

ahead of the curve

Workplace law trends for 2017 and beyond.
Come up to speed to stay ahead.

Health Care, the ACA, and the New Administration: Changes So Far and Looking Ahead

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ACA – Repeal & Replace

Why It Matters

- **ACA has increased coverage**
 - Exchanges – approximately 10 million individuals
 - Medicaid expansion – approximately 11 million individuals
- **ACA has expanded depth of coverage**
 - Coverage mandates
- **ACA has increased federal government taxes and costs**
 - Range of new taxes
 - Exchanges – subsidies and cost-sharing subsidies
 - Medicaid expansion – federal government pays 90% of cost
- **Insurance costs have risen**
 - Impact greatest on those not eligible for subsidies through exchanges
- **Insurance companies have had rocky time**
 - Complicated to compete on exchanges and price insurance

ACA – Repeal & Replace Current Law

- **Coverage requirements**

- Coverage to age 26
- No lifetime or annual limits on essential health benefits
- No rescissions
- No pre-existing condition limits
- No waiting periods greater than 90 days
- Preventative services
- Revisions to claim procedures
- Provision of summary of benefits and coverage
- Other mandates

ACA – Repeal & Replace Current Law

- **Exchanges**

- Each state has exchange (12 state-based; 5 state-based federal platforms; 6 state partnerships; and 28 federal platforms)
- Subsidies available up to 400% of federal poverty line
- Cover more than 10 million individuals

- **Subsidies**

- Provide refundable, advance premium tax credits to eligible individuals with incomes between 100%-400% of federal poverty line for insurance purchased through exchanges
- Credits computed on sliding scale so people pay no more than required percentage of income for second lowest cost silver plan for their age in their area

- **Cost-sharing subsidies**

- Provide cost-sharing subsidies to eligible individuals with income between 100%-250% of federal poverty line
- Subsidies reduce deductibles, copays, and more

ACA – Repeal & Replace Current Law

- **Medicaid expansion**

- Medicaid is federal-state partnership providing health insurance for low income individuals
- ACA allowed states to expand Medicaid (increasing coverage of parents from those at 91% to 138% of federal poverty line and others) with federal government paying 90% of cost
- 32 states and D.C. opted into Medicaid expansion
- Covers additional 11 million individuals

ACA – Repeal & Replace Current Law

• Taxes

- **Mandates (taxes)**
 - Individual mandate
 - Employer shared responsibility fee
- **Corporation taxes**
 - Cadillac tax
 - Patient centered outcomes research institute fee (PCORI fee)
 - Medical device tax; pharmaceutical manufacturer tax; health insurer tax
- **Individual taxes**
 - Medicare tax (additional .90% on amounts above \$200,000)
 - Medicare tax (additional 3.80% on modified adjusted gross income (MAGI) and net investment income)
 - Tanning device tax (10% on indoor tanning services)

• Reporting

- **Coverage reporting (Forms 1094 and 1095)**
- **Benefit reporting (Form W-2, Box 12, Code DD)**

ACA – Repeal & Replace Proposed Legislation

- **Republicans have brought forth several proposals**
 - **House of Representatives**
 - American Health Care Act (AHCA) (2017) – AHCA
 - World's Greatest Health Care Plan Act (2017)
 - **Senate**
 - Better Care Reconciliation Act (2017) – BCRA
 - Obamacare Repeal Reconciliation Act (2017) – ORRA
 - Health Care Freedom Act (2017) - HCFA
 - Senator Cassidy – Patient Freedom Act (2017)
 - Senator Paul – Obamacare Replacement Act (2017)
 - Other bills and versions after amendment
- **President Trump perspective (sample)**
 - “Everybody's got to be covered...I am going to take care of everybody. I don't care if it costs me votes or not. Everybody is going to be taken care of, much better than they're taken care of now.”
9/27/2016 (60 Minutes interview)

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**

- **Summary**

- March 6 – Released in original form
 - March 9 – Approved by Ways & Means and Energy & Commerce Committees
 - March through April – Series of amendments issued and adopted
 - May 4 – Passed House of Representatives

- **Taxes**

- Repeal individual mandate (2016)
 - Repeal employer mandate (2016)
 - Repeal 3.8% net investment income tax (2017)
 - Repeal (after delay) 0.9% additional Medicare tax (2023)
 - Delay Cadillac tax until 2026

