

# An Update on ACA Repeal and Replace Efforts

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# Agenda

The latest news

How did we get here?

What was passed?

What could happen next?

What this means for employers

# The Latest News



# AHCA Passes House

Congressional Republicans  
passed the American Health Care  
Act in 217-213 vote

Now faces vote in Senate



# 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 Remains Law

House passage was only the first step in the effort to repeal and replace

Employers must remain compliant with current law for the time being

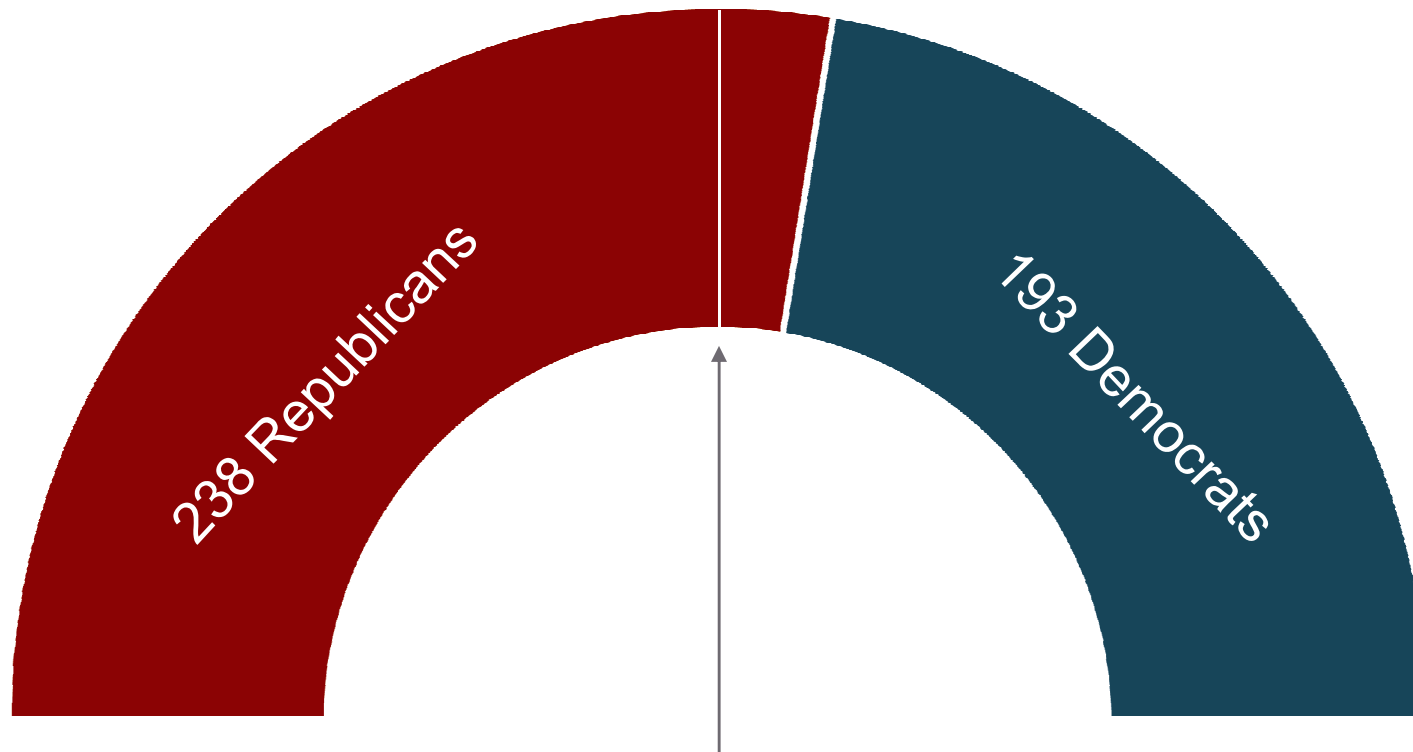
# How Did We Get Here?



