Overview of Federal Health Care Reform Proposals
March 22, 2017

The Republican House leadership, working closely with the White House and the Senate Republican leadership, have constructed a package of health care reform bills to replace the Affordable Care Act (ACA) which was enacted in 2010 through the *Patient Protection and Affordable Care Act*, Public Law 111-148, and a separate reconciliation measure, Public Law 111-152.

On March 22, 2017, the US House of Representatives passed H.R. 1101, the *Small Business Health Fairness Act*, by a vote of 236-175. The bill empowers small businesses to offer health care to their employees through association plans which would be governed by similar rules that apply to employers in the large group market under the Employee Retirement Income Security Act (ERISA).

The House of Representatives also passed H.R. 372, the *Competitive Health Insurance Reform Act*, with a strong bipartisan vote of 416-7. The bill removes an exemption for the business of health insurance companies from federal antitrust laws to the extent it is regulated by a state. Supporters of the bill say the federal exemption has caused less competition in the industry and higher costs for consumers. This bill was opposed by the National Association of Insurance Commissioners and the National Conference of State Legislatures.

Additional measures to change medical malpractice and codify regulatory treatment of stop-loss insurance for employer self-insured health plans are expected to be considered soon. Health and Human Services Secretary Tom Price also is expected to take administrative action to undo regulatory actions put into place by the Affordable Care Act.

AMERICAN HEALTH CARE ACT

The proposed bill having the most impact on the affordability and access to health care, because of its tax and budget implications, is H.R. 1628, the *American Health Care Act,* scheduled for a vote on March 23. If the measure passes the House of Representatives, the Senate is expected to take up the bill the week of March 27.

H.R. 1628 is based on the recommendations of the House Ways & Means Committee and the House Energy & Commerce Committee. The recommendations were merged together into a single bill and reported out on March 16 by the House Budget Committee. H.R. 1628 was formally introduced March 20, and heads to the House floor on March 23. There will be two proposed manager's amendments considered which make changes to the bill's Medicaid and tax provisions.

Bill Highlights:

Employer and individual mandate penalties would be repealed

- Provisions retroactive to the beginning of 2016

ACA subsidies which are tied to premium costs are to be replaced with refundable tax credits beginning in 2020

- $2000-$4000 credit per person per year, based on age, to purchase state-approved plan; would phase out for those making more than $75,000
- Payments could be made directly to insurers in advance
- Couldn't be used for insurance that covers abortion

Health savings accounts (HSAs) would be expanded beginning in 2018

- 40 percent "Cadillac" tax on high-cost plans delayed until 2025, from 2020

Some health insurance coverage rules would be changed

- Premiums would be increased by 30 percent for 12 months if individuals didn't have continuous coverage for more than 63 days during the preceding 12 months
- Insurance plan metal tier system (bronze, silver, gold) would be repealed
- Older persons would be charged five times as much as younger people, compared to three times under ACA

New Patient and State Stability Fund would be created

- $100 billion would be provided over nine years to assist high-risk individuals or stabilize premiums
- Mandatory funding would be provided from Jan. 1, 2018, through Dec. 31, 2026. The fund would be administered by the Centers for Medicare and Medicaid Services (CMS)
- States would receive a portion of the annual funding amounts based on their relative costs of claims, uninsured low-income residents and health insurance issuers.

Additional changes made to mandatory funding

- Federal funding for Planned Parenthood would be prohibited for one year
- Prevention and Public Health Fund would be eliminated
- $422 million more would be provided for Community Health Centers

Traditional Medicaid funding would be transitioned to per-capital caps

- Beginning FY 2020, Medicaid would be funded through per-capital allotment based on number of beneficiaries in specified groups: elderly, blind and disabled, children under age 19, expansion adults and non-expansion adults compared to current funding which is open-ended and based on medical costs
- The ACA's Medicaid expansion to cover adults without children would be rolled back to 100 percent of the federal poverty level beginning in 2020
- Some lottery winnings would be counted when determining eligibility
- $10 billion in funding provided for non-expansion states for low-income residents

ACA cuts to Medicaid Disproportionate Share Hospital (DSH) payments would be repealed

- 2018 for non-expansion states, 2020 for expansion states

Hospitals with a large number of low-income patients are eligible for additional payments to cover the cost of lower reimbursements for services provided to those patients. Hospitals are entitled to further payments if they provide a significant amount of uncompensated care. Starting in FY 2014, the ACA phased in reductions to DSH payments to account for the increased coverage rates through the Medicaid expansion and individual coverage requirements under the law.

