Breaking: Senate ACA Replacement Unveiled

Today, Senate Republicans released the Better Care Reconciliation Act (BCRA) of 2017 to replace the Affordable Care Act (ACA). As currently drafted, the Senate “discussion draft” is similar to the bill passed in the House, the American Health Care Act (AHCA), which was approved in May by a narrow margin of 217 to 214. No Democratic senator is expected to vote in favor of the BCRA. However, because of their majority in the Senate, Republicans can lose up to two members of their caucus and still ensure passage of this bill. A vote could come as early as next week, before senators return home for the July 4th holiday recess period.

There are a number of concerns that have been raised by Republican senators about the House bill, including concerns about cuts to Planned Parenthood, changes to Medicaid, weakening market reforms, and less generous coverage. It is unclear at present if the changes in the Senate version would assuage these moderate senators’ concerns, while keeping conservative senators on board. In fact, four conservative Republican senators just announced their opposition to the BCRA, though they remain open to negotiation. This statement alone signifies the difficult balancing act Majority Leader Mitch McConnell (R-KY) has in corraling 50 votes to ensure passage of the bill. The non-partisan Congressional Budget Office (CBO) is expected to release a report on the BCRA in the coming days which will analyze its cost and coverage implications.

Here is a summary of the provisions in the BCRA:

**Medicaid Changes**

- The discussion draft outlines the State Federal Medical Assistance Percentage (FMAP) for the states’ expansion population. FMAP is the amount of funds the
federal government provides to states to care for the Medicaid population. Those percentages under BCRA are 90% in 2020, 85% in 2021, 80% in 2022, and 75% in 2023. In 2024, the FMAP would revert to pre-ACA levels. In comparison, the ACA maintains the 90% FMAP beyond 2020.

- Like the AHCA, the new version would transition Medicaid into per-capita caps, where spending is capped per enrollee or allow states to choose a block grant program.
- The bill sets a lower growth rate for per-capita caps than the House version by using a different consumer price index calculation. In 2025, the BCRA uses Consumer Price Index (CPI) – Urban to increase caps, while the AHCA uses the higher CPI – Medical.
- The bill would create an exemption from the per-capita cap "equity adjustment" under the new Medicaid formula for a group of states with a population density under 15 people per square mile (Alaska, Montana, North Dakota, South Dakota, and Wyoming).
- The discussion draft reduces the Medicaid Provider Tax from 6% in 2021 to 5% in 2025. This tax would be reduced at a rate of 0.2% per year beginning in 2021.
- The Senate version grandfathers existing Medicaid managed care waivers which have undergone Department of Health and Human Services review at least once.

**Tax Policies**

- In 2020, tax credits can only go to individuals with incomes at 350% of the Federal Poverty Line (the ACA covered individuals at up to 400% of the Federal Poverty Line).
- Like the AHCA, the discussion draft eliminates ACA taxes, such as the device tax, tanning tax, health insurance tax, prescription drug tax, and the net investment tax.
- Like the AHCA, it delays implementation of the Cadillac tax on high-cost health plans until December 31, 2025.

**Other Policies**

- The proposal defunds Planned Parenthood for one year.
- The discussion draft would fund cost-sharing reduction payments to insurers through 2019.
• The Senate version creates a short-term and long-term state stability fund.
• Like the House passed bill, the Senate version effectively eliminates the individual mandate for insurance coverage.
• It also effectively eliminates the employer mandate requiring larger employers to offer health insurance or pay a penalty.
• It eliminates the affordability test for employer-offered coverage, as currently required under the ACA.
• The Senate proposal, similar to the House version, also would allow insurers to charge older individuals up to five times more for premiums than younger individuals. Under current law, insurers can only vary premiums based on age by a 3:1 ratio.
• The BCRA also allows states to waive essential health benefit requirements within the Medicaid waiver process. Unlike the AHCA, however, under the Senate version, states cannot allow insurers to discriminate based on pre-existing conditions (the House bill created a separate waiver process allowing states to waive out of essential health benefit and community rating provisions).

AMGA will continue to keep you updated as we further analyze this proposal. For questions, please contact Grant Couch, director of government relations, at gcouch@amga.org or 703.838.0033 ext 342.