

Legislative Update

AAPM SPRING CLINICAL

MARCH 20, 2017

NEW ORLEANS

MATT REITER

CAPITOL ASSOCIATES, INC.

What We Will Cover

What has happened so far in 2017

- Congress
- Administration
- ACA Repeal/Replace
- Quality Payment Program

Congressional Landscape

House of Representatives

- 241 Republicans
- 194 Democrats

House Leadership

Speaker of the House: Paul Ryan (R-WI)

Majority Leader: Kevin McCarthy (R-CA)

Minority Leader: Nancy Pelosi (D-CA)

Minority Whip: Steny Hoyer (D-MD)

United States Senate

- 52 Republicans
- 48 Democrats (including two Independents)

Senate Leadership

• Majority Leader: Mitch McConnell (R-KY)

• Minority Leader: Chuck Schumer (D-NY)*

Cabinet Confirmations

Confirmation of Cabinet

- **Secretary of HHS:** Tom Price
- **Administrator of CMS:** Seema Verma
- **NRC Chair:** Kristine Svinicki (elevated from Commissioner to Chair)
- **NIH Director:** Francis S. Collins, M.D., Ph.D.
 - **NIH NCI:** Doug Lowy
- **FDA Commissioner:** Scott Gottlieb, M.D. (Confirmation Pending)
- **OMB Director:** Mick Mulvaney
- **Secretary of Energy:** Rick Perry

Executive Action

Executive Orders

- 60 Day Regulatory Freeze
- Reducing Regulations (Eliminate two regulations for every new regulation)
- Ease Administrative Burdens of ACA

Proposed Rule easing 2018 Exchange Requirements

Health Reform



Health Reform

Congress is using the **Budget Reconciliation** process to repeal/replace the Affordable Care Act (ACA). Budget Reconciliation bills only need a simple majority to pass in both the House and the Senate. This allows the GOP to avoid a filibuster by Senate Democrats.

Budget Reconciliation bills are limited to provisions dealing the raising/spending of money.

The ACA was passed using Budget Reconciliation.

Health Reform

How does Reconciliation work?

- ✓ 1. Pass a unified budget
- ✓ 2. Instruct committees in both Chambers to identify savings
- ✓ 3. Committees pass bills
- ✓ 4. Budget Committees consolidate and passes new bill
5. Floor vote in both Chambers



Health Reform

American Health Care Act



On March 6th, Republicans in the House of Representatives introduced the American Health Care Act (AHCA). This bill, if enacted, will effectively repeal and replace the Affordable Care Act (aka Obamacare).

On March 8th, the House Ways and Means Committee and House Energy and Commerce Committee marked up and passed the bill with no significant changes.

On March 16th, the House Budget Committee marked up and passed the bill with no changes.

On March 17th, Speaker of the House, Paul Ryan (R-WI) expressed his intent to hold a vote on Thursday, March 23rd.

Health Reform

Comparing the ACA and the AHCA



Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

Income-based advanceable, refundable tax credits for premiums available to individuals earning up to 400% FPL. Additional assistance for cost-sharing component for individuals earning up to 250% of FPL

Persons in Household	100% FPL	400 %FPL
1	\$11,880	\$47,550
2	\$16,020	\$64,100
4	\$24,300	\$97,200

AMERICAN HEALTH CARE ACT

Age-based advanceable, refundable tax credits.

- Under age 30: \$2,000
- Between 30 and 39: \$2,500
- Between 40 and 49: \$3,000
- Between 50 and 59: \$3,500
- Over age 60: \$4,000

Tax credits are reduced by \$100 for every \$1,000 of income above \$75,000 per year (\$150,000 for joint filers).

Replacement to happen in 2020

Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

Individual Mandate tax penalty to purchase qualified health insurance.

AMERICAN HEALTH CARE ACT

Mandate penalty is \$0 beginning with the 2016 tax year.

It is replaced in 2020 with a 30% surcharge on premiums for plan year if individual did not maintain continuous coverage (no gaps of more than 63 days over previous 12 months).

Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

Minimum actuarial value (AV) for plans offered on exchanges is 60%. Plans must offer a plan with an AV of at least 70% and 80% in order to participate in exchanges.

Plans can charge older enrollees three times more than younger enrollees

AMERICAN HEALTH CARE ACT

No actuarial value requirement.

Plans can charge older enrollees five times more than younger enrollees

Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

Allowed states the option to expand Medicaid coverage to individuals earning up to 138% FPL. Federal government initially matched 100% of the costs for the expansion population. The federal match gradually decreases to 90% in 2020.

