ITUP Insure the Uninsured Project

Fact Sheet

May 2017

Summary of The American Health Care Act

As Adopted by the House of Representatives 5-4-17

On May 4, 2017, the United States House of Representatives passed the American Health Care Act (AHCA), H.R. 1628, as amended, as a budget reconciliation bill, on a party line vote, 217-213. The AHCA is intended to deliver on the Republican pledge to "repeal and replace" the ACA. Key elements of the AHCA include:

Insurance Market

- ***Coverage Mandates***. Eliminates the ACA requirement for individuals and employers to purchase coverage (individual and employer mandates) and the penalties associated with failure to comply with the mandates, retroactive to December 31, 2015.
- ***Late Enrollment Penalty***. Starting with special enrollment in 2018, replaces the individual mandate with a late enrollment penalty (30 percent premium surcharge for up to one year) for individuals who fail to maintain "continuous coverage," meaning they have a gap in health coverage of more than 63 days in the preceding 12 months. (Special enrollment allows individuals to purchase coverage outside of the annual open enrollment period if they experience a change in life circumstances [e.g., loss of job-based coverage, divorce, a move, birth of a child, etc.])
- ***Benefits***. Maintains the requirement that health plans cover ACA essential health benefits (EHBs), unless the state secures a waiver after 2020, for individual and small employer coverage. Eliminates ACA actuarial value standards. No longer requires health plans to label coverage offerings based on actuarial value (the percent of the benefits paid for by the insurer v. the consumer), often known as metal tiers, (bronze [60%], silver [70%], gold [80%] and platinum [90%]). Retains ACA limits on consumer out-of-pocket costs so that insurers could not offer products with benefits below the catastrophic coverage level in the ACA. Elimination of the metal tiers would make it more difficult for consumers to understand the level of coverage they are purchasing or to compare the relative value of different health insurance products.
- ***State Waiver for EHBs***. Beginning in 2020, states can apply for a waiver to redefine and create state-specific EHBs for the individual and small group markets. Changes to EHBs can impact other market provisions such as annual and lifetime limits tied to EHBs.
- ***Changes to ACA Tax Credits***. For 2018-2020, revises eligibility for ACA premium tax credits so that the subsidies vary by age as well as income; individuals under age 30, with incomes up to 400 percent of the federal poverty level (FPL), would only have to spend up to 4.3 percent of income on health care premiums while individuals above age 59 with incomes over 300 percent FPL would have to pay up to 11.5 percent of income. Under the ACA, premium payment limits vary by income, not age, ranging from 2 percent of income for individuals under 133 percent FPL to 9.6 percent of income for individuals at 400 percent FPL.

Starting in 2018, the AHCA makes tax credits available outside of exchanges for coverage that meets specific requirements. Tax credits under the ACA are only available through exchanges. AHCA repeals the limit on amounts that low-income households (up to 400 percent FPL) must repay in the event they receive excess premium tax credits, requiring families to pay the entire amount of any excess tax credit. Also, federal premium tax credits cannot be used for products that cover abortions beyond the Hyde amendment exceptions.

- ***Premium Tax Credits (subsidies) for Individual Coverage***. Under ACA, tax credits are based on age, income, family size and geography. People who earn from 138 to 400 percent FPL are eligible for subsidies (138 percent in California because Medi-Cal eligibility extends to 138 percent FPL). In 2020 and thereafter, AHCA replaces ACA tax credits with new age-adjusted tax credits that do not vary by geographic region, income or premium levels. Sets maximum tax credit level at $2,000 for an individual under 30, gradually increasing up to $4,000 for individuals age 60 and over. The individual credits are additive, capped for families at $14,000 and begin to phase out for income earners above $75,000. Also, federal premium tax credits cannot be used for products that cover abortions beyond the Hyde amendment exceptions.
- ***Cost-Sharing Reductions***. As of 2020, repeals the cost-sharing reductions that help to lower copayments and deductibles for individuals up to 250 percent FPL enrolled in silver-level coverage (70 percent actuarial value) through exchanges.
- ***Market Rules***. Maintains ACA requirements for insurers to cover all applicants regardless of health status, unless the state secures a waiver, prohibits coverage exclusions for pre-existing conditions, and allows young adults to stay on parent policies until age 26.
- ***Age-Adjusted Rates***. Allows states to change the ratio for health care premiums between the youngest and oldest adults to 5:1 instead of the 3:1 ratio in the ACA. States can also adopt a different ratio using a waiver.
- ***State Waivers of Community Rating***. States that secure Patient and State Stability Fund grants (described below) can seek a waiver of community rating in the individual market. The waiver would allow an individual's health status to be used in setting premium rates. Health status cannot be used as a rating factor for individuals that maintain continuous coverage. Although pre-existing condition exclusions and guaranteed availability remain technically intact, insurers in states that waive community rating could charge extremely high premiums to individuals with pre-existing conditions that did not maintain continuous coverage – effectively excluding them.
- ***Qualified Health Plans (QHPs)***. After 2018, redefines QHPs to exclude plans that provide abortions services beyond the services permitted under the Hyde amendment.

