

# Legislate<sup>®</sup>

## Key Legislative Developments Affecting Your Human Resources US

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### HSAs: Key Pillar in Post-ACA Landscape?

In this issue, we focus on the future of health savings accounts and newly introduced legislation that would provide greater flexibility for employers and employees than is permitted under current law.

In this issue: [Health Care Reform Update](#) | [Health Savings Accounts \(HSAs\)](#) | [Looking Ahead](#)

#### Health Care Reform Update

With both chambers of Congress on recess last week, many lawmakers held town hall meetings in their home districts. A wide range of topics were discussed, but health care reform was a common theme at most, if not all. Attendees sought answers from their congressmen about what kind of changes to the law would occur and when. Although those dialogues varied, as discussed in the [Conduent webinar last week](#), it appears that health care reform will not result in a full “repeal and replacement” of the Affordable Care Act (ACA). Rather, limited provisions will be repealed or modified over time. More specifically, the first wave of reform is likely to include a “zeroing out” of the individual mandate penalty and the employer shared responsibility assessments. (For additional information on the potential timing of health care, retirement and comprehensive tax reform, please see our [February 20 Legislate](#).)

#### Health Savings Accounts (HSAs)

President Trump and lawmakers in both parties support the expansion of health savings accounts (HSAs), suggesting that they will be a strong pillar of the post-ACA landscape.

During the last Congress, numerous bills were introduced by both Democrats and Republicans that would have enhanced the utility of HSAs, including by expanding eligibility and permitted uses. (See our [July 11, 2016](#), [June 27, 2016](#) and [May 23, 2016](#) issues of *Legislate* for background.) Although those bills didn’t advance, lawmakers in the current Congress continue their pursuit of expanding HSAs.



Sen. Orrin Hatch (R-UT) and Rep. Erik Paulson (R-MN) have sponsored legislation ([S. 403](#) and [H.R. 1175](#)) – the Health Savings Act of 2017 – that would affect the HSA rules by:

- Expanding access and eligibility for coverage
- Increasing maximum contribution limits
- Expanding the universe of permitted reimbursable expenses
- Modifying the provisions on HSA interactions with health flexible spending arrangements (FSAs) and health reimbursement arrangements (HRAs)

For additional information on this legislation, please see Rep. Paulson's [press release](#) and Sen. Marco Rubio's (R-FL) [press release](#). For more on HSAs, FSAs and HRAs, see our [January 5, 2015 FYI In-Depth](#).

**Comment.** Notably, the Hatch/Paulson legislation would not exempt HSA contributions from the calculation of the so-called Cadillac tax – the deductible excise tax on high-cost health plans that has been delayed until 2020. However, if the Cadillac tax is repealed before 2020, the failure to include this provision in the bill may prove to be meaningless.

#### Join Us for a Webinar on HSAs

Sign up for our webinar, [The New Administration and HSAs: What Happens Next?](#), to be held on Wednesday, March 8 at 1 p.m. ET. You'll hear the latest from experts on pending legislation, potential changes to the ACA, as well as insight on impacts to the employee benefits landscape.

In addition to the Hatch/Paulson legislation, last month Rep. Michael Burgess (R-TX), introduced a bill ([H.R. 35](#)), also named the Health Savings Act of 2017. Key provisions of this bill would:

- Permit an additional tax deduction for amounts paid to the HSA of a taxpayer's child or grandchild
- Permit a rollover of HSA funds to the child, parent, or grandparent of an account holder
- Increase the maximum HSA contribution limit to match the amount of the deductible and out-of-pocket expenses under a high-deductible health plan

## Looking Ahead

Health care reform will continue to be a top agenda item for House and Senate Republicans, as well as President Trump and HHS Secretary Tom Price. In addition to working on revisions to the ACA, Republicans and Democrats from both chambers will focus on wellness programs. Specifically, the House Committee on Education and the Workforce will hold a [hearing](#) on March 1 to study the legal framework that supports such programs.

Our own Allison Klausner, Conduent HR Services' Government Relations Leader, will be testifying as a witness at the March 1 hearing. We'll provide a summary of that hearing in next week's *Legislate*.

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