

An Update on ACA Repeal and Replace Efforts

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Agenda

The latest news

How did we get here?

What had been proposed?

What could happen next?

What this means for employers

The Latest News

First Attempt Pulled

Republicans proposed the
American Health Care Act (AHCA)

After losing Republican Freedom
Caucus members and some
moderates, the bill was pulled
before the House vote

Meadows-MacArthur Amendment

- Introduced April 25
- Allow states to apply for waivers to opt out of certain ACA requirements

ACA is the Law for Now

Tax reform is the new Republican priority; the ACA stays

HHS Secretary Tom Price is focused on administering the current law

Wait For it to Fail?

Trump implied the next step is to watch Obamacare “explode”

Will they watch or will they help?

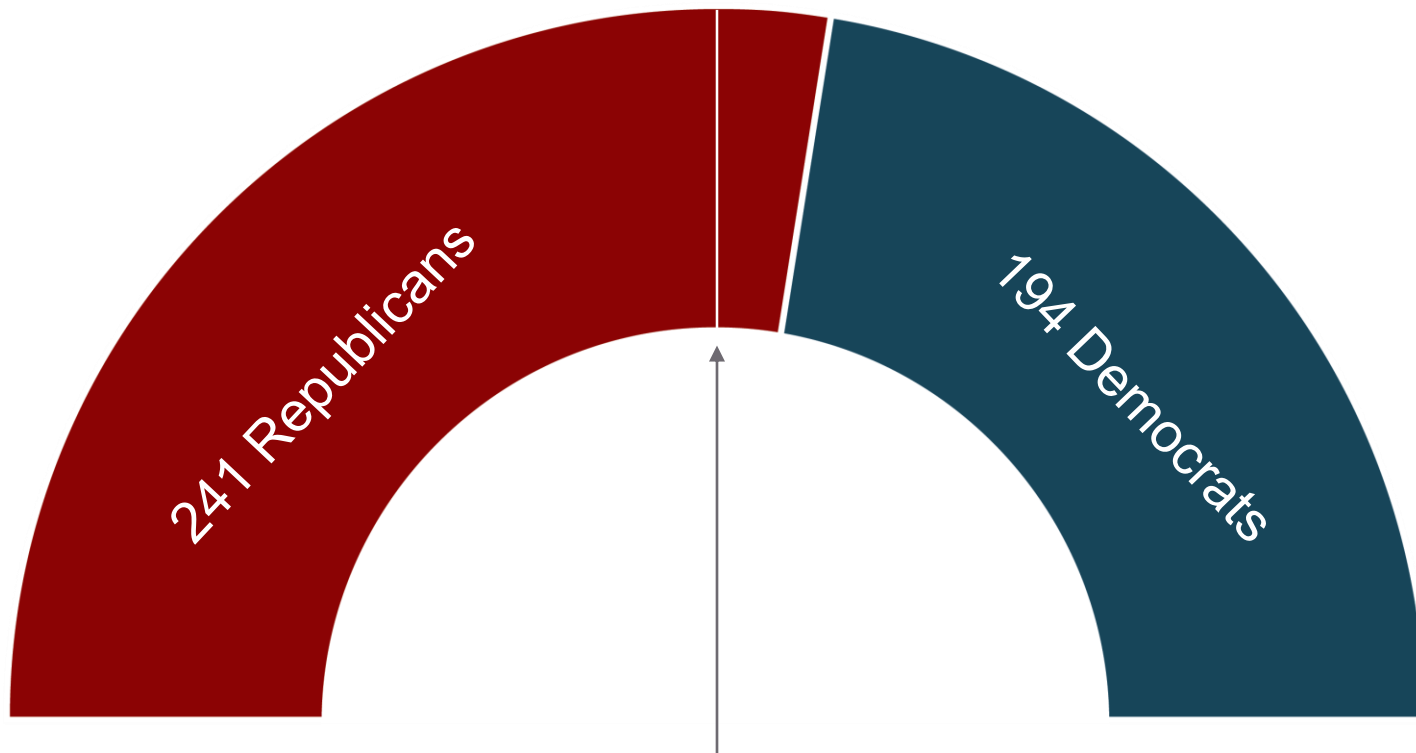
How Did We Get Here?