- **Credits**

- Repeal small employer health insurance credit (2020)

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**

- **Exchanges and subsidies**

- Increase subsidies for younger adults; reduce for older adults (2018 & 2019)
 - Tax credits based on age capped at \$14,000 per family (2020)

- Credit amounts per family member

| | |
|----------------|---------|
| » Up to age 29 | \$2,000 |
| » 30-39 | \$2,500 |
| » 40-49 | \$3,000 |
| » 50-59 | \$3,500 |
| » 60 and older | \$4,000 |

- Phase out income based (starting points single \$75,000; joint \$150,000)

- **Cost-sharing subsidies (payment of copays and other costs)**

- Repealed (2020)

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**

- **Health spending accounts (HSAs)**

- Reduce penalties on distributions not used for qualified medical expenses from 20% to 10% (HSA) and to 15% (Archer MSA) (2017)
 - Increase contribution limit – equals sum of amount of HSA deductible and out-of-pocket limitation (2018)
 - 2017 – \$3,400 for self only and \$6,750 for family coverage
 - 2018 – \$6,650 for self only and \$13,300 for family coverage
 - Allow both spouses to make “catch up contributions” to same HSA (2018)
 - Allow for certain pre-HSA medical expenses – if HSA established within 60 days of date medical expenses are incurred, it is treated as in place for determining if expense is “qualifying medical expense” (2018)

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**
 - **Reporting**
 - No change; employers still have reporting requirements
 - **Coverage requirements**
 - Retain age 26 coverage
 - Retain (originally) 10 essential health benefits
 - Change (subsequently) amend to allow state waiver (2017)
 - **Health flexible spending accounts (health FSAs)**
 - Repeal annual limit on health FSAs (\$2,500 as adjusted) (2017)
 - Repeal prohibition on use for over-the-counter medications (allow for both prescription drugs and over-the-counter drugs) (2017)
 - **Other benefit design aspects**
 - Enhance HSAs; does not address association health plans

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**
 - **Medicaid expansion**
 - Retain Medicaid expansion through 2019
 - Change (originally) Medicaid expansion in 2020 to per capita allotment and reduce amount (subsequently modified for block grants)
 - Reduce eligibility as of 2020
 - **Additional provisions**
 - Change market rating limits based on age (2018)
 - Under ACA, oldest may be charged only 3 times youngest (3:1)
 - Originally AHCA, oldest may be charged 5 times youngest (5:1)
 - Subsequently, state may seek waiver
 - Apply 30% surcharge for break of 63 days or more in last 12 months (2018)
 - Repeal of elimination of deduction for Part D subsidy (retiree medical) (2017)
 - Create \$8 billion fund for 2018 to 2023 for states that allow insurers to charge higher premiums for individuals with gap in coverage (to assist with premiums)

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**
 - **CBO scores**
 - **March 9 version (released March 13)**
 - Federal deficit reduction - \$337 billion from 2017 - 2026
 - » Spending down \$1,219 billion; revenue down \$883 billion
 - Coverage as of 2020, 21 million fewer covered
 - Coverage as of 2026, 24 million fewer covered
 - **March 20 version (released March 23)**
 - Federal deficit reduction - \$150 billion from 2017 - 2026
 - » Spending down \$1,150 billion; revenue down \$999 billion
 - Coverage as of 2020, 21 million fewer covered
 - Coverage as of 2026, 24 million fewer covered
 - **May 4 version (released May 24)**
 - Federal deficit reduction - \$119 billion from 2017 - 2026
 - » Spending down \$1,111 billion; revenue down \$992 billion
 - Coverage as of 2020, 19 million fewer covered
 - Coverage as of 2026, 23 million fewer covered

ACA – Repeal & Replace Proposed Legislation

- **House – American Health Care Act (AHCA)**
 - **CBO continued**
 - Overall impact
 - Non-group insurance markets would continue to be stable in many parts of country before 2020
 - About 1/6th of population resides in areas in which non-group insurance market would start to become unstable beginning in 2020
 - » Community rated premiums rise over time
 - » Less healthy people (including those with preexisting and new medical conditions) would ultimately be unable to purchase comprehensive non-group insurance at premiums under current law, if at all
 - Increase average premiums in non-group market prior to 2020 (5-20% higher) and lower average premiums thereafter

