

HEALTH CARE REFORM UPDATE



Keeping you up to date on health care reform

June 28, 2017

ACA Repeal and Replace Efforts Continue in the Senate

On June 22, the U.S. Senate released a discussion draft of the Better Care Reconciliation Act (BCRA) to repeal parts of the Affordable Care Act (ACA). The BCRA is the Senate Republicans' alternative to the American Health Care Act (AHCA) [passed in the House in early May](#). There is not enough support among Senate Republicans to consider the bill this month, so Senate Republican leaders will attempt to schedule a vote on the BCRA following the July 4th recess provided the bill has garnered sufficient Republican backing.

The BCRA bill mirrors the House bill in a number of ways but also includes several key differences. The differences are partly the result of special rules surrounding the budget reconciliation process being used in the Senate for this bill, such as requiring that every provision in the bill have direct budgetary impact. Under reconciliation, Senate Republicans only need to secure a simple majority of 51 votes to pass the bill. There are 52 Republican senators, and the Vice President can vote to break a 50-50 tie, if needed.

Here's what we currently know – and don't know – about the next steps to help you stay informed.

What's Next for the BCRA

If the BCRA passes, it will mark the most significant milestone to date for repeal and replace efforts, but one hurdle will remain before it can be sent to the President and signed into law.

Identical versions of the bill must pass both chambers before being signed by the President and becoming law. Since the BCRA is different from the AHCA, there will be two paths forward if the Senate passes the BCRA: 1) the House could pass the Senate bill and send it to the President; or 2) a bicameral conference committee can meet to negotiate a new compromise bill. That negotiated bill would then have to be passed by both chambers, before sending it to the President for signature.

Although the specific timing to complete this process is unclear, both Congress and the Administration continue to be focused on moving forward with repeal and replace of the ACA.

BCRA Highlights

While it's anticipated amendments may be made to the BCRA before a full Senate vote, here's how it currently compares to the House's AHCA:

What's Similar

- Repeals individual and employer mandate penalties
- Ends enhanced funding for Medicaid expansion
- Expands the individual market age rating band
- Repeals most ACA fees and taxes, but delays the Cadillac Tax until 2026
- Incentivizes continuous coverage

What's Different

- BCRA adds age- and geography-adjusted components to current income-based subsidies
- BCRA maintains protections for pre-existing conditions (AHCA allows state waivers to vary premiums by health status)
- BCRA establishes Association Health Plan rules (called Small Business Health Plans)

What It Means for Employers

Here are some provisions within both the AHCA and BCRA that could affect employers:

- Repeal of the individual and employer mandate penalties
- Delay of the Cadillac Tax until 2026
- State waivers to define Essential Health Benefits
- More flexibility using and contributing to Health Savings Accounts (HSAs) and Flexible Spending Accounts (FSAs)

As written, the BCRA includes a transition period of several years before some provisions become effective and others sunset. Not all ACA provisions are impacted by the BCRA bill. If and when a repeal and replace bill becomes law, there will be two major health care reform laws employers will need to comply with: the new law and the retained sections of the ACA. In the meantime, ACA compliance is required until official guidance to the contrary is issued. For a customized timeline and more information about ongoing annual responsibilities and applicable employer deadlines under the ACA, visit

YourACARoadmap.com.

Staying Informed

To stay up to date on the evolving state of health care reform, we encourage you to bookmark www.InformedonReform.com, including the new Repeal and Replace Update webpage, where we continuously update information as it becomes available.

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