Executive Order

Instructs federal agencies to
relieve “economic and regulatory
burden”

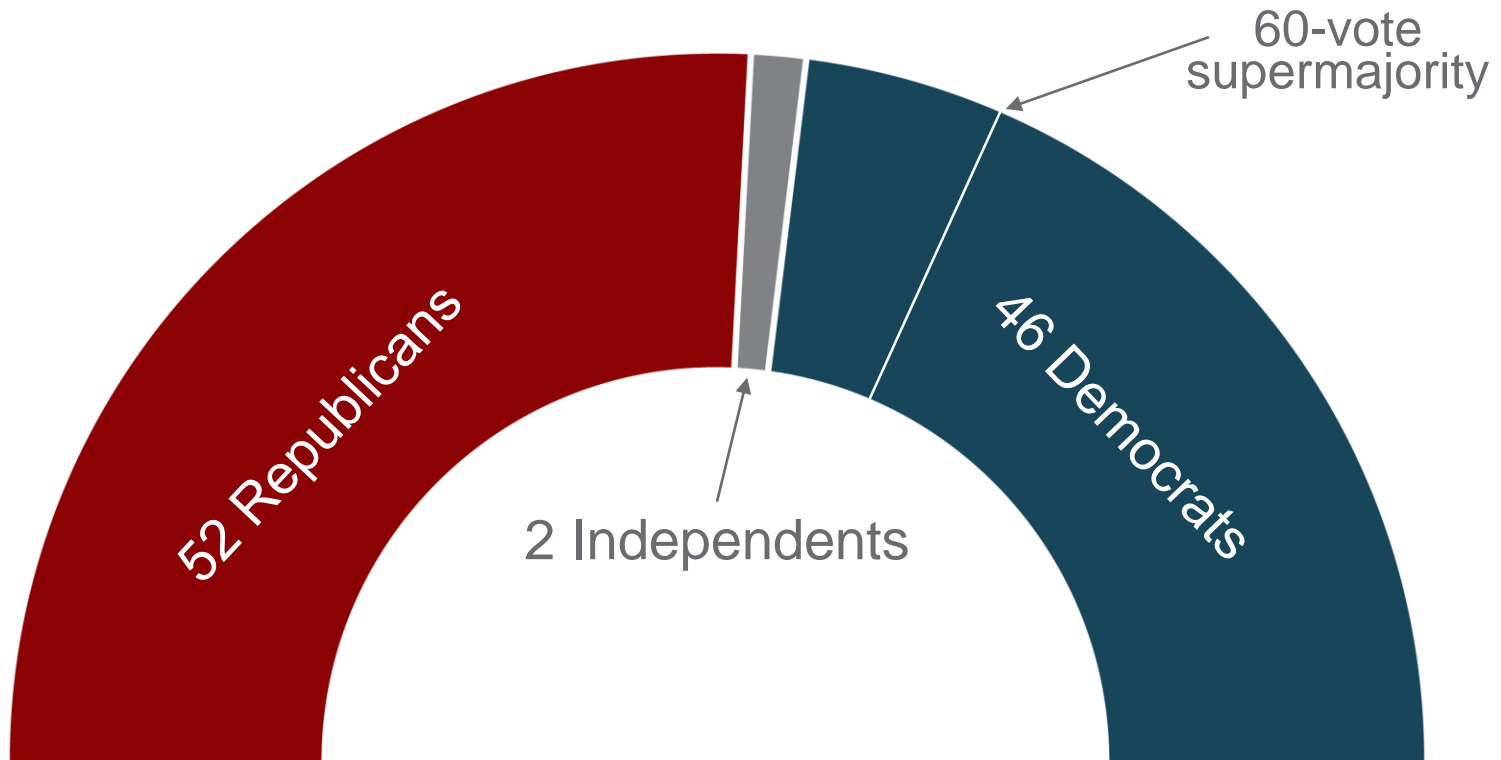
The 115th Congress

House



Simple majority (218) to pass a bill

Senate



Simple majority (51) to pass a budget

Super majority (60) to prevent filibuster

Repeal Options

Bipartisan repeal

Budget reconciliation

A Limitation

Budget measures: items that address taxing or spending

What has been
proposed?

