Issue Brief

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Draft House Repeal and Replace ACA Bill Has Leaked: Provides Limited Details

No doubt you are concerned about what is happening in Washington regarding Congressional activities to repeal and replace the Affordable Care Act. Last week, a 106-page draft House bill repealing and replacing several aspects of the ACA was leaked.

The document carries a Feb. 10 date, and it no longer maybe completely relevant. The House is expected to start discussions on their plans this coming week after returning from their presidential week recess. Nonetheless, the information suggests a number of aspects House Republicans are trying to accomplish.

The draft is comprised of two major sections. Title I includes amendments offered by the House Energy and Commerce committee. Title II are those offered by the House Ways and Means Committee.

Energy and Commerce Provisions

The draft would rescind the additional Medicaid payments to the 31 states that expanded their Medicaid programs under the ACA. Those payments would cease Jan. 1, 2020. In other words, the federal government would no longer provide additional Medicaid matching funds to "new" Medicaid eligible individuals stemming from the ACA. There are about 11 million such individuals that have become Medicaid eligible as a result of the ACA. States would still be able to cover these people if they chose, but they would receive much less federal money than currently.

The material would repeal the current Medicaid federal matching program system and replace it with a per-capita based program. The per-capita amount would use fiscal year 2016 as a base and make numerous adjustments for inflation and the types of coverage provided by the states. For example, the base rates would not include state Medicaid outlays for most abortion services. Also, the draft would eliminate current state disproportionate share hospital reductions.

Another amendment would create, "TITLE XXII-STATE INNOVATION, GRANTS AND STABILITY PROGRAM." The objective of the program would be to provide states with additional funds to be used for:

> "(1) Helping, through the provision of financial assistance, high-risk individuals who do not have access to health insurance coverage offered through an employer enroll in health insurance coverage in the individual

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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).

"(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 and small group market, as such markets are defined by the state.

"(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 state health insurance market 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), 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 [CMS] Administrator.

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

The 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

The draft would change the permissible age variation in setting health insurance premium rates from 3 to 1, to 5 to 1 for adults effective Jan. 1, 2018.

continued

WAYS AND MEANS ITEMS

The draft would recapture excess advance payments of premium tax credits.

The draft would make modifications to the premium tax credit. 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

The above table is for "intent" only inasmuch as the draft notes that the above percentages need to be increased to the percentages that are intended to apply for 2017.

The small business tax credit would not apply with respect to amounts paid or incurred in taxable years beginning after Dec. 31, 2019.

The individual mandate penalty currently $695 would be zeroed effective Dec. 31,2015.

The draft's section 209 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 Dec. 31, 2016.

Section 212 would eliminate the tax on medical devices after Dec. 31, 2017.

Beginning Jan. 1, 2020, the draft would repeal the tax on employee health benefits (the so-called Cadillac Tax).

The amendments made by section 216 repealing the so-called Medicare tax increase on earnings would be effective with respect to remuneration received after, and taxable years beginning after, Dec. 31, 2016.

With respect to the refundable tax credit for health insurance coverage, the draft adds Section 221. This section states that 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.

The tax exemption for employer-sponsored health insurance would be capped at the 90th percentile of current premiums for calendar years beginning 2019.

COMMENT

As noted at the beginning of this analysis, this is a Feb. 10 document and much may have already have been changed. It is noteworthy to wonder if the document was intentionally leaked to gain feedback. The material presented here is but a snapshot of the entire draft bill.

However, there are four key elements of the House bill to focus on:

1. Repeal of most tax increases mandated by the ACA;
2. Age-based portable tax credits;
3. Enhanced health savings accounts; and
4. State innovation grants.

There are many unanswered questions about the material. Medicaid is a growing and increasing portion of both state and federal budgets. There are several major issues associated with changes to Medicaid. One is to eliminate the ACA Medicaid expansion monies to the 31 states that did, in fact, expand their Medicaid populations. This draft suggests this is a major thrust of the lawmakers. Doing so would (1) greatly decrease federal outlays, and (2) impose new costs at the state level with states having to either reduce provider payments, limit coverage and reduce eligible populations or combinations of all three.

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 much more definitive information, it is still difficult to predict any repeal and replacement provisions that maybe forthcoming.

Analysis provided for MHA by Larry Goldberg, Goldberg Consulting