

## HEALTH CARE REFORM UPDATE



Keeping you up to date on health care reform

January 19, 2017

### Navigating the Road Ahead

The next era of U.S. health care reform has begun and Congress has taken initial steps to repeal the Affordable Care Act (ACA). Cigna will share periodic updates as the process unfolds – summarizing what we know and don't know – to help you stay informed.

#### First Steps Toward Repeal Taken

On Jan. 12, the U.S. Senate took the first step toward repealing the ACA by passing a budget resolution by a vote of 51-48. This budget resolution provides direction for how Republicans can start rolling back the ACA. The U.S. House of Representatives then passed the same budget resolution Jan. 13 by a vote of 227-198. The budget resolution is noteworthy because it authorizes the House and Senate to produce legislation, called “budget reconciliation,” that will enable Congress to repeal and replace some parts of the ACA.

#### The Budget Reconciliation Process

Several Senate and House Committees have been instructed to report budget reconciliation legislation by Jan. 27, including some repeal and replacement provisions of the ACA, i.e., they could repeal the individual and employer mandate penalties. Reconciliation bills receive special consideration in the Senate, including that they require a simple majority of 51 votes for passage. However, the bill and amendments must comply with rules that govern the contents of a reconciliation bill, such as provisions must have a direct budgetary impact. For example, changes to insurance market reforms, such as age rating changes, may not have a direct spending impact and may not be allowable in the reconciliation legislation.

In 2015, the Republican Congress passed a [budget reconciliation bill](#) to repeal the penalties associated with the employer and individual mandates, repeal the subsidies and cost-sharing available on public Marketplaces (Exchanges), repeal all the health-related taxes and repeal the

#### Separate, Bi-partisan Bill for Cadillac Tax Repeal

In other important news, bills have been introduced in both the U.S. Senate and House to repeal the 40% excise tax on high cost employer-sponsored health coverage, also known as the “Cadillac Tax.”

Senator Heller (R-NV) and Senator Heinrich (D-NM) introduced S. 58 and Rep. Kelly (R-PA) and Rep. Courtney (D-CT) introduced H.R. 173. These bills are expected to gain support in the coming weeks, and the issue will be a topic of significant debate as Congress shapes the future of health care.

Medicaid expansion, to name a few policies, only for it to be vetoed by President Obama in early 2016. Republicans could likely utilize this legislation as a “playbook” for what they include in this year’s budget reconciliation.

### **Limitations Without a Super Majority in the U.S. Senate**

Currently, Republicans do not hold a 60 seat majority in the Senate, as the Democrats did when drafting and passing the ACA. As a result, they lack the ability to exercise more control over passage of any legislation and prevent a filibuster (a procedure where debate over a proposed piece of legislation is extended, allowing one or more Senators to delay or entirely prevent a vote on the proposal).

Most legislation in the Senate requires 60 votes. Absent this super majority, Republicans are relying on the budget reconciliation process to repeal the ACA. Again, because only certain policies may be considered for a vote in this unique process, the Republicans cannot use this tool to repeal the law in its entirety, nor can they use it to implement a replacement plan in its entirety.

### **Transition Timeline May be Two or Three Years**

Working within these limitations, Congress is expected to produce a budget reconciliation bill with similar repeal provisions as 2015, but also including several “replace” policies, i.e., a policy that could alter the advance premium tax credits (premium subsidies to buy coverage on a public Marketplace) to encourage younger individuals to purchase coverage, and provide a new to-be-determined transition period of two or three years before an eventual replacement plan takes effect. Reconciliation is expected to include some “replace” policies that could, in part, counteract the impact of nullifying the individual mandate to encourage market stability for consumers and plans.

### **An Evolving Landscape – and ACA Remains in Effect Until Official Guidance Otherwise**

There are more questions than answers about what lies ahead for 2017, 2018, 2019 or even 2020, as Republicans continue to reach consensus on important philosophical and policy questions. Expect more details to be unveiled in the weeks ahead while the incoming Trump Administration takes the reins and, possibly, attempts to tackle the ACA using executive and regulatory authority.

Meanwhile, employers, individuals, insurers and other stakeholders should continue to comply with ACA rules unless and until formal guidance relieves some or all of their responsibilities.

### **Staying Informed**

Cigna will communicate via updates, news alerts and web meetings as the state of U.S. health care reform continues to evolve. Be sure and bookmark Cigna's reform website at [www.InformedOnReform.com](http://www.InformedOnReform.com).

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