Affordable Health Care Act (AHCA)

- Budget resolution passed by both House and Senate
- Passed by applicable House committees
- On March 24, GOP House leadership withdrew the bill

Meadows-MacArthur Amendment

- Set higher ratios for premiums charged to older enrollees;
- Specify their own list of essential health benefits applicable to the individual and small group markets;
- Allow increased premiums based on health status in states that create or participate in a federal high-risk pool; resulting in potentially higher premiums for sicker people

ACA provisions that would be repealed

Mandates

Would immediately repeal
individual and employer mandate
penalties

OTC Reimbursement

Would repeal requirement to have a prescription to receive FSA/HSA reimbursement of over-the-counter items

Health FSA Limits

Would have repealed contribution limits so employers may return to setting their own

Other Tax Repeals

Health insurers

Prescription drugs

Medical devices

And more

Cost-Sharing Subsidies

Would have repealed subsidies to assist with out-of-pocket expenses under Marketplace coverage



Medicaid Expansion

Would have phased out federal funding for ACA Medicaid expansion

ACA provisions that would stay

Cadillac Tax

Would have delayed (but did not repeal) the High Cost Plan Excise Tax (the “Cadillac” tax) from 2020 to 2026



Employee Exclusion

Would leave untouched the provision that means employees are not taxed on employer-provided health coverage



IRS Reporting

Would continue 1094/1095 reporting until 2020, then migrate to W-2 reporting and verification of plan eligibility

Market Reforms

Would maintain ACA plan design mandates

- Last minute amendment would have repealed requirement to cover essential health benefits

Changes to ACA provisions

HSA Expansion

Increased contributions

Catch-up by spouse

Establishing the HSA

Reduced excise tax



Individual Tax Credits

Would create a refundable,
advanceable individual tax credit to
purchase insurance

Would be available to income-
qualified individuals without access
to government or employer coverage

Continuous Coverage

30% premium surcharge for 12 months following 63 day lapse in coverage

Age-Based Premiums

Permitted states to set their own ratios for the amounts insurers can charge older compared to younger individuals



Stability Funds

Provided funding for states to pursue various market stabilization activities

What could
happen next?

Public Exchanges

Will the last insurers withdraw for next year?

Will the administration enact provisions to entice them to stay?

Cost Subsidies

Will Republicans continue to contest payments to insurers in the public exchanges?

Will Congress pay the subsidies due to insurers under the ACA?

Apply Trump's Executive Order?

Will the agencies repeal burdensome regulations?

Or will they seek to help Obamacare fail?

New Legislation?

Health care reform legislation or part of tax reform?

Bipartisan legislation or another pass at budget reconciliation?

Can Republicans create something appealing for their whole party?

If Not Now, When?

Best chance for a President to
promote their agenda: 1st 100 days

Second best chance: 1st 15 months

Becomes much more difficult after
that as Congress starts running for
reelection

Implement Open ACA Provisions?

Will the administration finally implement ACA provisions currently without regulations?

- Nondiscrimination by insured plans
- Quality reporting
- Transparency disclosures

What This Means for Employers

Public Exchanges and Medicaid

Most of the tension with the AHCA is related to the public exchanges and Medicaid

Such parts of the ACA have little impact on employers



Connection to Employer Mandate

Employer mandate penalties are not triggered unless a full-time employee enrolls in public exchange coverage and qualifies for a tax credit

Continue ACA Compliance Efforts

The ACA remains the law so
compliance needs to continue

Key provisions:

- Employer mandate
- 1094/1095 reporting



Support for Employer Coverage

As a general rule, Republicans are very supportive of employers providing coverage to employees

Unclear how that will play out in enforcement efforts

Cost Management

- Consumer driven plans with HSAs or HRAs
- Value based benefit design for members with specific conditions or disease states (e.g. diabetes)
- Wellness programs
- Health promotion
- Telemedicine

Cost Management

- Increased cost-sharing through higher deductibles
- Narrow network of providers
- Specialty drug management
 - Prior authorization
 - Step therapy
 - Limited networks
 - Preferred treatment within disease categories
- Provider reimbursement changes (ACOs, bundled payments, etc.)
- Price and quality transparency tools

Final Thoughts



More Questions than Answers

A lot of this is speculative

Unclear exactly what will happen
next

- Often hard to predict because
Trump presidency has not been
following the normal rules

What We Do Know

ACA remains the law

Repealing it is not as easy as it first appeared

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