform updates
- Goal is to update when changes occur that may have practical impact

Example:

January 2017 e-newsletter

Re: Potential paths to ACA repeal/replace legislation

Future of 'Consumer-Driven' Plans

“Consumer-driven”—encourages participants to be more involved in healthcare decisions

- **Examples:** HRAs and HSAs
- **Concept:** Lower health costs by making employees choose how to spend health dollars
- Support from both Democrats (some) and Republicans



HRAs and EPPs

- Popular prior to ACA
- **ACA:** A “group health plan” may not have an annual limit on essential health benefits
- **IRS final rule:** An account-based plan (including HRAs) is a “group health plan”

Does an HRA limit essential health benefits?

IRS position to date: **Yes**

HRAs in 2017

CURES ACT

IRS FAQ—December 20, 2016

New IRS special rule for HRAs and Medicare

Reconciliation bill possibility

Trump IRS new guidance?

CURES Act

Became law on December 13, 2016

- **Amends ACA:** “Group health plan” does not include HRA if it is a “Qualified Small Employer HRA” (QSEHRA)
- **Requirement:** a QSEHRA must be “funded solely by an eligible employer”—one that:
 - Is not an “applicable large employer” (50 or more)
 - Cannot offer a GHP to any employee

Other CURES Limitations

- HRA payments* may be made only after employee provides proof of coverage
 - \$4,950 maximum per employee
 - \$10,000 maximum per family
- * Payments are taxable unless employee has minimum essential coverage for the month in which the expense is incurred

Other CURES Limitations

- If employee has QSEHRA that is affordable coverage, no Exchange subsidy is allowed
- QSEHRA must be provided on same terms to all eligible employees
- QSEHRA is reported on employee's W-2

IRS QSEHRA FAQs

IRS FAQ—December 20, 2016

Previous relief: IRS Notice 2015-17

- EPPs of small employers (non-ALEs) that reimburse premiums for individual policies or Medicare Part B or D premiums will not be penalized for period pre-July 1, 2015

CURES Act extends this relief through December 31, 2016

- No relief for stand-alone HRAs/EPPs to pay expenses other than premiums

UMC Impact

- No impact on UMC employers that offer a health plan to any employee
 - Law does not allow them to offer a QSEHRA
- Conferences that do not require churches to offer a health plan to their employees:
 - Local church may establish and fund a QSEHRA

QUESTIONS:

If conference is involved in funding an HRA, can it qualify?
Is it “funded solely by an eligible employer”?

New IRS Rule: HRAs and Medicare

- Effective January 1, 2017
- For small employers (not ALEs)
- Employer and employee must qualify for the small employer exception to MSP statute (MSP-SEE)
- Employer must offer a major medical plan to employees
- Employer plan may carve out MSP-SEE employees from major medical plan, and provide HRA to pay Medicare Part B/D premiums

Wellness Program Guidance

IRS Position	Cash rewards paid by employer-sponsored wellness program are taxable income
<i>2016 IRS Chief Counsel Advice Memorandum</i>	Cash rewards are not “medical care,” even if paid by a health plan
Wespath in 2017	Reporting/withholding on cash rewards earned by employees

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