Taxes

Most of the taxes and fees imposed to finance the ACA would be repealed, including the medical device tax, fees on health insurers and drug companies, and taxes on high-income earners. The 40 percent tax on high-cost health plans, also known as the "Cadillac" tax, would be delayed for five years.

Small-Business Tax Credit

The measure would repeal by 2020 a tax credit created to help small employers with 25 or fewer full-time equivalents provide health coverage for their employees. The tax credit hasn't been used widely. Stakeholders have said the amount doesn't provide enough incentive for eligible employers to offer coverage.

Health Savings Accounts

HSAs are tax-advantaged investment accounts tied to high-deductible health plans. For 2017, contributions are capped at $3,400 for individuals and $6,750 for families.

The measure would increase the contribution caps to equal the limits on out-of-pocket expenses for high-deductible plans, which are $6,550 for individuals and $13,100 for families for 2017. It also would allow both spouses to make catch-up contributions, available to those 55 and older, to the same account.

The measure would repeal ACA provisions that excluded over-the-counter drugs, such as ibuprofen, as qualified medical expenses. The change would also apply to other savings accounts such as flexible spending arrangements (FSAs).

The current 20 percent tax on HSA distributions that aren't used for qualified expenses would be reduced to 10 percent. A similar tax on distributions from Archer Medical Savings Accounts (MSAs) -- typically used by small-business employees or self-employed individuals -- would be reduced to 15 percent from 20 percent. The measure also would repeal the limit on contributions to FSAs, which is $2,600 for 2017.

Deductions for Medical Expenses

The measure would reduce the threshold used to determine whether taxpayers can deduct the cost of medical care from their taxes. Under the ACA, a deduction is allowed if a taxpayer's medical expenses exceed 10 percent of his or her adjustable gross income. The measure would reduce that amount to 7.5 percent beginning in 2018.

Medicare Part D Deduction

A deduction for employer expenses related to providing prescription drug coverage would be reinstated, effective in 2019. The ACA eliminated the ability of employers to deduct the value of the retiree drug subsidy they received for providing coverage.

ACA's Benefit Requirements Remain

- Requires insurers to offer health plans to anyone regardless of their health status, also known as guaranteed issue.
- Prohibits insurers from excluding coverage for a pre-existing condition or from charging individuals more because of a condition.
- Limits insurers' ability to charge more based only on geography, family size and tobacco use (in addition to the age band).
- Requires insurers to offer 10 essential health benefits, including emergency care, maternity care, substance abuse treatment and preventive care.
- Prohibits insurers from imposing lifetime limits or annual limits on benefits, as well as annual limits on total out-of-pocket expenses

Scoring

The Congressional Budget Office (CBO) estimated the measure would reduce federal deficits by $337 billion over 10 years and increase the uninsured rate by 24 million by 2026 compared to current law. CBO also estimated the legislation would reduce average premiums by 10 percent by 2026 and that it wouldn't affect stability in the individual health insurance market.

House Manager's Amendments to be Offered March 23

Medicaid Expansion

- Enhanced funding only for states that expanded before March 1, 2017; ends for those states in 2020 except for grandfathered enrollees
- End option to expand to adults above 133 percent of federal poverty level in 2017
- Allow states to institute work requirements for certain adults beginning in FY 2018
- Provides more administrative funding to states that implement work requirements

Medicaid Caps

- Caps increase based on consumer price index plus one percentage point for elderly, blind and disabled
- 2020 option for states to receive block grant funding instead of per-capita caps

Taxes

- Most ACA taxes repealed beginning in 2017
- Cadillac tax delayed until 2026
- Excess credit amounts couldn't be deposited in Health Savings Account

New American Health Care Implementation Fund

- $1 billion in mandatory funding

Summary provided by Debra M. Bryant, Unified Solutions, LLC, federal government relations consultant to the North Carolina Rural Economic Development Center.

Sources: House Ways & Means Committee, House Energy & Commerce Committee, House Budget Committee, Republican and Democratic Leaders press releases, and various publications including Bloomberg Government, Politico, and The Hill.