Issue Brief

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KEY POINTS

Highlights of the repeal include:

- repeal the individual mandate
- maintain prohibition of denying coverage to people with pre-existing conditions and allowing individuals to remain on their parents' health plans until age 26
- Medicaid spending would be a per capita allotment
- tax credits offered to those purchasing insurance through the open market would be based on age and amount to $2,000 for individuals younger than 30 and increase to a maximum of $4,000 for a person 60 or older
- eliminate Medicaid disproportionate share payment reductions

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House Republicans Release Legislation to Repeal and Replace Parts of the ACA

The plan is expected to gradually end the expansion payment benefits to Medicaid, which has provided coverage to more than 10 million people in 31 states.

Nonetheless, the Republican leaders said they would keep three popular provisions in the ACA: the prohibition on denying coverage to people with pre-existing conditions, the ban on lifetime coverage caps and the rule allowing young people to remain on their parents' health plan until age 26.

Medicaid recipients' open-ended entitlement to health care would be replaced by a per capita allotment to the states. Tax credits proposed by House Republicans would start at $2,000 a year for a person below age 30 and would rise to a maximum of $4,000 for a person 60 or older. A family could receive up to $14,000 in credits.

This bill's version drops a proposal in the earlier leaked version to require employees with high-cost employer-sponsored health insurance to pay income and payroll taxes on some of the value of that coverage. In addition, it would delay a provision of the ACA that imposed an excise tax on high-cost insurance plans provided by employers to workers. The bill would suspend the tax from 2020 through 2024.

COMMENT

This bill has a long way to go before it may, if in fact, become law. While the House is intended to use the budget reconciliation process to prevent a filibuster in the Senate, thereby allowing a simple majority vote to cause passage. However, several Republican senators have already expressed opposition. This would signal the bill may not succeed.

There are no amendments to the provider payment amounts mandated by the ACA. One could construe from that major missing element that the Republican bill is still not a complete repeal and replace program.

Much more will be needed to repeal the ACA and to have a so-called better replacement in place.

Below are the major aspects of the first part of the bill. This item is 66 pages.

TITLE I — ENERGY AND COMMERCE

Sec. 101. The Prevention and Public Health Fund – would be repealed canceling some $6.2 billion from 2019 through 2024 and some $2 billion in every year beginning in 2025.

Sec. 103. Eliminates Federal Payments to States – to any provider that is primarily engaged in family planning services, reproductive health, and related medical care; and who provides for abortions.

continued

Sec. 111. Repeals Medicaid Provisions – effective January 1, 2020, for a state that elected to be a qualified entity for purposes of determining, on the basis of preliminary information, whether any individual is eligible for medical assistance under the State plan or under a waiver of the plan for purposes of providing the individual with medical assistance during a presumptive eligibility period. The ACA mandated this provision be effective January 2014. This provision would affect more than 10 million people in 31 states.

Sec. 112. Repeals Medicaid Expansion – by eliminating the EFMAP for new ACA expansion effective January 1, 2018. Medicaid payments would revert to 80 percent

Sec. 113. Elimination of DSH Cuts – reductions would be effective for FY 2019.

Sec. 114. Reduces State Medicaid Costs – by "disenrolling high dollar lottery winners" effective October 1,2017. (no comment, but this amendment consumes nearly 10 percent of the bill's total length.)

Sec. 116. Provides Incentives for Increased Frequency of Eligibility Redeterminations – Would require a State to re-determine an individual's eligibility such medical assistance no less frequently than once every 6 months. For each calendar quarter during the period beginning on October 1, 2017, and ending on December 31, 2019, the Federal matching percentage would be increased by 5.0 percentage points with respect to State expenditures attributable to activities carried out by the State.

Sec. 121. Per Capita Allotment for Medical Assistance – would be used to change the Federal Medicaid matching amounts. The amounts would be based on FY 2016 information and would become effective for federal fiscal year 2019.

Sec. 131. Repeal of Cost-Sharing Subsidy – Section 1402 of the Patient Protection and Affordable Care Act is repealed effective for plan years beginning after December 31, 2019.

Sec. 132. Patient and State Stability Fund – The Social Security Act (42 U.S.C. 301 et seq.) would be amended by adding the following new title: 18 section "TITLE XXII-PATIENT AND STATE STABILITY FUND" effective January 1, 2018, and ending December 31, 2026.

"A State may use the funds allocated to the State under this title for any of the following purposes:

> "(1) Helping, through the provision of financial assistance, high-risk individuals who do not have access to health insurance coverage offered through an employer enrolled in health insurance coverage in the individual market in the State, as such market is defined by the State (whether through the establishment of a new mechanism or maintenance of an existing mechanism for such purpose).
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> "(2) Providing incentives to appropriate entities to enter into arrangements with the State to help stabilize premiums for health insurance coverage in the individual market, as such markets are defined by the State.