Medicaid

- ***Medicaid Eligibility***. Reduces the federal Medicaid matching rate for adults newly eligible under the ACA beginning in 2020. Continues the higher rate for non-pregnant, childless adults enrolled as of the end of 2019 who do not experience a break in coverage of more than one month.
- ***Medicaid Cap or Block Grant***. Beginning in 2020, establishes Medicaid funding levels for states using a "per capita cap" model where states receive a fixed amount per enrollee. A specific state's funding level would be determined based on 2016 state funding for each type of enrollee (e.g., elderly, disabled, children, adult, etc.) adjusted in subsequent years by the consumer price index (CPI) medical component for most Medicaid populations and the medical CPI +1 for

elderly and disabled enrollees. States have the option to instead adopt a Medicaid "block grant" or lump-sum payment for non-expansion adults and children (or just non-expansion adults) for 10 years. States that choose a block grant are not required to provide family planning services as a mandatory service. Under a block grant, states determine benefits beyond limited required benefits, cost sharing and service delivery system. Statewideness, reasonable standards for determining eligibility and other existing Medicaid requirements will not apply under a block grant.

- ***Medicaid Program Changes***. Makes a series of other changes to the Medicaid program including: (1) eliminates the requirement for state Medicaid programs receiving alternative benefit packages to cover the same ACA essential health benefits required for individual and small employer health insurance; (2) requires Medicaid eligibility redeterminations every six months for adults eligible through the expansion, which results in individuals no longer eligible losing coverage, but can also cause a loss of coverage for eligible recipients who miss deadlines or fail to complete the necessary paperwork; and (3) increases the documentation requirements for citizens and legal immigrants to provide proof of citizenship or lawful presence before obtaining coverage.
- ***Work Requirement as a Medicaid State Option.*** States have the option to add a work requirement as a condition of eligibility for most nondisabled, nonelderly, non-pregnant adults. Countable work activities are defined using Temporary Assistance for Needy Families program definitions. Provides a 5% enhanced federal match to assist states in adopting work requirements in Medicaid.
- ***Reproductive Services.*** Expands the current limitation against the use of federal funds for abortions with a one-year moratorium on providing federal funds to nonprofit community providers that perform abortions.
- ***Community First Choice Option.*** Reduces the enhanced match for the Community First Choice Option program, which is used in California to support the In-Home Support Services program.

Taxes

- ***ACA Revenues***. Repeals ACA taxes, including tax penalties associated with the individual and employer mandates; additional Medicare payroll taxes on high-wage individuals; taxes on health insurers, pharmaceutical manufacturers and medical devices; and delays the so-called "Cadillac tax" on high-end employer-sponsored health plans until 2026.
- ***Health Savings Accounts (HSAs)***. Increases the annual limit on Health Savings Account (HSA) contributions.

Federal Funds

- ***Patient and State Stability Fund.*** Establishes a $138 billion fund available to states starting in 2018 thru 2026. The Fund includes $8 billion over 5 years for states that waive community rating. States could use the funds to provide premium assistance or reduce other out-of-pocket costs for individuals impacted by the use of health status as a rating factor. States must apply for the funds which will be allocated to states by formula for a variety of purposes including, among other possible uses, financial assistance to high-risk individuals – high-risk pools, reinsurance, promoting health insurance participation and assistance to reduce out-of-pocket costs for individuals.

- ***Federal Invisible Risk Sharing Program (FIRSP).*** The FIRSP is established under the Patient and State Stability Fund as a $15 billion reinsurance program to assist states with costs associated with high-risk individuals.
- ***Safety Net Providers.*** Increases federal funding for safety net providers: (1) restores ACA reductions in Medicaid Disproportionate Share Hospital (DSH) funding for expansion states in 2020 and for states that did not expand Medicaid under the ACA in 2018 and (2) increases by $422 million grant funds available for federally qualified health centers (FQHCs).

Summary of final amendments (also incorporated above)

Palmer – Schweikert amendment

Creates a $15 billion risk sharing program to help states lower premiums for health coverage offered in the individual market. The Centers for Medicare and Medicaid Services (CMS) would administer payments to health insurance issuers for individuals with high cost health conditions and "other health trends." This provision is referred to as the "invisible risk sharing program." Individuals with conditions on the list developed by CMS would automatically qualify and health insurance issuers could also voluntarily qualify individuals who do not automatically qualify at the time of application for coverage. CMS would initiate the program for 2018 and states would operate the program starting in 2020.

MacArthur amendment

Allows states to waive ACA essential health benefits, age rating limits and community rating if states implement high-risk pools or some other similar mechanism. The amendment would allow health insurance issuers in states with a waiver to charge significantly more for older individuals and to set rates based on an individual's health status. State waiver applications would be approved unless the Secretary of Health and Human Services disapproves the application within 60 days. States must show that the waiver would: (1) Reduce average premiums in the state, (2) Increase enrollment in coverage (3) Stabilize the state's insurance market, (4) Stabilize premiums for individuals with pre-existing conditions, or (5) Increase the choice of health plans in the state.

Upton amendment

Increases the Patient and State Stability Fund by $8 billion from 2018 to 2023 for states with an approved waiver of community rating under the MacArthur amendment. States could use the additional funds to reduce premiums or other out-of-pocket costs for individuals subject to an increase in premiums because of the community rating waiver.

Congressional Budget Office analysis

The amended version of AHCA adopted by the House has not yet been scored by the CBO. See the ITUP overview of the CBO's original analysis of the AHCA prior to the latest amendments.

Insure the Uninsured Project (ITUP) is a nonprofit, 501(c)(3) organization, founded in 1996, based in Sacramento, California. ITUP's mission is to advance creative and workable policy solutions that expand health care access and improve the health of Californians. ITUP conducts policy-focused research and convenes broad-based stakeholders on health policy topics, acting as an honest broker among diverse health care leaders in the state. To assist with implementation of health reform in California, ITUP hosts an annual statewide conference in Sacramento and facilitates regional and statewide workgroups on topics affecting health and health care in the state.

For more information on this report, contact ITUP Executive Director, Deborah Kelch, at 916-226-3899.

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