May 5, 2017

BREAKING NEWS: US House Passes ACA Replacement Bill

The Republican effort to repeal and replace the Affordable Care Act (ACA) continues with the House passing an amended version of the American Health Care Act (AHCA) bill yesterday afternoon on a narrow partisan vote (217 to 213). With just 2 votes to spare, 20 Republicans voted no, and the Democrats were unanimous in their opposition to the AHCA bill. The Senate now takes up the bill and it may be several months before the Senate is ready to vote (many assume July at the earliest). In any event, ultimate passage in the Senate is unclear and if a bill does pass the Senate, it is likely to differ from the House bill. If the Senate bill is different, the next step will require that both the House and the Senate come together to vote on a joint bill before it would be sent to President Trump for signature. So for now nothing changes and the ACA, including penalties for noncompliance and all employer reporting and notice requirements, will stay in place.

The nonpartisan Congressional Budget Office (CBO) has yet to evaluate the amended AHCA bill, so estimates of its impact on government spending and revenue and the number of people who may gain or lose insurance coverage are still forthcoming. While it's likely the AHCA will be modified in the Senate, these are some headlines of the House bill.

- Importantly, the AHCA bill does not include capping or changing the employer tax exclusion for employer provided benefit plans.
- Eliminates the "individual mandate" that requires nearly all Americans to secure health insurance or pay a tax/penalty.
- Eliminates the "employer mandate" that requires all larger employers to provide health benefits to full time employees working 30 hours or more along with requirements on the levels of coverage and cost (the Form 1094 & 1095 reporting requirements are unchanged by the AHCA bill).
- Allows health insurance companies to impose lifetime and annual caps on benefits for those who get coverage through a large employer plan.
- Allows states to elect to receive federal Medicaid funding via a block grant or per capita allotment, and alters/ends the ACA's Medicaid expansion.
- Replaces income-based subsidies with age-based tax credits that can be used toward premium costs.
- Repeals most fees and taxes, but maintains the Cadillac 40% excise tax, which would be delayed until 2026 (though the Senate may possibly negotiate a shorter delay, and ultimately strong bipartisan support for a bill to permanently repeal this provision is expected).

- Allows state waivers to define Essential Health Benefits, vary premiums by health status, and increase age band ratios.
- Eliminates the health industry "pass-through" taxes and the Medicare surtax on higher incomes and investments.
- Increases health savings account (HSA) contribution limits and adds additional flexibility for HSAs.
- Repeals the health flexible spending account (FSA) maximum limit.
- Retains requirement that family plans cover grown children to age 26.

Click here for the official section-by-section summary of the amended AHCA bill from the House Energy and Commerce and Ways and Means Committees, updated to include the MacArthur and Upton Amendments.

Republicans in the Senate are not unified in their support of the amended House bill, and it remains to be seen whether the various factions in the Republican party will ultimately come together around a repeal and replace plan they can send to the President for signature. In the meantime, while Congress considers options to repeal and replace the ACA, taxpayers and employers should be prepared to continue to comply with the law through at least 2018. We will continue to monitor developments over the coming weeks, and provide details on new and revised employer obligations as they take shape over time.

Should you have questions about any aspect of federal health insurance reform, please contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online Resource Center.

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