ACA – Repeal & Replace Proposed Legislation

- **Senate – Better Care Reconciliation Act (BCRA)**

- **Summary**

- June 22 – Release discussion draft
- June 27 – Vote postponed until after July 4 recess
- July 13 – Revise bill; plan to vote week of July 17
- July 17 – Not enough votes; vote postponed; revise bill on July 20
- July 24 – Debate health care reform on floor
 - July 25 – Senate votes 51-50 to approve 20 hours of debate
 - July 25 – Senate failed to approve BCRA (43-57 votes against)
 - July 26 – Senate failed to approve a partial repeal (45-55 votes against)
 - July 28 – Senate failed to approve a skinny repeal (HCFA) (49-51 votes against)

- **Taxes**

- Repeal individual mandate (2016)
- Repeal employer mandate (2016)
- Retain 3.8% net investment income tax (originally repealed this)
- Repeal (after delay) 0.9% additional Medicare tax (2023)
- Delay Cadillac tax until 2026

- **Credits**

- Repeal small employer health insurance credit (2020)

ACA – Repeal & Replace Proposed Legislation

- **Senate – Better Care Reconciliation Act (BCRA)**

- **Exchanges and subsidies**

- Reduce subsidies to 350% of federal poverty line (FPL) from 400% (2018)
 - Credit amounts vary based on age, income, and geography
 - » Lower income means greater tax credit (AHCA based solely on age)
 - » Greater age means greater tax credit
 - Modify definition of qualified health plan (2018)
 - Change premium assistance amount calculation (2020)
 - Modify “benchmark” plan as one that covers 58% of full actuarial benefits (down from 70% under ACA)
 - Modify “applicable percentage” amounts for taxpayer age
 - Increase maximum taxpayers must spend before receiving subsidies
 - Eliminate certain requirements employer-sponsored plan had to meet to be “minimum essential coverage” (2020)
 - Eliminate limit on recapture of excess advance payments (2020)
 - Allow individuals in catastrophic plans to be eligible for tax credit (2020)

- **Cost-sharing subsidies (payment of copays and other costs)**

- Repealed (2020)

ACA – Repeal & Replace Proposed Legislation

- **Senate – Better Care Reconciliation Act (BCRA)**

- **Health spending accounts (HSAs)**

- Reduce penalties on distributions not used for qualified medical expenses from 20% to 10% (HSA) and to 15% (Archer MSA) (2017)
 - Increase contribution limit – equal sum of amount of HSA deductible and out-of-pocket limitation (2018)
 - 2017 – \$3,400 for self only and \$6,750 for family coverage
 - 2018 – \$6,650 for self only and \$13,300 for family coverage
 - Allow both spouses to make “catch up contributions” to same HSA (2018)
 - Allow for certain pre-HSA medical expenses – if HSA established within 60 days of date medical expenses are incurred, it is treated as in place for determining if expense is “qualifying medical expense” (2018)
 - HSA funds may be used to pay premiums for high deductible health plan for which no deduction is allowed under section 162(l), that is not an employer-sponsored plan, and only for amounts that exceed any tax credit amounts allowed under section 36B (2018)

ACA – Repeal & Replace Proposed Legislation

- **Senate – Better Care Reconciliation Act (BCRA)**

- **Reporting**

- No change; employers still have reporting requirements

- **Coverage requirements**

- Retain age 26 coverage
 - Repeal essential health benefit requirement (2020)

- **Health flexible spending accounts (health FSAs)**

- Repeal annual limit on health FSAs (\$2,500 as adjusted) (2018)
 - Repeal prohibition on use for over-the-counter medications (allow for both prescription drugs and over-the-counter drugs) (2017)

- **Long-term stability program fund**

- \$8 billion for 2019
 - \$14 billion for 2020 and 2021
 - \$6 billion for 2022 and 2023
 - \$5 billion for 2024 and 2025

- **Other benefit design aspects**

- Enhance HSAs; creates small business health plans, does not address association health plans

