

PUBLICATION

Republican ACA Replacement Passes House Committees on Party Line Votes

Authors: Sheila P. Burke, Tiffani Vivienne Williams, Nicole Diane Carelli
March 10, 2017

On Thursday, March 9, after two overnight markups (one lasting 18 hours and one more than 27 hours), the House Ways and Means Committee and House Energy and Commerce Committee voted 23 to 16 and 32 to 23, respectively, to approve their sections of the American Health Care Act (AHCA), Republicans' proposal to repeal and replace the Affordable Care Act (ACA). Each vote was along party lines with all Republicans in favor and all Democrats opposed. The bill, which was released on Monday night, will now move to the House Budget Committee.

The Ways and Means Committee did not dig into the Republican proposal to replace the health care law's premium tax credits until about 1:00 a.m., after spending the bulk of the day Wednesday debating the tax treatment of insurance executives' salaries and the repeal of a tax on tanning beds. The Ways and Means Committee's section of the legislation eliminates penalties related to the individual and employer mandates; loosens requirements on health savings accounts by raising the annual contribution limits to \$6,550 (\$13,100 for a family) and lowering the taxes on distributions used for expenses other than qualified medical expenses to pre-ACA levels, among other actions; and replaces the ACA's premium tax credits with new aged-based tax credits. Under the AHCA, everyone who earns less than \$75,000 per year (or \$150,000 for a couple filing jointly) would receive the same level of help:

- \$2,000 per year for those under 30;
- \$2,500 per year for those between 30 and 40;
- \$3,000 per year for those between 40 and 50;
- \$3,500 per year for those between 50 and 60; and
- \$4,000 for those over 60.

The bill would also repeal the ACA's medical device excise tax of 2.3 percent that had been expected to come into effect in 2018, as well as the Branded Drug Prescription Fee. The legislation also delays implementation of the so-called Cadillac Tax on the most expensive job-based health insurance plans from 2020 to 2025. However, House Ways and Means Committee Chairman Kevin Brady (R-TX) insisted the tax will never be allowed to come into effect, saying "let me assure you, the Cadillac Tax is not going to take place."

The bill text did not change substantially during the panel's consideration. Committee Democrats unsuccessfully offered several amendments identical to those offered by Republicans against the ACA in 2009, including legislative text to ensure there is no tax hike for people making less than \$250,000 and a provision requiring the final bill text be available for 72 hours before a vote. Democrats also objected to the Republican push to approve the bill before the Congressional Budget Office completes its analysis of the bill's cost and effect on insurance coverage. That analysis is expected early next week.

Committee Republicans defended the process, arguing that President Trump was elected on a mandate to repeal the health care law and that the GOP has held dozens of repeal votes and hearings that resulted in the AHCA. "We're on a rescue mission," said Rep. Cathy McMorris Rodgers (R-WA). "Obamacare, though well-intentioned, has failed."

The bill was also under simultaneous consideration by the House Energy and Commerce Committee, which worked through Wednesday night and into Thursday, eventually approving the measure on a party line vote Thursday afternoon. The Energy and Commerce Committee's version of the bill sunsets the Medicaid expansion; provides extra funding for non-expansion states in an attempt to bring parity between expansion and non-expansion states; establishes a new state-run "Patient and State Stability Fund" to help states fund high-risk individuals and to reduce other health care costs; and makes individual and small group market reforms. Beginning in 2020, the AHCA transforms Medicaid into a per capita cap model, which will set federal funding for states based on per enrollee categories (e.g., elderly, blind, disabled, children, non-expansion adults and expansion adults), updating such levels by the medical care component of the Consumer Price Index.

Like in the Ways and Means Committee, Energy and Commerce Committee Democrats offered a number of amendments that failed along party lines. In addition to rhetorical amendments, such as changing the bill's title, these amendments included striking the repeal of the Medicaid expansion and provisions related to the continuous coverage of individuals, preserving the prevention and public health fund, and addressing the rise in prescription drug prices.

The next step will be to move the bills to the Budget Committee, where both portions of the bill will be packaged together, followed by the Rules Committee before reaching the House floor for a vote. The AHCA may face significantly more resistance in the full House, where a number of Republican members have come out against the bill in its current form. For example, former House Freedom Caucus Chairman Rep. Jim Jordan (R-OH) panned the legislation and called instead for a clean repeal of the ACA. Moderate House Republicans have also expressed reservations with the package, specifically as it relates to the phase-out of the Medicaid expansion and the refundable tax credits to purchase coverage. It remains to be seen whether Republican leadership will make any concessions before final passage in an attempt to secure additional votes.

Speaker Paul Ryan's (R-WI) goal is to pass the bill through the full House in the next three weeks. Senate Majority Leader Mitch McConnell (R-KY) has said he plans to push the bill through the Senate by April 7, before both chambers leave for their Easter recess. That said, the bill faces a number of challenges in the Senate, where Republicans can only afford to lose two members and still pass the measure. Already, a handful of Senate Republicans have indicated their opposition to Medicaid reforms and the one-year moratorium on Planned Parenthood funding.

The AHCA is only the first step in a three phase plan by congressional Republicans to repeal and replace the ACA. After consideration of the Republican proposal under the already-passed reconciliation instructions (a process that allows for expedited consideration of budget-related legislation), the focus will shift to the Trump Administration and Secretary of Health and Human Services (HHS) Tom Price. According to Speaker Ryan, in phase two Secretary Price will "[utilize] the regulatory flexibility that [the] secretary of HHS has to deregulate the marketplace, to lower the costs and stabilize the market, that's what Tom Price will do." As part of this effort, HHS has already proposed increased restrictions on exchange plan enrollment and loosened restrictions on the financial structure of exchange plans. See our February 16 update "[HHS Makes its First Move to Stabilize the Individual Health Insurance Market](#)" for additional information. In phase three, Congress will consider legislation that cannot be considered under reconciliation, including medical malpractice reform and drug-pricing measures. Three pieces of legislation in this third phase were approved on Wednesday by the House Education and Workforce Committee: the Small Business Health Fairness Act, the Self-Insurance Protection Act and the Preserving Employees Wellness Programs Act.

We will continue to report on the AHCA as it moves through the House and Senate in the coming days and weeks.

