

## Shining A Light On GOP Plan For Health Care Reform

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Since the 2016 election of President Trump and Republican majorities in both the House and the Senate, there has been a strong push to repeal and replace the Affordable Care Act. However, there has been little detail as to what is meant by “repeal,” or “replace,” or when either will happen.

For the first time since the election, a detailed Republican health care reform plan has emerged. In last week’s address to Congress, President Trump outlined five principles that should be included in any health care reform bill. Then, following disclosure of a GOP outline of a health care plan, on March 6, 2017, the House Republican leadership released draft health care reform legislation that is largely consistent with Trump’s principles.

Key questions, however, remain. The House GOP plan has not yet been analyzed by the Congressional Budget Office, so it is unknown how much the plan will cost and what its impact will be on the number of people who are insured. Additionally, despite the Republican majority in the Senate, it is unclear whether all the Republican senators will support the bill.

One thing remains clear: the changes contemplated by the Trump administration and congressional Republicans are likely to have significant implications for just about every sector of the health care industry.

### What Does Repeal and Replace Actually Mean?

The House GOP plan provides a blueprint for eliminating important elements of the ACA and replacing them with a more market-oriented approach.

Both President Trump and the House GOP plan contemplate using tax credits to subsidize the purchase of health insurance. The House GOP plan provides the details of how this would work. It would replace the ACA’s subsidies with a universal, advanceable, refundable tax credit for anyone who does not receive health insurance through an employer or the government. The credit is advanceable because it is available when policy premiums are due (unlike a typical tax credit that applies only when tax returns are filed). The credit is refundable because people who have a larger credit than tax bill receive a check from the government for the difference.



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At first glance, the proposed tax credit looks similar to the ACA's advanced premium tax credits. But it has key differences. The ACA credit was available only to people with income less than 400 percent of the federal poverty level. The size of the ACA credit is not uniform — people with smaller incomes receive a larger credit than people with higher incomes. Under the House GOP plan, credits would be based on age ranging from \$2,000 for those under 30 to \$4,000 for those over 60 (with an overall cap of \$14,000 per family). In a break with prior House GOP proposals, the tax credits have an income test: they are available only to those making under \$75,000 per year (or \$150,000 per year for joint filers) and the credits phase out at higher income thresholds. Notably, the credits would grow annually at a rate equal to the consumer price index plus 1 percent, which is far lower than the growth in health insurance premiums over the past few years. That means that if premiums continue to grow at their historic rate, the purchasing power of the tax credits will decrease over time.

Both President Trump and the House GOP plan favor expanded use of HSAs. Under the House GOP plan, the permitted level of contributions to HSAs would increase and users would have greater discretion as to where they spend HSA funds. The House GOP plan also calls for a "Patient and State Stability Fund," which would provide for grants for states to use in stabilizing the individual and small group insurance markets and to provide financial assistance for people with preexisting conditions who cannot afford to purchase health insurance. The bill appropriates \$15 billion for the first two years and \$10 billion annually after that.

The House GOP plan calls for repeal of a number of tax measures that the GOP has long criticized:

- the individual mandate, which is a penalty assessed on certain people who do not buy health insurance and penalties that are assessed on certain employers that do not offer health insurance to their employees;
- the "Cadillac tax" on high-cost health insurance plans (at least through 2024);
- the so-called "medicine cabinet tax," which was actually a prohibition against using money set aside in HSAs or flexible saving accounts to purchase over the counter drugs unless they are purchased pursuant to a prescription from a doctor;
- annual taxes of approximately \$3 billion imposed on the branded pharmaceutical industry;
- the excise tax on medical devices; and
- the increased threshold for deducting medical expenses.

A key question that the House GOP plan leaves unaddressed is how the repeal of ACA taxes and the plan's tax subsidies will be funded. The plan appears to be funded at least in part by efforts to restrain the growth of the Medicaid program (discussed below) and the restoration of the "Cadillac tax" in 2025. The latter provision is a classic budgetary device — the Congressional Budget Office will "score" the Cadillac tax as providing significant revenue beginning in 2025 even though it is disliked by members of both parties and is unlikely to ever be put into effect. The plan, at least in its current form, does not propose capping the tax exclusion for employer-sponsored health insurance. The House GOP leadership had previously supported caps on the amount of health insurance premiums that would be excluded from taxation as a way to raise funds, but the exclusion is popular with many GOP constituencies.

## **What Will Happen to the ACA's Insurance Regulations?**

The House GOP plan does not alter two ACA provisions that have been supported by President Trump and that are highly popular: the provisions ensuring that anyone can buy health insurance even with a preexisting condition and that children can remain on their parents' health insurance plan until age 26.

That plan, however, does make some important changes to insurance laws. In order to discourage adverse selection (people signing up for health insurance only when they are sick), the plan provides that anyone who has a gap in health insurance coverage for more than 63 days would face a late enrollment surcharge of 30 percent for the year.