ACA – Repeal & Replace Proposed Legislation

- **Senate – Better Care Reconciliation Act (BCRA)**

- **Medicaid expansion**

- Retain Medicaid expansion through 2020 (with federal percent at 90%)
 - Starting 2021, three-year phase down in federal match
 - » 2021 – 85% paid by federal government
 - » 2022 – 80% paid by federal government
 - » 2023 – 75% paid by federal government
 - Like AHCA, use of block grants, but unlike AHCA children, elderly, and disabled would not be included under block grants

- **Additional provisions**

- Allow states to obtain waivers of “market reforms” except “community rating” (which protects those with preexisting conditions from paying more)
- Changes market rating limits based on age (2019)
 - Under ACA, oldest may be charged only 3 times youngest (3:1)
 - Like AHCA, BCRA allows oldest may be charged 5 times youngest (5:1)
- Six-month waiting period for individuals who had a break in continuous insurance coverage for 63 days or more in last 12 months (2019)
- Repeal of elimination of deduction for Part D subsidy (retiree medical) (2018)

ACA – Repeal & Replace Proposed Legislation

- **Senate – Health Care Freedom Act (HCFA) (skinny repeal)**
 - **Summary – July 28 Senate failed to approve 49-51 votes against**
 - Republican Senators Collins, McCain, and Murkowski voted against
 - **Taxes**
 - Repeal individual mandate (2016)
 - Repeal employer mandate (2016) but then reinstate (2024)
 - Retain 3.8% net investment income tax
 - Retain 0.9% additional Medicare tax
 - Retain Cadillac tax
 - **Credits - No change**
 - **HSAs – Increase contribution limit – equal sum of amount of HSA deductible and out-of-pocket limitation for three years (2018-2020)**
 - 2017 – \$3,400 for self only and \$6,750 for family coverage
 - 2018 – \$6,650 for self only and \$13,300 for family coverage
 - **Exchanges and subsidies – No change**
 - **Reporting – No change; employers still have reporting requirements**
 - **Coverage requirements**
 - Retain age 26 coverage
 - Request by state to waive essential health benefit made easier (2018)

ACA – Repeal & Replace Proposed Legislation

- **Senate – Bills – BCRA, ORRA, HCFA**
 - **CBO scores (BCRA)**
 - July 20 version (released July 20)
 - Federal deficit reduction - \$420 billion from 2017 - 2026
 - » Spending down \$903 billion; revenue down \$483 billion
 - Coverage as of 2020, 19 million fewer covered
 - Coverage as of 2026, 22 million fewer covered
 - **CBO score (ORRA – partial repeal)**
 - July 19 version (released July 19)
 - Federal deficit reduction - \$473 billion over 2017 - 2026
 - » Spending down \$1,429 billion; revenue down \$956 billion
 - Coverage as of 2020, 28 million fewer covered
 - Coverage as of 2026, 32 million fewer covered
 - **CBO score (HCFA – skinny repeal)**
 - July 27 version (released July 27)
 - Federal deficit reduction - \$135 billion over 2017 - 2026
 - » Spending down \$281 billion; revenue down \$146 billion
 - Coverage as of 2020, 16 million fewer covered
 - Coverage as of 2026, 15 million fewer covered

ACA – Repeal & Replace Proposed Legislation

| Note: This table is vast simplification of proposed legislation | House AHCA | Senate BCRA | Senate Cassidy | Senate Paul |
|---|---|---|--|---------------------------|
| Coverage mandate – age 26 | Retain | Retain | Retain | Retain |
| Coverage mandate – other | Retain some; State waiver option | Repeal essential health benefits | Retain | Repeal |
| Exchanges | Retain but change | Retain but change | States have choice - ACA states (retain) - Grant states | Repeal |
| Subsidies | Retain & change – based on age | Retain & change – based on age, income, & geography | ACA states – retain (smaller) Grant states – funding | Repeal |
| Medicaid expansion | Retain & reduce – reduce eligibility and allow block grants | Retain & reduce – reduce eligibility and block grants | ACA states – retain Grant states – retain (may contribute to Roth HSAs) | Retain – more flexibility |
| Taxes – individual and employer | Repeal | Repeal | ACA states – retain Grant states – repeal | Repeal |
| Taxes – Medicare and other taxes | Repeal | Retain Medicare, Repeal other taxes | Retain | Retain |

