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## House Republicans Publish Affordable Care Act “Repeal and Replace” Policy Brief

On Feb. 16, Republican leaders in the House of Representatives unveiled a policy brief that provides additional details about how the House intends to repeal and replace the Affordable Care Act (ACA). The House Republican policy brief addresses five health reform areas: healthcare tax credits, ACA taxes, health savings accounts (HSAs), Medicaid reform and state innovation grants.

The brief’s policy proposals mirror provisions from the most prominent Republican repeal-and-replace plans available to date, including the [Better Way proposal](#) of House Speaker Paul Ryan, R-Wisc.; Department of Health and Human Services Secretary Dr. Tom Price’s legislation (introduced during his tenure in Congress), [HR 2300: The Empowering Patients First Act of 2015](#); the [Patient CARE Act](#) authored by Senate Finance Committee Chairman Orrin Hatch, R-Utah; and the fiscal year (FY) 2015 ACA reconciliation bill, [HR 3762](#), which passed both houses of Congress, but was vetoed by then-President Barack Obama and which is expected to serve as a blueprint for the FY 2017 ACA repeal-and-replace reconciliation legislation.

Below, we provide additional information on each of the five health reform areas outlined in the House Republican leaders’ policy brief.

- **Healthcare Tax Credits:** Seeking to provide stability to consumers in the individual market during the repeal-and-replace process, the Republican plan outlined in the policy brief would allow individuals to use ACA subsidies to purchase catastrophic plans, a practice that is currently prohibited. Additionally, ACA subsidies would be “adjusted slightly to provide additional assistance for younger Americans and reduce the over-subsidization that older Americans are receiving.”

In the longer term, the brief proposes to replace the ACA’s current health insurance premium subsidies, which are adjusted for income, geography and family size, with a refundable, advanceable, age-adjusted tax credit. The new tax credit would be available only to citizens or qualified aliens who are not offered other qualifying insurance coverage. The credit would be available to dependent children up to age 26, portable and adjusted to increase over time, although the brief does not specify

by what factor. Individuals would be able to use the credit to purchase any state-approved health insurance plan, including certain catastrophic plans that are currently not eligible for the subsidies received under the ACA, and to pay for “unsubsidized” Consolidated Omnibus Budget Reconciliation Act premiums.

- **ACA Taxes:** House Republicans would immediately zero out the tax penalties for the individual and employer mandates to provide transitional relief to individuals and employers. House Republicans also propose to eliminate the ACA’s tax on health insurance premiums, the medical device tax and the branded prescription drug annual fee. Finally, the plan would lift the prohibition on purchasing over-the-counter (OTC) medications with funds from tax-advantaged health accounts (currently not permitted unless a doctor writes a prescription for the OTC product) and would remove ACA restrictions that lowered the threshold for deductible medical expenses.
- **HSAs:** Building on prior Republican proposals, the policy brief includes several provisions to enhance the flexibility and use of HSAs. First, the proposal would increase the maximum annual HSA contribution limit to equal the maximum out-of-pocket limits for a given year. Second, the policy brief proposes to allow spouses to make catch-up contributions to the same HSA if both spouses are eligible to make such contributions. The brief would also make certain administrative changes to HSA rules.
- **Medicaid Reform:** Seeking to accommodate states that expanded Medicaid eligibility under the ACA, House Republicans would permit expansion states to continue receiving enhanced federal funding for currently enrolled beneficiaries for a limited period of time (transition period). The brief does not specify the length of this transition period. If a state decided to keep its Medicaid program open to the expansion population after the transition period had ended, the state would receive the traditional match rate as opposed to the ACA’s enhanced federal funding for expansion beneficiaries. Nonexpansion states also would be eligible for temporary safety net funding during the transition period.

After the transition period, states would have the option to receive federal Medicaid funding in the form of a per capita cap or a block grant. If a state opted to receive federal funds through a per capita cap, the state would receive federal allotments for each of the following groups: aged, blind and disabled, children, and adults. States that choose a block grant would be expected to remove expansion beneficiaries from their Medicaid programs and provide coverage to mandatory populations to qualify for the block grant. The plan outlined in House Republicans’ policy brief also would repeal the ACA cuts to Medicaid disproportionate-share hospitals.

- **State Innovation Grants:** Finally, the policy brief proposes to create state innovation grants, which would provide federal resources to states to help lower healthcare costs for vulnerable individuals and stabilize state insurance markets. According to the proposal, these funds could be used to fund high-risk pools, reduce out-of-pocket costs, provide access to preventive services, promote private health plan participation and lower costs for individuals with high use.

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work or

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