

Federal Update

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115th Congress, 1st Session: What to Expect



The Trump Effect



The Political Climate on Capitol Hill

- **President Trump**
- Confirmation Process (Very Partisan)
- Health Care (Dr. Tom Price – Secretary of HHS)
- Repeal and Replace of the Affordable Care Act (ACA)
- Medicare Reform
- Supreme Court Nominee Judge Neil Gorsuch
- (Democrats remember Judge Merrick Garland – President Obama's pick)
- ISIS/Syria/Terrorism
- Tax Reform
- Infrastructure Package

2017 U.S. House of Representatives Profile

115th Congress, 1st Session:

U.S. House of Representatives:

- Republicans: 241
- Democrats: 194

(A simple majority is needed for passage)

- Speaker: Paul Ryan (R-WI)
- Minority Leader: Nancy Pelosi (D-CA)

2017 U.S. Senate Profile

115th Congress, 1st Session

- U.S. Senate:
- Republicans: 52
- Democrats: 46
- Independents: 2 Angus King - Maine
 Bernard Sanders - Vermont
- Majority Leader: Mitch McConnell (R-KY)
- Minority Leader: Charles Schumer (D-NY)

Senate Majority Leader Mitch McConnell's Challenge

- Republicans control both House and Senate, however;
- *It requires 60 votes for cloture (to end a Senate debate/filibuster)*
- Senate Republicans (54) do not have a filibuster-proof majority of more than 60 votes
- Senator McConnell needs legislation to be bipartisan to get to 60 votes but not so much that he loses his party's right wing
- Also, it takes 2/3 vote in both House and Senate to override a presidential veto

Key Committees on Capitol Hill

- **Senate Finance Committee**
- Chair: Sen. Orrin Hatch (R-UT)
- Ranking Member: Sen. Ron Wyden (D-WA)

- **House Energy and Commerce Committee**
- Chair: Rep. Greg Walden (R-OR)
- Ranking Member: Rep. Frank Pallone (D-NJ)

- **House Ways and Means Committee**
- Chair: Rep. Kevin Brady (R-TX)
- Ranking Member: Rep. Richard Neal (D-MA)

ACA Repeal

Three Buckets



Reconciliation

ACA Repeal

Three Buckets



Executive
Orders

ACA Repeal

Three Buckets



Regular
Order

What This Bill CANNOT Do

- Repeal the Independent Payment Advisory Board
- Repeal the ACA moratorium on physician-owned hospitals
- Address the issue of selling insurance across state lines
- Does not touch bundled payments or other payment models through Medicare, Medicaid, or private insurance
- Address Medicare payments in general

Replace ACA Income Based Subsidies with Tax Credits

- Creates an advanceable, refundable tax credit for the purchase of state-approved, major medical health insurance and unsubsidized COBRA coverage. Eligibility is for individuals who do not have access to government health insurance programs or an offer from any employer. Credits are adjusted by age:
 - Under age 30: \$2,000
 - Between 30-39: \$2,500
 - Between 40-49: \$3,000
 - Between 50-59: \$3,500
 - Over age 60: \$4,000
- Revises the schedule under which an individual's or family's share of premiums is determined by adjusting for household income and the age of the individual or family members
- Repeals ACA premium tax credit beginning in 2020
- Repeals small business tax credit beginning in 2020. Between 2018 and 2020 under the proposal, the small business tax credit generally is not available with respect to a qualified health plan that provides coverage relating to elective abortions

Patient and State Stability Fund

- Establishes a fund that may be used to assist in lower insurance costs for a number of instances including:
 - High-risk individuals who do not have access to health insurance coverage offered through an employer, enroll in health insurance coverage in the individual market in the State, as such market is defined by the State
 - Incentives to help stabilize premiums for health insurance coverage
 - Reducing the cost of providing health insurance coverage in the individual market and small group market for high users
 - Promoting participating in the individual market and small group market in the State
 - Promoting access to preventative services, dental care services, vision care services, mental health and substance use disorders
 - Providing payments, directly or indirectly to health care providers for the provision of such health care services as are specified by the Administrator
 - Providing assistance to reduce out-of-pocket costs, such as copayments, coinsurance, premiums and deductibles of individuals enrolled in health insurance coverage in the state
- This section annually appropriates \$15 billion for State use for 2018 and 2019; Appropriates \$10 billion for years 2020-2026