ACA – Repeal & Replace Proposed Legislation

- **Congress**
- **House of Representatives**
 - **Composition (as of July 28, 2017)**
 - 240 Republicans
 - About 35 members of Freedom caucus and also of Tuesday group
 - 193 Democrats
 - 2 open seats
 - Need 217 to pass legislation (with 2 open seats)
- **Senate**
 - **Composition**
 - 52 Republicans
 - 48 Democrats
 - **Reconciliation**
 - Need at least 50 votes (assuming Vice President then breaks tie in favor)
 - **Regular legislation**
 - Need 60 votes to avoid filibuster

ACA – Repeal & Replace Proposed Legislation

- **Reconciliation and Byrd rule**

- **Taxes**

- Under Byrd rule, Senate prohibited from considering extraneous matter as part of reconciliation bill
 - If raised and sustained, offending title, provision, or amendment is deemed stricken unless its proponent can muster 60 votes in Senate to waive Byrd rule
 - Byrd rule tests (section 313(b)(1) of Congressional Budget Act):
 - Do not produce change in outlays or revenues
 - Produce changes in outlays or revenues which are merely incidental
 - Outside jurisdiction of committee that submitted provision
 - Increase outlays or decrease revenue if fails committee's instructions
 - Increase outlays or decrease revenue during fiscal year after years covered by reconciliation bill unless provision's title, on whole, remains budget neutral
 - Contain recommendations regarding OASDI (social security) trust funds

ACA – Repeal & Replace Proposed Legislation

- **Calendar**

- **July 31-Sept 4** **House and Senate home districts work weeks
(Senator McConnell has said Senate will stay in session for portion of August recess)**
- **Sept 18-22** **House**
- **Sept 21-22** **Senate**
- **Oct 9-13** **Senate**
- **Oct 16-20** **House**
- **Nov 20-27** **House and Senate home districts work weeks**
- **Dec 15-31** **House and Senate home districts work weeks**

ACA – Repeal & Replace Regulations & Guidance

- **Executive orders**

- **Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal**
- **Executive Order 13765 (1/20/17)**
 - To maximum extent permitted by law, Secretary of HHS and all department heads with authority and responsibility under ACA shall exercise all authority and discretion available to waive, defer, grant exemptions from, or delay implementation of, any provision or requirement that would impose fiscal burden on any State or cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications
 - If action under this order means revision of regulations issued through notice-and-comment rulemaking, agencies shall comply with Administrative Procedure Act and statutes in promulgating revisions

ACA – Repeal & Replace Regulations & Guidance

- **Executive orders**

- **Reducing Regulation and Controlling Regulatory Costs**

- **Executive Order 13771 (1/30/17)**

- For every one new regulation issued, at least two prior regulations must be identified for elimination, and that cost of planned regulations be prudently managed and controlled through budgeting process
 - For 2017 fiscal year, total incremental cost of all new regulations, including repealed regulations, to be finalized this year shall be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by Director of Office of Management and Budget (OMB)

ACA – Repeal & Replace Regulations & Guidance

- **New regulations**

- **DOL, HHS, IRS – Contraceptive coverage regulations (??/17)**

- Draft regulation provides expanded exemptions for entities and individuals with both moral or religious objections to contraceptives
- Exemption would allow employers to exclude contraceptive coverage
- Impact
 - Contraceptives are 30% - 44% of women's out-of-pocket health care spending (Kaiser Family Foundation)
 - Savings on oral contraceptive pill accounted for more than 50% of drop in all out-of-pocket prescription drug spending under ACA
 - https://www.washingtonpost.com/national/health-science/trump-moves-to-allow-broad-exemption-from-aca-birth-control-coverage/2017/05/31/a0e7235c-462d-11e7-a196-a1bb629f64cb_story.html?utm_term=.db2e34e78745
 - <http://www.kff.org/womens-health-policy/issue-brief/the-future-of-contraceptive-coverage/>

ACA – Repeal & Replace

Why This Will Not Go Away:

Medicare Impact on Budget



- **Medicare Hospital Insurance (Medicare Part A)**
- **Medicare funding**
 - “Trustees project that the Medicare Hospital Insurance (HI) Trust Fund will be depleted in 2028... At that time dedicated revenues will be sufficient to pay 87 percent of HI costs.”
 - Summary of 2016 Annual Reports (<https://www.ssa.gov/oact/trsum/>)
 - **Expected insolvency date has changed over time**

| | |
|---|--------------|
| • 2002 | 2030 |
| • 2004-2008 | 2018 to 2020 |
| • 2009 | 2017 |
| • 2010-2016 | 2024 to 2030 |
| • https://fas.org/sqp/crs/misc/RS20946.pdf | |
 - **Reasons**
 - Individuals are living longer
 - Ratio of workers to those receiving benefits
 - Medical costs
 - Taxes imposed

ACA – Repeal & Replace

Why This Will Not Go Away:

Health Care Exclusion Impact on Budget

- **Amount of expenditure (5 year periods)**

| | |
|-----------|---------------|
| – 1975-79 | 21.2 billion |
| – 1980-84 | 91.5 billion |
| – 1985-89 | 133.4 billion |
| – 1990-94 | 205.5 billion |
| – 1995-99 | 269.7 billion |
| – 2000-04 | 324.1 billion |
| – 2005-09 | 493.7 billion |
| – 2010-14 | 659.4 billion |

- **Compared to other expenditures 2010-2014**

| | |
|----------------|---------------|
| – Health | 659.4 billion |
| – Mortgage | 484.1 billion |
| – Capital gain | 402.9 billion |
| – DB plans | 303.2 billion |
| – DC plans | 212.2 billion |

- **Amount of expenditure (1 year amount)**

| | |
|--------|--------------|
| – 1984 | ~25 billion |
| – 1994 | ~50 billion |
| – 2004 | ~100 billion |
| – 2014 | ~190 billion |

- Table above source: Health Related Tax Expenditures: Overview and Analysis, CRS R44333 (1/8/2016) <https://fas.org/sqp/crs/misc/R44333.pdf>
- Tables in other column source: Background Information on Tax Expenditure Analysis and Historical Survey of Tax Expenditure Estimates, JCX-18-15 (2/7/2015) <https://www.jct.gov/publications.htm?func=startdown&id=4705>

ACA – Repeal & Replace

Why This Will Not Go Away:

Medicaid Expansion Impact on Budget

- **Medicaid program is for low income individuals**
 - **Medicaid expansion**
 - **Costs for expansion adults**
 - 2014 fiscal (10/2013-9/2014) ~24 billion (4.3 million individuals)
 - 2015 fiscal (10/2014-9/2015) ~58 billion (9.1 million individuals)
 - 2016 fiscal (10/2015-9/2016) ~70 billion (11 million individuals)
(2016 is an estimate)
 - <https://www.medicaid.gov/medicaid/financing-and-reimbursement/downloads/medicaid-actuarial-report-2015.pdf>
 - <https://www.medicaid.gov/medicaid/financing-and-reimbursement/downloads/medicaid-actuarial-report-2016.pdf>
 - States adopting expansion where expansion covers more than 500,000: California, Illinois, Michigan, New Jersey, New York, Ohio, Oregon, Pennsylvania, Washington
 - <http://kff.org/interactive/interactive-maps-estimates-of-enrollment-in-aca-marketplaces-and-medicaid-expansion/>

ACA – Repeal & Replace

Why This Will Not Go Away: Workforce Trends



- Life expectancies are increasing
- Employees are working longer
 - Average age of employees
 - 1994 37.7 years old
 - 2004 40.3 years old
 - 2014 41.9 years old
 - 2024 42.4 years old (expected)
 - Bureau of Labor Statistics (https://www.bls.gov/emp/ep_table_306.htm)
 - Percentage employed
 - 2014 About 23% of men and 15% of women age 65 and older
 - 2022 About 27% of men and 20% of women age 65 and older (expected)
 - Population Reference Bureau (<http://www.prb.org/Publications/Media-Guides/2016/aging-unitedstates-fact-sheet.aspx>)

