

# Fate of the American Health Care Act in the Hands of the Senate

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On May 4, the U.S. House of Representatives passed the American Health Care Act (AHCA) by a slight majority (217-213). As we previously wrote, AHCA:

- eliminates taxes imposed by the Affordable Care Act (ACA);
- repeals individual and employer mandate penalties;
- offers tax credits to individuals who are not covered by employer insurance, Medicare, Medicaid or eligible for treatment by the Department of Veterans Affairs;
- allows insurers to charge older adults five times more than young adults;
- imposes a 30 percent surcharge on health insurance premiums for those with gaps in coverage;
- transitions Medicaid to a per capita allotment program; and
- allows states to opt out of certain ACA provisions, including requiring insurers to provide certain essential health benefits (e.g., maternity care, emergency services, etc.).

The legislation passed with what are called the MacArthur and Upton-Long Amendments (Amendments). The Amendments provide an additional \$8 billion to those with pre-existing conditions in states that choose to redesign their insurance market.

The legislation will now be sent to the Senate.

If Republicans use the budget reconciliation process, the bill will proceed to President Trump's desk with only 51 Senate votes. However, the bill will face a significant hurdle as the budget reconciliation process requires that the legislation not add to the deficit 10 years after implementation. Additionally, if the Senate makes any legislation changes, representatives from the House and Senate must convene to address discrepancies between the chambers, reconcile such differences, and represent the legislation to both chambers for a final vote.

In addition to AHCA, Republicans have outlined two additional phases to their health care overhaul plan: easing regulations and passing additional health care legislation. President Trump's first executive order encouraged federal agencies to "minimize the unwarranted economic and regulatory burdens" of the ACA (see: "The Affordable Care Act: On the Fast Track to Repeal.") Any additional legislation would be subject to filibuster, and require 60 votes (at least eight Democrats) to pass the Senate.

Stay tuned for future health care policy updates. If you have any questions, please contact a member of our health care practice group.