



21st Century Cures Act Passes Congress and Is Sent to President Obama to be Signed into Law

Earlier today, the U.S. Senate [voted](#) 94-5 to pass [H.R. 34](#), the 21st Century Cures Act, joining the U.S. House of Representatives, which [voted](#) 392-26 last Wednesday to [pass the bill](#). It is now headed to the White House where President Obama has indicated through a [Statement of Administration Policy](#) that he will sign it into law. The legislation includes two items of interest to NAHU. The first, language from [H.R. 588](#) to restore the Medicare open enrollment period (OEP), which NAHU and members of our Medicare Working Group helped draft. The second, language from [H.R. 5447](#) to permit the use of standalone Health Reimbursement Arrangements (also known as health reimbursement accounts or HRAs) for small employers. NAHU did not actively support or oppose the HRA portion of the legislation, but will be active in the regulatory process as these provisions are implemented.

The OEP provision of the legislation (Sec. 17005, Preservation of Medicare beneficiary choice under Medicare Advantage) addresses a needed change to restore an option that was taken away by the ACA. Beneficiaries enrolled in a Medicare Advantage (MA) plan used to be able to make a one-time switch to another MA plan that better met their healthcare needs between January and March. Under the ACA, beneficiaries enrolled in MA plans who wish to make a plan change only have one option—disenrolling from their MA plan to enroll in traditional Medicare. As a result, low-income beneficiaries may experience significant gaps in coverage, leaving vulnerable seniors unable to afford a supplement or Medigap plan to cover these gaps.

The 21st Century Cures Act provides for MA eligible individuals to make a one-time change during the first three months of any year to another MA plan, elect original Medicare fee-for-service program, or to elect coverage under Part D. This provision will be effective beginning in 2019. NAHU worked with Representatives Keith Rothfus (R-PA-12) and Kurt Schrader (D-OR-5) as the primary sponsors of the original legislation. Language from the bill had been passed by the House Ways and Means Committee in June 2015, but that language was later stripped from the bill's final passage by the House chamber, before ultimately being included in the 21st Century Cures Act.

The HRA provision of the legislation (Sec. 18001, Exception from group health plan requirements for qualified small employer health reimbursement arrangements) would eliminate the federal prohibition on standalone HRAs as a vehicle for small employers to use tax-advantaged funding to provide health insurance to their employees and assist with out-of-pocket and related medical costs. The legislation requires that HRAs be supplemented by existing health coverage of an employee with reimbursement payments capped at \$4,950 per employee (\$10,000, if the HRA also provides for reimbursements for an employee's family members). These amounts are indexed for inflation.

NAHU did not take a formal position on the HRA legislation, although we developed a [HRA issue statement](#) as well as a [HRA executive summary](#) as resources for our members. Representatives Charles Boustany (R-LA-3) and Mike Thompson (D-CA-5) were the primary sponsors of the original legislation in the House and were joined by Senators Chuck Grassley (R-IA) and Heidi Heitkamp (D-ND), who were the primary sponsors of the Senate companion bill, [S. 3060](#).

Future changes to the individual market as a result of President-Elect Trump's repeal and replace plans could affect the implementation of this provision as well as the rule making process. NAHU will be active in both monitoring the legislative process for any provisions that could alter the way this provision is implemented as well as working with our agency contacts to be a lead stakeholder in the development of the rule making and participating in the regulatory comment process.

Other Provisions in 21st Century Cures Act

In addition to these elements, the primary purpose of the legislation was to provide funding for various medical and pharmaceutical research and development, reforms to the Food and Drug Administration, prescription opioid and heroin response, the Precision Medicine Initiative, and the cancer "moonshot" initiative spearheaded by Vice President Joe Biden. Many of these elements could help to reduce the cost of healthcare, which in turn could reduce the cost of health insurance. For more on the 21st Century Cures Act:

- Read the full bill text [here](#).
- Read a section by section summary [here](#).
- Read a two-page summary prepared by the House Energy and Commerce Committee [here](#).

NAHU will continue to monitor the implementation of this law through the regulatory process and will be active in submitting formal comment letters to the federal agencies. When this process commences, we will notify members of the process to assist us with our comments.

VISIT OUR WEBSITE