AMERICAN HEALTH CARE ACT

Repeals the Medicaid expansion in 2020. Individuals covered under the expansion would be grandfathered in but would be subject to new eligibility requirements if they lose Medicaid coverage.

Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

Allowed states the option to expand Medicaid coverage to individuals earning up to 138% FPL. Federal government initially matched 100% of the costs for the expansion population. The federal match gradually decreases to 90% in 2020.

AMERICAN HEALTH CARE ACT

Changes the way federal government provides financial assistance to state Medicaid programs to a per capita cap system. Caps the growth in per-enrollee payments for most Medicaid beneficiaries at the medical care component of the consumer price index (CPI) starting in 2020.

Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

In general, the ACA focused on keeping premiums affordable with tax subsidies while also instituting an annual cap on out-of-pocket spending.

AMERICAN HEALTH CARE ACT

In general, the AHCA also focuses on lowering premiums but does so by allowing insurers to increase cost sharing obligations in plans and improving risk pools.

The AHCA encourages the use of Health Savings Accounts (HSA) linked to high-deductible health plans.

The AHCA maintains the ACA's annual cap on out-of-pocket spending.

Health Reform

Comparing the ACA and the AHCA

AFFORDABLE CARE ACT

Included two temporary and one permanent risk adjustment programs to help insurers manage risk as they adjust to the new markets.

AMERICAN HEALTH CARE ACT

Creates a Patient and State Stability Fund which awards grants to states to help manage risk. Examples of how the grants can be used include subsidizing large medical claims for insurers and creating high-risk pools.

Health Reform

American Health Care Act – CBO Score

AHCA will meet budget reconciliation saving targets.

- \$337 billion reduction in Federal spending compared to current law over ten years

AHCA Reduces Coverage

- 14 million fewer insured in 2018
- 21 million fewer insured in 2021 (end of Medicaid expansion)
- 24 million fewer insured in 2026

AHCA lowers premiums

- 15% - 20% higher premiums in 2018 and 2019
- Lower premiums from 2020 – 2026

Patient and State Stability Fund will be effective in improving risk pools.

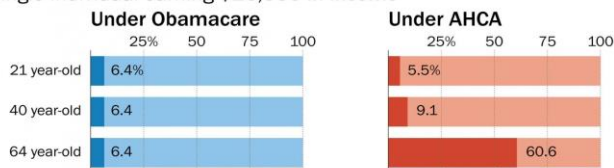
Health Reform

American Health Care Act – CBO Score

Insurance premiums paid as a percent of income

Estimates from the Congressional Budget Office.

Single individual earning \$26,500 in income



Single individual earning \$68,200 in income

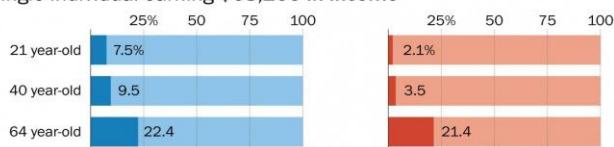
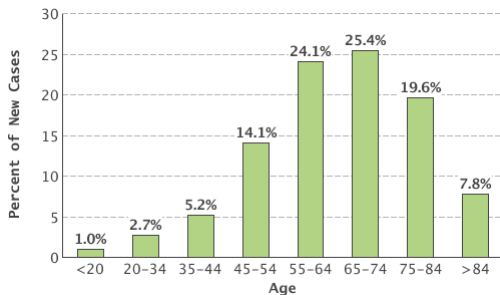


Chart obtained from the Washington Post

Health Reform

American Health Care Act – Impact on Patients

Percent of New Cancers by Age Group: All Cancer Sites



April 29, 2015

Chart obtained from National Cancer Institute.

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Health Reform

American Health Care Act – Impact on Patients

Questions to be answered

- ❖ Will \$4,000 be a large enough subsidy for older patients? Especially low-income patients?
- ❖ How will consumers respond to new HDHPs linked to HSAs?
- ❖ What will insurance products look like in 2020? Will insurers offer fewer plans with high actuarial values? Will products continue to offer narrow networks?
- ❖ Will essential health benefit regulations be changed?

Health Reform

American Health Care Act – Impact on Patients

Cancer Prevention Services Currently Covered Under Essential Health Benefits

- Colorectal cancer screenings for adults over 50 years old
- Breast Cancer Genetic Test Counseling (BRCA) for women at higher risk for breast cancer
- Breast Cancer Mammography screenings every 1 to 2 years for women over 40
- Breast Cancer Chemoprevention counseling for women at higher risk
- Cervical Cancer screening
- Human Papillomavirus (HPV) DNA Test every 3 years for women with normal cytology results who are 30 or older

Health Reform

American Health Care Act

It is unlikely that the AHCA will pass both House and Senate in its current form.