The plan also alters the ACA's requirement that plans offered to the oldest population (those immediately preceding Medicare eligibility) can only be three times the cost of those offered to the youngest population. Many believe that the 3:1 ratio makes premiums for the oldest population cheaper than they would otherwise be and premiums for the younger population more expensive than they otherwise would be. The plan proposes to change this ratio to 5:1, which may lead to plans for older people becoming more expensive and those for younger people becoming cheaper.

## **Will Medicaid Spending Going Be Substantially Reduced?**

Prior to the enactment of the ACA, states were only required to offer Medicaid coverage for certain types of low income people — principally children and their parents. The federal government reimbursed a certain percentage of the state's Medicaid expenses — somewhere between 50 percent to 80 percent depending on the state. The ACA expanded Medicaid to cover childless adults with incomes up to 138 percent of the federal poverty level. For this "expansion" population, the federal government reimburses 90 percent of the state's Medicaid costs.

The House GOP plan provides that the Medicaid expansion will stay in place through 2019. Starting in 2020, states can receive the 90 percent match rate only for those people who were covered by Medicaid as of 2019 and remain continually enrolled in Medicaid after that. As of 2020, states could still enroll childless adults in the Medicaid program, but the federal government would provide reimbursement for such individuals at the traditional "match" rate of 50 to 70 percent — not the current 90 percent for the Medicaid expansion population.

The House GOP plan would also curb Medicaid spending through a form of "block" grants. Currently, Medicaid is an entitlement program, meaning that the federal government has an open-ended commitment to "match" each state's spending at the state-specific rate discussed above. The plan would end Medicaid's entitlement status. In its place, Medicaid spending would be capped on a "per capita" basis, meaning that the federal government would provide a fixed amount per person covered.

If the House GOP plan goes into effect, federal Medicaid spending would likely continue to increase — but at less than the current rate. As Medicaid spending has been growing rapidly, any limitation in federal Medicaid spending would mean that state Medicaid spending would have to rise accordingly if Medicaid coverage is to keep pace. As Medicaid already strains many state budgets, a significant increase in the Medicaid costs that a state is forced to bear would leave the state with the option of restricting Medicaid eligibility, cutting spending or raising taxes. Given those options, it is likely that at least some states would opt for reducing Medicaid eligibility.

It is far from clear, however, whether the Medicaid provisions of the House GOP plan have sufficient

support to pass the Senate. Four GOP senators recently warned that they would not support any plan that does not protect the Medicaid expansion population. Moreover, in his speech last week, President Trump argued that Congress should give governors the “resources and flexibility with Medicaid to make sure no one is left out.” It is not clear what Trump meant by this statement and whether he supports the House GOP plan’s Medicaid changes could very well cause some people to lose coverage.

### **Winners and Losers**

Although it is hard to assess the ultimate impact of health care reform until more details emerge, what we know now suggests that particular subsectors of the industry could be winners or losers:

#### *Medical Device Manufacturers:*

Health care reform will likely be a major boon to device manufacturers because there is strong GOP support for lifting the excise tax on devices. Device manufacturers may also benefit from greater flexibility in patients’ ability to use HSA money on devices that would not typically be covered by insurance. That being said, device manufacturers may suffer lost sales to the extent people lose insurance coverage or purchase only thin coverage that leads them unable to afford certain devices.

#### *Hospitals:*

To the extent health care reform results in significantly more uninsured patients, hospitals will likely bear increased costs. Because hospitals often treat patients regardless of ability to pay, more uninsured patients means increased charity care and bad debt write-offs. This burden would fall heavily on disproportionate share hospitals (DSH) — hospitals that treat a large percentage of the indigent population. The ACA had reduced government funding to DSH hospitals under the theory that they would offer less uncompensated care as the number of uninsured people drops. The House GOP plan would benefit DSH hospitals by repealing the ACA’s funding cuts.

#### *Pharmaceutical Industry:*

The plans contemplated by the Trump administration and House GOP will have a mixed impact on the pharmaceutical industry.

The ACA reflected a complex bargain between the Obama administration and the pharmaceutical industry. The pharmaceutical industry benefited from more insured people who could afford to purchase more drugs. It also benefited from the closing of the “doughnut hole,” the coverage gap between an initial threshold of drug costs that would be covered by Medicare Part D and a much higher catastrophic maximum after which Part D coverage would resume. In return, the branded pharmaceutical industry agreed to an annual tax of about \$3 billion (allocated among branded pharmaceutical companies based on their share of the branded pharmaceutical market) and cutbacks on Medicaid reimbursements for prescription drugs.

The House GOP plan partially unwinds this bargain. The plan benefits the pharmaceutical industry by repealing the \$3 billion annual tax and maintaining the closure of the doughnut hole. Additionally, repealing the “medicine cabinet tax” may boost the sale of over the counter drugs. But the pharmaceutical industry will lose to the extent that people reduce purchases of prescription drugs because they lose their health insurance or are covered by plans that provide only limited coverage for expensive drugs, even while the ACA’s cutbacks on Medicaid rebates are left intact.

While the House GOP plan reflects the bill that the House GOP leadership would like to pass, it is likely to be just the start of a heated health care reform debate. Different health care industry subsectors may yet have a significant role in shaping whatever bill, if any, ultimately passes in Congress and is signed by the President.

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