Individual Mandate

- Reduces the penalty to zero for failure to maintain minimum essential coverage, providing retroactive relief to those impacted by the penalty in 2016
- Beginning in benefit year 2018, beneficiaries who allow coverage to lapse for more than 63 days will be issued a flat 30 percent enrollment surcharge, regardless of health status, on top of their base premium for one year
- Repeals the actuarial value standards by removing requirement for insurers to label their offerings by tier into Bronze, Silver, Gold, Platinum

Employer Mandate Repealed

- Reduces the penalty to zero for failure to provide minimum essential coverage providing retroactive relief to those impacted by the penalty in 2016

ACA Taxes Repealed

- **Repeals medical device tax**
- Repeals tax on over-the-counter medications beginning in 2018
- Repeals tax increase on distributions from HSA that are not used for qualified medical expenses in 2018
- Repeals the additional .9 percent Medicare Hospital Insurance surtax beginning in 2018
- Repeals 10 percent sales tax on indoor tanning services beginning in 2018.
- Repeals the 3.8 percent net investment tax imposed to certain net investment income of individuals, estates, and trusts with income above certain amounts
- Repeals the annual fee on certain brand pharmaceutical manufacturers beginning in 2018.
- Repeals the annual fee on certain health insurers beginning in 2018.
- **Changes the effective date of the Cadillac tax to 2025.**

Rating Factor

- Loosens the ratio for insurance premiums to five-to-one and gives States the flexibility to set their own ratio

Capped Payments for Medicaid

- Creates a per capita cap model starting in 2020.
 - 2016 is base year to set targeted spending for each enrollee category in 2019 and subsequent years for each state.
 - Targeted spending amount would increase by the percentage increase in the medical care component of the consumer price index
 - Starting in 2020, any state with spending higher than their specified targeted aggregate amount would receive reductions to their Medicaid funding for the following year.
 - Certain payments are exempt such as:
 - Individuals covered under a CHIP Medicaid expansion program
 - Individuals who receive medical assistance through an Indian Health Service facility
 - Individuals entitled to medical assistance coverage of breast and cervical cancer treatment due to screening under the Breast and Cervical Cancer Early Detection Program
 - Unauthorized aliens eligible for Medicaid emergency medical care
 - Individuals eligible for Medicaid family planning options
 - Dual eligible-individuals eligible for coverage of Medicare cost sharing
 - Individuals eligible for premium assistance
 - Coverage of tuberculosis-related services for individuals infected with TB
- Provides \$10 billion over five years to non-expansion States for safety net funding.

Changes to Preexisting Conditions

- States can apply to opt out
- Guaranteed issue
- 30% tax for those who don't remain covered

ACA Rules Kept

- Keeping children on insurance through 26
- Maintains 10 essential health benefit categories

CBO

- Cut the deficit by \$337 billion
- Projected that 24 million will lose coverage by 2026
- Under ACA, a 64 year old earning 26,500 (just less than twice the poverty level would pay 1,700 in premiums. Under GOP plan, the same senior would pay \$14,600
- Includes an \$880 billion cut to Medicaid over the next decade
 - Total Medicaid would be 25 percent less in 2026 than under current law
- CBO is also predicting that employer coverage would drop by 7 million over the next decade. However, the same prediction was made for the ACA but this turned out to be false

Senate & House

- House has kicked the can to the senate
- Senate unlikely to pass the bill as is, thus preserving the House “victory”, but allowing changes to be made
- The question is whether the changes will be acceptable to the house