



# Special Bulletin

March 21, 2017

## **HOUSE REPUBLICANS MAKE CHANGES TO BILL THAT WOULD REPEAL AND REPLACE PARTS OF THE ACA**

House Republican leaders late March 20 unveiled [changes](#) to the [American Health Care Act](#) (AHCA), legislation that would repeal and replace parts of the Affordable Care Act (ACA). One manager's [amendment](#) makes changes to policies affecting both Medicaid and the tax code, and a second [amendment](#) makes technical changes to conform with budget reconciliation instructions and address other drafting issues. The Congressional Budget Office is expected to score the revised bill before the House votes on Thursday.

**Notwithstanding the changes outlined below, the AHA still cannot support the AHCA, and continues to urge our members to ask their representatives to also not support the legislation.**

Highlights of the changes to the AHCA, as well as significant provisions that remain unchanged, follow.

### **MEDICAID**

#### **MEDICAID EXPANSION**

The amendment would end the possibility of obtaining an enhanced Federal Medical Assistance Percentage (FMAP) for states that have not expanded their Medicaid programs as of March 1, 2017. States could still choose to expand their program to populations up to 133 percent of the federal poverty level (FPL). In the previous bill, non-expansion states would have been allowed to expand their program prior to Jan. 1, 2020 with the enhanced matching funds.

#### **PER CAPITA-BASED CAP FOR FEDERAL MEDICAID PAYMENTS TO STATES**

The AHCA would replace the current federal Medicaid payment system with a per capita cap structure. The amendments would make changes in a number of areas.

***Treatment of Non-DSH Supplemental Payments.*** The amendment would account for non-disproportionate share hospital (DSH) spending for purposes of calculating the per capita amounts. This would be in addition to the provision in the previous bill that adjusted the per enrollee categories by the ratio of non-DSH supplemental payments (such as upper payment limit payments) in fiscal year (FY) 2016 to the total adjusted Medicaid expenditures in FY 2016.

***Trend Factor for Enrollee Groups – Elderly, Blind and Disabled.*** The amendment would increase the inflation trend factor for the elderly, blind and disabled enrollee categories to the medical Consumer Price Index (CPI) plus one percentage point. The other three categories – expansion adults, children and non-elderly/non-disabled adults – would remain at CPI. The previous version trended all five enrollee categories, including the elderly, blind and disabled categories, by medical CPI.

***Limits State Share Financing for New York.*** The amendment would not permit a state with FY 2016 DSH allotments six times the national average of FY 2016 state DSH allotments to require county governments to contribute to the state's share of the Medicaid financing. The state could, however, require counties with populations of 5 million or more to contribute to the state share of Medicaid. To enforce this provision, beginning in FY 2020, the state would have its per capita amounts decreased by the amount the state requires the county governments to contribute to the state share.

***New Safety-net Funding for Non-expansion States.*** The amendment would change the \$10 billion in new safety-net funding for non-expansion states from calendar years (CY) 2018 through 2022 to FYs 2018 through 2022.

#### **ELIGIBILITY CHANGES**

The amendment would drop the provision in the previous bill that required individuals applying for Medicaid to present documentation of citizenship or legal status before coverage could begin.

#### **BLOCK GRANT OPTION**

The amendment would provide states with an option to opt out of the per capita cap allotment and instead receive federal funds through a block grant. The block grant would run for a period of 10 years. At the end of the 10-year period, states could continue the block grant option or choose to receive federal funds through the per capita allotment. The block grant option applies only to Medicaid children and traditional adults (not the expansion population). States choosing this option must include the following in their care delivery arrangements: hospital care; surgical care and treatment; medical care and treatment; obstetrical and prenatal care and treatment; and health care for children. The base year for the block grant is based on a state's FMAP, its enrollment in

the prior year and per beneficiary/enrollee spending. The block grant would be increased every year by the trend factor CPI and would not be adjusted for changes in enrollment. State matching requirements to “draw down” the block grant funds would be based on the state’s Children’s Health Insurance Program (CHIP) FMAP. States would be permitted to roll over block grant funds from year to year, and would be required to conduct yearly audits of expenditures conducted by an independent entity. A state’s block grant application would be deemed approved within 30 days of submission unless the application was deemed incomplete or actuarially unsound by the Health and Human Services (HHS) Secretary.

### **OPTIONAL WORK REQUIREMENTS**

The amendment would provide states with an option to impose work requirements on “non-disabled, non-elderly, non-pregnant” enrollees. The work requirement option would begin Oct. 1, 2017. The state would have flexibility to determine how the work requirements would be satisfied similar to the Temporary Assistance for Needy Families (TANF) program. Such work requirements could include employment, vocational or skills training, education in pursuit of employment and community service. States choosing this work requirement option would receive a 5.0 percentage point increase in the FMAP for administrative expenses attributable to implementing the work requirement option.

## **COVERAGE AND TAX PROVISIONS**

### **CONTINUOUS COVERAGE**

The amendment would limit application of the 30 percent penalty for failure to maintain continuous coverage to the individual market only. Individuals enrolling through the small group market would not be impacted by this provision.

### **REDUCTION IN MEDICAL EXPENSE DEDUCTION THRESHOLD**

The amendment would reduce the threshold for the medical expense deduction from 10 percent to 5.8 percent of income. In other words, individuals would be able to write off eligible medical costs that exceed 5.8 percent of income. Drafters of the amendment suggest that this change would provide additional financial relief for lower-income individuals and could be used by the Senate to enhance the tax credits for lower-income individuals between the ages of 50 and 64.

### **CADILLAC TAX DELAY**

The amendment would delay to 2026 (previously 2025) the excise tax on certain high-value plans known as the “Cadillac” tax.

### **REPEAL OF THE ACA TAXES**

The amendment would accelerate the repeal of most of the taxes authorized by the ACA, including the increase in the Medicare payroll tax for high earners, and fees on prescription drug manufacturers, health insurers and medical device manufacturers, among others. They would now be repealed for 2017 (previously 2018).

### **REFUNDABLE TAX CREDITS FOR HEALTH INSURANCE COVERAGE**

The amendment updates the structure of the premium tax credits that would be available to individuals beginning in 2020. Specifically, it would change some of the criteria for eligibility, including excluding veterans who are eligible for coverage through the Department of Veterans Affairs but are not enrolled in such coverage, and also change how the tax credits would be operationalized. These changes are primarily intended to ensure that the provision meets the requirements for reconciliation legislation.

The amendment also would no longer permit the government to roll any excess tax credit into an individual's health savings account.

### **AMERICAN HEALTH CARE IMPLEMENTATION FUND**

The amendment would appropriate \$1 billion to a new "American Health Care Implementation Fund" that the HHS Secretary would use to implement certain provisions within the law.

## **AHCA PROVISIONS THAT REMAIN UNCHANGED**

No substantive changes were made to the following provisions from the original AHCA bill:

- Elimination of the penalties on individuals and employers who do not meet the ACA coverage mandates
- Repeal of the advance premium tax credits (APTC), cost-sharing reductions and small business tax credits beginning in 2020
- Elimination of the metal tiers for qualified health plans (actuarial value requirements)
- Establishment of a Patient and State Stability Fund with \$100 billion available to states over a nine-year period
- Implementation of transitional policies prior to 2020, including:
  - Increase in permissible age rating bands to 5:1 from 3:1
  - Ability of consumers to apply the ACA tax credits toward the purchase of a non-qualified health plan, with some exceptions, e.g., individuals would

- not be able to apply the tax credit toward the cost of grandfathered and grandmothered health plans
- Increased value of the APTC for younger individuals and reduced APTC for older individuals