

ACA – Repeal and Replace?

AICP New England Chapter E-Day Presentation

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Historical Perspective

- Employer-provided health insurance
- State regulation
- ERISA and its progeny

The Affordable Care Act (“ACA” or “Obamacare”)

- Actually 2 enactments
 - Patient Protection and Affordable Care Act
 - Health Care and Education Reconciliation Act
- Enactment and effective date(s)
 - Originally enacted in 2010
 - Different requirements became applicable in subsequent years
- Impacted both the individual and group markets

The ACA – Major Elements

- Individuals must obtain healthcare coverage or pay penalties
- Employers over a certain size must offer coverage or pay penalties
- Coverage must be comprehensive
- Preventive services with no cost-sharing
- No preexisting condition limitations
- Coverage of dependents to age 26
- Subsidies
- New taxes to pay for it all

The ACA – Other Major Considerations

- Medicaid Expansion
- Community and Age Rating
- Essential Health Benefits

Republican Reaction

- Little or no input from Republicans
- Use of “Reconciliation”
- Rushed through Congress
- “Repeal and Replace”

“Repeal and Replace” – Major Elements

- No mandates
- Eliminate requirement for comprehensive coverage
- Expand use of credits
- Modify changes to preexisting condition limitations
- Cap Medicaid subsidies

The American Health Care Act (“AHCA”)

- Individual mandate – Would repeal
- Large employer mandate – Would repeal
- Comprehensive coverage requirements – Would keep – but see MacArthur Amendment (below)
- Preventive services - Not specifically addressed – but see MacArthur Amendment (below)
- Prohibition on preexisting condition limitations – Would keep – but see MacArthur Amendment (below)
- Coverage of dependents to age 26 – Would keep

The AHCA (cont'd)

- Subsidies – Would substitute age-based credits
- New taxes to pay for it all – Would repeal
- Medicaid Expansion – Would change funding mechanism and reduce federal contributions
- Community and Age Rating – Would change maximum from 3/1 to 5/1 – but see MacArthur Amendment (below)
- Essential Health Benefits – Would keep – but see MacArthur Amendment (below)

The AHCA (cont'd) – Additional Provisions

- Subsidies for out-of-pocket expenses – Would repeal these cost-sharing subsidies, effective in 2020
- Health Savings Accounts – Would increase the amount individuals and spouses can contribute each year
- Prohibitions on annual and lifetime limits – Would keep – but see MacArthur Amendment (below)

AHCA – March Version

- Congressional Budget Office Findings
 - 11million uninsured after 1 year
 - 24 million uninsured after 10 years
 - \$337 billion in total savings over the next 10 years
- 17 % approval rating

AHCA – Political and Other Developments

- Political
 - Trump and Pence Involvement
 - 7 years of “Repeal and Replace”
 - Need for a “Win”
- Other Developments - Kimmel Monologue

Amendments

- (Tom) MacArthur (R-NJ) Amendment
 - Waivers for required benefits – States could request these and set up their own benefit standards
 - Waivers for community rating – States could request these and charge sick customers more (if there's a lapse in coverage of at least 63 days)
 - Waivers for age rating – States could request these and set up their own ratios
 - Waivers become approved if no disapproval received within 60 days of filing
 - Waivers become effective for 10 years – and may be extended
- 8 billion for people with preexisting conditions/Requirement for State high-risk pools

Passage in the House/Reaction

- 217 – 213 – 20 Republicans and all Democrats voted against approval
- CBO score
- Opposition from major groups – ABA, AHA, AARP

Major Winners if the Amended AHCA is Eventually Enacted

- High-income earners – Would eliminate Medicare payroll and investment income taxes
- Upper middle-class people with no preexisting conditions – could still get subsidies
- Young people – would eliminate the mandate and they could get subsidies
- Anyone who wants to forego insurance – no mandate
- People who want less comprehensive coverage
- Large employers – eliminates mandate

Major Losers if the Amended AHCA is Eventually Enacted

- Poor people – Would substantially reduce subsidies and Medicaid expansion could be rolled back
- Older Americans – People who don't qualify for Medicare could see substantial increases in premiums
- People with preexisting conditions – This is a function of the States' ability to request waivers and what they choose to do with them
- State governments – Medicaid costs are likely to shift to the States
- Hospitals – If Medicaid funding is reduced, how will they be paid?

Possible Impact in the Large Group Market

- Employers could stop offering coverage
- Employees could be asked to contribute more
- Annual and lifetime limits could return
- Deductibles and/or co-payments could increase

Next Steps

- Consideration by the Senate
 - Starting from scratch
 - Views already expressed
 - Committee Formed
 - Timing
- Reconciliation with the House Version