# The 115<sup>th</sup> Congress



# House

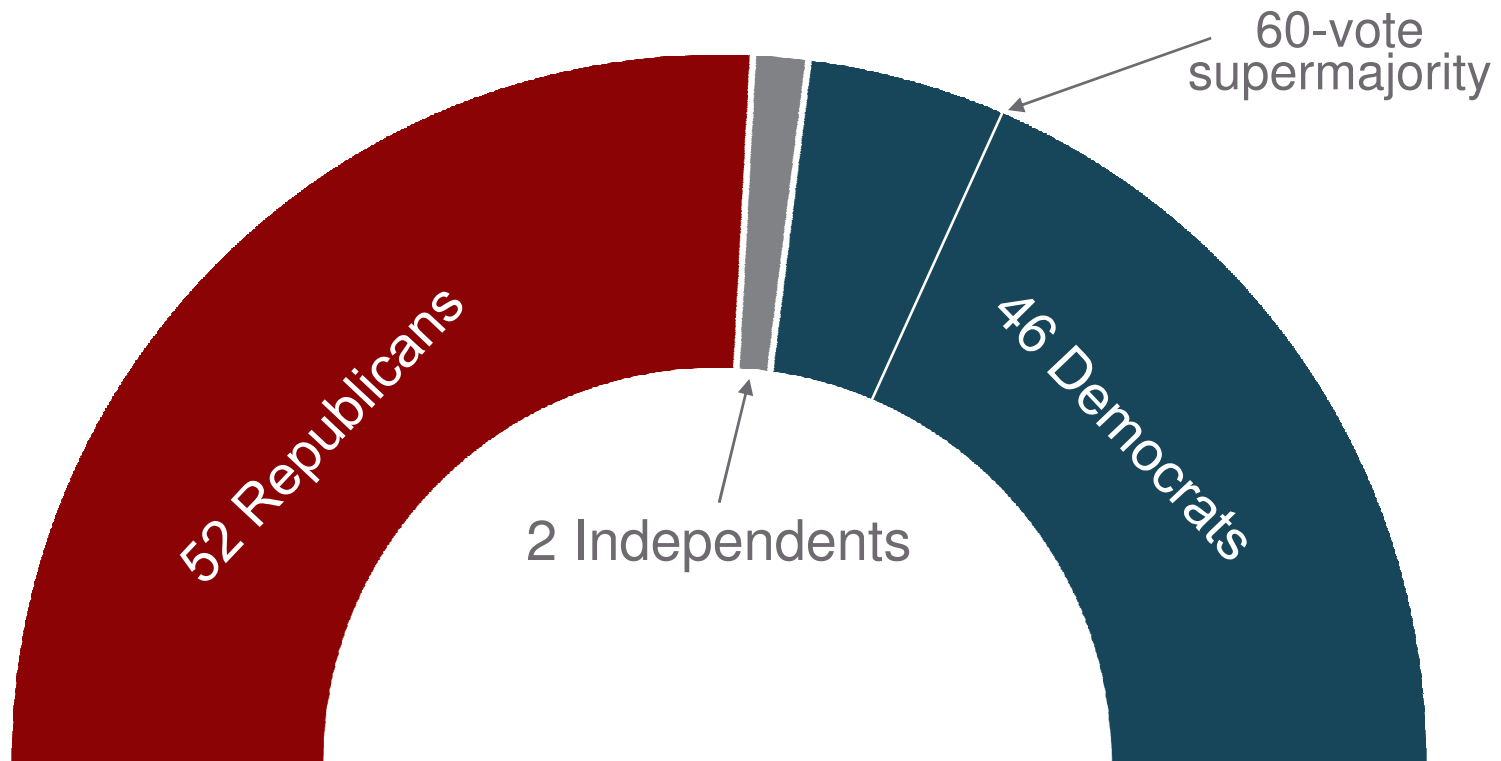


Simple majority (216\*) to pass a bill

\*There are currently 4 vacant seats in the House



# 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

The image features a solid red background. On the left side, there are several vertical bars of varying heights and shades of red, some with rounded ends, creating a decorative pattern. The text "What was passed?" is centered in the middle of the page in a large, white, sans-serif font.

What was  
passed?



# American Health Care Act (AHCA)

- Budget resolution passed by both House and Senate
- Passed by applicable House committees
- On May 4<sup>th</sup>, the bill passed a vote in the House



# Meadows-MacArthur Amendment

- Set higher ratios for premiums charged to older enrollees;
- States may 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





# Upton Amendment

- \$8 billion over five years to help cover insurance costs for those with pre-existing conditions
- Helped develop support among moderate Republicans

# 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 repeal 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 repeal subsidies to assist with out-of-pocket expenses under Public Exchange (Marketplace) coverage



# Medicaid Expansion

Would phase out federal funding for  
ACA Medicaid expansion



# ACA provisions that would stay



# Cadillac Tax

Delays (but does 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

Refundable, advanceable  
individual tax credit to purchase  
insurance

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

Permits 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?



# Congressional Budget Office Score

Medicaid: \$834 billion decrease

Tax Credits: \$276 billion decrease

Stability Funds: \$117 billion increase

Penalty Payments: \$210 billion increase

Noncoverage Provisions: \$664 billion increase

**Net deficit reduction \$119 billion**



# Impact on Premiums

- States which waive neither EHB nor community rating
  - Average nongroup premiums 4% lower in 2026
- States which make moderate changes
  - Average nongroup premiums 20% lower in 2026
  - Considerable regional variation
- States which waive both EHB and community rating:
  - CBO provided no estimate of reduction
  - Would vary significantly by health status



# Impact on Coverage

- 2018: 14 million more uninsured than under current law
- 2020: 19 million more uninsured than under current law
- 2026: 23 million more uninsured than under current law
  - Under 65: 51 million people uninsured, compared with an estimated 28 million under current law



# Senate Challenges

- Byrd Rule
- Republican senators have expressed concerns with bill
- Smaller margin for defections





# Senate Approach

- Formed working group to write a health care bill
- Small group represents diverse views across GOP
- Includes Senate leadership



# Return to House

- Any differences between successful versions of the bill must be reconciled
- Some House Republicans have refused to vote for a changed bill



# 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: 1<sup>st</sup> 100 days

Second best chance: 1<sup>st</sup> 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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