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"(3) Reducing the cost for providing health insurance coverage in the individual market and small group market, as such markets are defined by the State, to individuals who have, or are projected to have, a high rate of utilization of health services (as measured by cost).

"(4) Promoting participation in the individual market and small group market in the State and increasing health insurance options available through such market.

"(5) Promoting access to preventive services; dental care services (whether preventive or medically necessary); vision care services (whether preventive or medically necessary); prevention, treatment, or recovery support services for individuals with mental or substance use disorders; or any combination of such services.

"(6) Providing payments, directly or indirectly, to health care providers for the provision of such health care services as are specified by the Administrator.

"(7) Providing assistance to reduce out-of-pocket costs, such as copayments, coinsurance, premiums, and deductibles, of individuals enrolled in health insurance coverage in the State.

The $100 billion amounts allocated under Title 22 would be as follows:

- For calendar year 2018: $15,000,000,000
- For calendar year 2019: $15,000,000,000
- For calendar year 2020: $10,000,000,000
- For calendar year 2021: $10,000,000,000
- For calendar year 2022: $10,000,000,000
- For calendar year 2023: $10,000,000,000
- For calendar year 2024 $10,000,000,000
- For calendar year 2025 $10,000,000,000
- For calendar year 2026 $10,000,000,000

Sec. 134. Increasing Coverage Options – would change the permissible age variation in setting health insurance premium rates from three to one, to five to one for adults effective January 1, 2018.

A companion 57-page document highlights the following changes that affect taxes:

- Repeals the Tanning Tax effective December 31, 2017.
- Repeals the Tax On Prescription Medications effective December 31, 2017.
- Repeals the Health Insurance Tax effective December 31, 2017.
- Repeals the Net Investment Income Tax effective December 31, 2017.
- Adds Modifications to Premium Tax Credit effective for tax years beginning after December 31, 2017.

continued

The bill's language includes the following.

In the case of household income (expressed as percent of the poverty line) within the following income tiers	Up to Age 29		Age 30-39		Age 40-49		Age 50-59		Age 60-64	
	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %
Up to 133%	2	2	2	2	2	2	2	2	2	2
133%-150%	3	4	3	4	3	4	3	4	3	4
150%-200%	4	4.3	4	5.3	4	6.3	4	7.3	4	8.3
200%-250%	4.3	4.3	5.3	5.9	6.3	8.05	7.3	9	8.3	10
250%-300%	4.3	4.3	5.9	5.9	8.05	8.35	9	10.5	10	11.5
300%-400%	4.3	4.3	5.9	5.9	8.35	8.35	10.5	10.5	11.5	11.5

- Eliminates the individual mandate effective December 31, 2015. The current $695 penalty for not carrying insurance becomes $0.
- Eliminates the employer mandate effective with months beginning after December 31, 2015.
- Repeals the tax on employee health insurance premiums and health plan benefits with respect to any taxable period beginning December 31, 2019.
- Repeals the tax increases on health savings accounts – would modify the ACA's increase in the tax on health savings accounts by striking "20 percent" and inserting "10 percent." The Archer MSAs would be amended by striking "20 percent" and inserting "15 percent." Both changes would apply to distributions made after December 31, 2016.
- Repeals the medical device excise tax – effective after December 31, 2017.
- Repeals the Medicare tax increase – repeals the so-called Medicare tax increase on earnings effective with respect to remuneration received after, and taxable years beginning after, December 31, 2016.
- There shall be allowed a monthly credit 1/12 of
  (A) $2,000 in the case of an individual who has not attained age 30 as of the beginning of such taxable year,
  (B) $2,500 in the case of an individual who has attained age 30 but who has not attained age 40 as of such time,
  (C) $3,000 in the case of an individual who has attained age 40 but who has not attained age 50 as of such time,
  (D) $3,500 in the case of an individual who has attained age 50 but who has not attained age 60 as of such time, and
  (E) $4,000 in the case of an individual who has attained age 60 as of such time.

The sum of monthly credits with respect to any taxpayer for any taxable year could not exceed $14,000. With respect to any taxpayer for any month, monthly credit amounts shall be taken into account only with respect to the five oldest individuals with respect to whom monthly credit amounts could otherwise be so taken into account.

COMMENT

As noted earlier, there are no mentions of changes in the provider arena. But, if Medicaid payments are capped and/or reduced, providers will be at major risk.

Eliminating most, if not all, ACA taxes will place great strain on governments' abilities of financing health care to many low-income individuals.

Without more definitive information, it is still difficult to predict any repeal and replacement provisions that maybe forthcoming.

Analysis provided for MHA
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