

AFFORDABLE CARE ACT ALERT

3/23/17

House Preparing to Vote on Repeal and Replace of Patient Protection and Affordable Care Act

By ***John B. Waters, Counsel***

Following the introduction of proposed legislation on March 6, 2017 to repeal and replace certain portions of the Patient Protection and Affordable Care Act (ACA) and Manager's Amendments on March 20, 2017, the House Rules Committee met on March 22, 2017 with the goal of a March 23, 2017 House vote on the legislation. The following is a summary of some of the key provisions of the legislation, entitled the "American Health Care Act of 2017" (Act).

Health Care Reforms – The Act:

- Establishes a \$100 billion Patient and State Stability Fund for providing block grants to states to use for helping individuals enroll in health insurance coverage; providing incentives to enter into arrangements to stabilize premiums, reducing the cost of providing insurance in the individual and small group market; promoting participation in the individual and small group market; promoting access to preventative care, dental care, vision care, mental health and substance abuse services; providing payments to health care providers and providing assistance to reduce costs
- Imposes a per capita-based cap on payments for state medical assistance; provided, however, that states may opt to receive a block grant for adults and children served in the per capita allotment and imposes certain requirements on states making that election
- Provides enhanced matching for Medicaid expansion enrollees who were enrolled in Medicaid prior to December 31, 2019
- Increases the annual inflation factor for the elderly and disabled from CPI-U Medical (the Medical Care component of the consumer price index for all urban consumers) to CPI-U Medical plus 1 percentage point
- Eliminates the ACA's requirement that states expand Medicaid for childless non-disabled, non-elderly, non-pregnant adults to 133% of the Federal poverty line (FPL) and ends the ability of states to cover adults over 133% of the FPL
- Allows states to institute a work requirement in Medicaid for nondisabled, nonelderly, non-pregnant adults as a condition of receiving Medicaid
- Imposes a penalty to encourage continuous coverage by requiring insurers to impose a 30-percent premium surcharge on individuals who obtain health insurance coverage after a 63-day lapse in coverage
- Enhances Flexible Spending Accounts (FSAs) by restoring the right to purchase over-the-counter medications and eliminating the \$2,500 annual limit (indexed for inflation) on contributions
- Enhances Health Savings Accounts (HSAs) by increasing the limits for contributions to equal the deductibles plus out-of-pocket expenses and allows both spouses to make catch-up-contributions
- Allows insurers to charge older insureds up to five-times more than younger insureds

Tax Reforms – The Act:

- Eliminates the following ACA related taxes and credits:
 - The individual and employer penalties for failure to maintain or provide minimum essential coverage
 - The tanning tax
 - The tax on prescription medications
 - The 3.8% Net Investment Income Tax
 - The tax on Cadillac Plans (at least until 2026)
 - The increase in tax on non-qualifying expenditures under HSAs and Archer Medical Savings Accounts (MSAs)
 - The medical device tax
 - The health insurance tax
 - The additional Medicare tax of 0.9% on wages/self-employment income over \$200,000 (\$250,000 if married filing jointly)
 - The small business tax credit and premium tax credit
- Lowers the medical expense deduction threshold to 5.8% of Adjusted Gross Income (AGI)
- Restores the business expense deduction for employer provided retiree drug coverage
- Provides for a new refundable monthly tax credit for individuals without employer or governmental coverage; the annual amount of the credit ranges from \$2,000 to \$4,000 depending on the taxpayer's age and is subject to a family cap of \$14,000. The credits are subject to an annual cost-of-living adjustment and are phased out for individuals having a modified AGI of more than \$75,000 per year (\$150,000 for joint filers).

Retained Provisions: Notwithstanding the foregoing changes to the ACA, the Act retains certain of the insurance protections of the ACA, including the right of dependents to stay on their parent's health insurance plan until age 26, and the prohibition on insurers from denying coverage or charging increased premiums for pre-existing conditions.

Please contact one of the listed Roetzel attorneys if you have questions about this topic and to stay up-to-date on these proposed laws as they are quickly changing.

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