House Republicans Release Health Reform Proposals

The Republican Congress released its initial version of healthcare reform, and President Trump stated it is "out for review and negotiation." In general, the American Healthcare Act would repeal many tax-related provisions of the Affordable Care Act, modify Medicaid expansion and tackle the challenges being faced in the individual marketplace under the Affordable Care Act ("ACA").

What the bill does not address are many of the ACA's market reform provisions, such as allowing children to remain on a parent's plan up to age 26, essential benefit requirements and some of the law's other more popular features. Those components would apparently remain in place should this proposed legislation become law without change, leading some to call the proposal "Obamacare Light." The President has indicated that other issues will be considered and rolled out at a later time, such as the ability to purchase policies across state lines.

The good news for employers is that the legislation doesn't include any limitation on the tax deductibility of employer-provided healthcare benefits that Republicans had been considering. However, the Cadillac Tax would remain and be implemented beginning 2025.

In summary, a few of the key features of the proposed legislation are:

- Employer and employee mandates would essentially be repealed, as no penalties will apply retroactively to 2016. The reporting requirements of health coverage under IRC Sections 6055 and 6056 (Forms 1094 and 1095) do not appear to have been repealed.
- Many ACA taxes would be repealed beginning in 2018, such as the medical device tax, tanning tax, Medicare payroll tax increase for incomes of $200,000 or more, net investment tax increase, and the tax on the insurance industry.
- The Cadillac Tax that imposes a 40% excise tax on high-value employer-sponsored coverage, originally set to begin in 2018 and deferred by the Obama administration until 2020, will remain and be further delayed until 2025.
- Over-the-counter medications will be considered a qualified medical expense reimbursable under a tax-advantaged account, such as flexible spending accounts ("FSAs"), beginning in 2018.
- Health FSAs will no longer be subject to an annual maximum limitation beginning in 2018.
- Tax-advantaged contributions to health savings accounts ("HSAs") would increase and be equal to the maximum out-of-pocket limit beginning in 2018.
- The current premium tax credit program for low-income taxpayers who purchase coverage on the exchange will be modified and then repealed in 2020. The credit is to be replaced with an age-adjusted refundable tax credit that decreases in amount for higher-income taxpayers. This refundable tax credit is available for state-approved major medical health insurance and unsubsidized COBRA coverage.

Ultimately, what matters for now is that the ACA is still the law of the land, and employers should continue to comply with all relevant provisions until such time as legislation is passed and signed by the President. This suggested legislation is just the first step in what will undoubtedly be a controversial process to modify the ACA as we know it today. We will keep you apprised of the developments as they unfold.

ADDITIONAL INFORMATION

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