House expected to vote on Thursday.

Conservative House Members are pushing for the bill to go further.

- Medicaid work requirement

Moderate Republican senators and some governors are pushing to change certain provisions of the bill.

- Maintain Medicaid Expansion
- Strip defunding of Planned Parenthood
- Increase subsidies for low-income, elderly consumers

Will AHCA coverage enforcement mechanism (30 percent premium surcharge) survive the reconciliation process?

“I have wondered at times what the Ten Commandments would have looked like if Moses had run them through the US Congress.”

— President Ronald Reagan



President Trump's "Skinny" Budget

DOD: \$52.3 billion **increase** (10%)

HHS: \$15.1 billion (17.9%) **reduction**

NIH: \$5.8 billion **reduction**

FDA: Not listed. Will increase user fees.

- Provides \$1.1 billion to implement the 21st Century Cures Act (21.1% increase)

NRC: Not listed

EPA: \$2.6 billion **reduction** (31.4%)

DOE: \$1.7 billion (5.6%) **reduction**

- **Provides** \$120 million to restart licensing activities for the Yucca Mountain nuclear waste repository and initiate a robust interim storage program.
- \$1.4 billion (11.3%) **increase** for National Nuclear Security Administration
- \$900 million **reduction** for DOE Office of Science

Appropriations

Current Continuing Resolution Expires on April 28th

Need to Address Debt Ceiling

Shut down fight looming?

Update on 2016 AAPM Initiatives

Cancer Moonshot

H.R. 35, the Low-Dose Radiation Research Act of 2015

21st Century Cures Act

Cancer Moonshot Initiative

NIH National Cancer Institute: National Cancer Moonshot Initiative

- Continues under Trump Administration
- Blue Ribbon Panel Recommendations
 - Minimize cancer treatment's debilitating side effects
 - Develop new cancer technologies
 - Develop a 3-D cancer atlas
 - Develop ways to overcome cancer's resistance to therapy
- Funding Opportunities

Greater emphasis on radiation therapy and diagnostic imaging

<https://www.cancer.gov/research/key-initiatives/moonshot-cancer-initiative>

H.R. 35, the Low-Dose Radiation Research Act of 2015

Introduced by Rep. Randy Hultgren (R-IL)

AAPM endorsed H.R. 35

Fosters a renewed domestic effort to study low-dose radiation

Directs the Department of Energy (DOE) to carry out a research program on low dose radiation to enhance the scientific understanding of and reduce uncertainties associated with the effects of exposure to low dose radiation.

Directs DOE to work with the National Academies to conduct a study assessing the current status and development of a long-term strategy for low dose radiation research.

Requires the DOE to submit to Congress a five-year research plan that responds to the study's findings and recommendations and identifies and prioritizes research needs.

H.R. 35, the Low-Dose Radiation Research Act of 2015

H.R.589 - Department of Energy Research and Innovation Act of 2017

Sponsored by Rep. Lamar Smith (R-TX)

Passed House on 1/24/2017

Pending before Senate Committee on Energy and Natural Resources

(c) LOW-DOSE RADIATION RESEARCH PROGRAM.—

- (1) IN GENERAL.—The Director shall carry out a research program on low-dose radiation.
- (2) PURPOSE.—The purpose of the program is to enhance the scientific understanding of, and reduce uncertainties associated with, the effects of exposure to low-dose radiation to inform improved risk-management methods.

21st Century Cures Act

21st Century Cures Act authorizes \$1.8 billion over 7 years

- Will funding continue to be appropriated?

FDA Premarket approval notice

In the March 14, 2017, *Federal Register*, the FDA released a proposed list of class II devices for which it would no longer require premarket notification. FDA is soliciting comments on the list.

Federal hiring freeze/FDA exemption

MIPS Update

2017 marks the first reporting year of the new Medicare Quality Payment Program (QPP).

- Merit-based Incentive Payment System (MIPS)
- Advanced Alternative Payment Models (APM)

Data reported in 2017 will affect 2019 Medicare Part B reimbursements. Payment adjustments range from -4% for lowest performers to +4% for highest performers, or anywhere in between.

2017 Transition Year allows for partial reporting of MIPS data to avoid negative payment adjustments.

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