ACA – Repeal & Replace Employer Impact

- **Health plan design**

- **AHCA and BCRA accelerate move to high deductible health plans**
 - Increase in contribution limits for HSAs
 - Both spouses can make catch-up contributions to HSAs
- **AHCA and BCRA may lead employers to drop essential health benefits**
 - Insured plans – ability to change would depend on state obtaining waiver
 - Self-insured plans – may forum shop in order to impose annual or lifetime maximums on benefits that were formerly essential benefits
- **AHCA and BCRA elimination of employer shared responsibility fee may cause employers to review coverage (raise hours requirement)**
- **2018 health plan design – almost too late**

ACA – Repeal & Replace Employer Impact

- **Health plan costs**

- **AHCA and BCRA impact on taxes on employers**
 - Employer taxes would be eliminated
 - Employers less concerned about covering workers
- **AHCA and BCRA impact on health plan premiums**
 - In short term, impact would vary based on number of factors
 - Elimination of essential health benefits will have impact
 - In long term, impact would also vary and be hard to predict
 - Providers may raise prices faster due to more uncompensated care
 - Workers uncertain about future options may be more reluctant to retire
- **AHCA and BCRA impact on employees seeking coverage**
 - Changing price ratio to 5:1 means insurance becomes much more expensive for older individuals
 - Older employees less likely to get coverage elsewhere and work longer

ACA – Repeal & Replace Employer Impact

- **Health plan administration**

- **Disclosure to participants**

- No changes – disclosure continues, including:
 - Summary of benefits and coverage
 - Exchange notice
 - Section 1557 nondiscrimination notice
 - Form 1095

- **Reporting to federal government**

- No changes – reporting continues, including:
 - Forms 1094 and 1095
 - Form W-2 (reporting in Box 12)

- **Claim administration**

- No changes – enhancements to claims procedures (independent review) continues

- **COBRA**

- Likely more requests because AHCA tax credit can be used for COBRA and exchanges become more uncertain

ACA – Repeal & Replace Health Care Provider Impact

- **Coverage**

- **ACA increased coverage**
 - Exchanges cover more than 10 million individuals
 - Medicaid's expansion covers more than 11 million individuals in Medicaid expansion states
- **AHCA focused on cost and choice rather than coverage**
 - CBO projection – loss of coverage for 24 million
- **Fewer covered individuals means that providers will see lower payment and will provide more charity care**

- **Type of coverage**

- **Number covered under high deductible health plans continues to grow**
- **Amount of high deductible health plans continues to grow**
- **Individuals become more responsible for payment (and more likely not to be able to pay)**

ACA – Repeal & Replace Health Care Provider Impact

- **Provider reimbursement**

- If provider reimbursement from broader base declines, likely that providers will need to raise fees on those who have coverage
- Among first organizations to express concerns about AHCA
 - American Medical Association
 - American Hospital Association

ACA – Repeal & Replace Looking Forward

- **Republicans need to be able to obtain sufficient agreement**

- **House of Representatives**

- House Republican Freedom caucus has approximately 35 members
 - Of these 1 voted against AHCA on 5/4/17
- House Republican Tuesday group has approximately 35 members
 - Of these 14 voted against AHCA on 5/4/17

- **Senate**

- AHCA
 - Republican Senators Paul and Collins were against and others were concerned as of 3/16/17
- BCRA
 - Republican Senators Collins, Corker, Cotton, Graham, Heller, Lee, Moran, Murkowski, and Paul voted against on 7/25/17
- Partial repeal
 - Republican Senators Alexander, Capito, Collins, Heller, McCain, Murkowski, and Portman voted against on 7/26/17
- Skinny repeal
 - Republican Senators Collins, McCain, and Murkowski voted against on 7/28/17

ACA – Repeal & Replace Looking Forward

- **Short-term outlook**

- **Keep up with current processes**
 - **Employers**
 - Report on Forms 1094 and 1095 – fine tune process
 - » Improve processes
 - » Track data for annual ACA reporting
 - » Incorrect filing issues (TIN matching errors, forms missing a portion of Line 14 data)
 - Avoid employer mandate penalties
 - Avoid market reform penalties
 - IRS notices for 2015 Forms 1094 and 1095 – expect to arrive in mid 2017, be ready to respond when see them

- **Long-term outlook**

- **Be flexible and prepare for changes in health care**
 - Build flexibility into long-term plans

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