

Legislate[®]

Key Legislative Developments Affecting Your Human Resources US

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Lack of GOP Unity Derails ACA Repeal Efforts

Republican lawmakers' mission to repeal the Affordable Care Act and replace it with a new legal framework has stalled in the House. With no support from Democrats, neither President Trump nor the GOP House leadership were able to whip up enough Republican votes to pass the American Health Care Act and send it on to the Senate.

In this issue: [Health Care Reform Hits a Road Block](#) | [What's Congress' Next Move?](#) | [Renewed Focus on ACA Regulations](#) | [In Closing](#)

Health Care Reform Hits a Road Block

Repealing and replacing the Affordable Care Act (ACA) has been a top priority for the House and Senate GOP. But Republican lawmakers have reached an impasse. To be clear, the stalemate is not between Democrats and Republicans, but rather among Republicans. Indeed, although no Democrats were expected to vote in favor of the [American Health Care Act](#) (AHCA), the House legislative proposal to repeal and replace portions of the ACA failed to garner sufficient votes by GOP lawmakers to advance it from the House to the Senate.



What's Congress' Next Move?

When the House reconvenes today, it intends to focus on priorities other than crafting legislation to repeal and replace the ACA. Indeed, given the following, GOP lawmakers will abandon, at least temporarily, their aim to reform health care.

- The House will be on recess starting on Friday, April 7 and ending on Tuesday, April 25.
- The Senate will be on recess starting on Monday, April 10 and ending on Monday, April 24.
- The continuing resolution which provides stop-gap funding for government operations continues through Friday, April 28.
- GOP Senators aim to conclude the confirmation process of Judge Neil Gorsuch's nomination for the Supreme Court before the recess.

Comment. Congress is likely to redirect its focus to comprehensive tax reform, as suggested by President Trump. If so, employers should prepare for meaningful reform affecting compensation and benefits. As noted in prior issues of *Legislate*, such reform may include a cap on the tax exclusion for employer-sponsored health care coverage, as well as significant changes affecting the tax-favored status of contributions into retirement plans.

In addition to legislation, House Republicans will need to consider next steps for the high-profile pending ACA-related litigation, *House v. Price* (formerly *House v. Burwell*), which is currently on hold until May 22. In this lawsuit, the House called into question whether the federal government has authority to use federal funding to reimburse insurance companies for the “cost-sharing” arrangements for low-income ACA marketplace enrollees. The AHCA would have repealed the ACA’s provision providing for these arrangements effective in 2020. If the court decides the litigation in favor of the House Republicans, the payments to insurers would cease and this, in turn, could result in the collapse of the marketplaces because insurers would still be required to provide the enhanced cost-sharing.

Renewed Focus on ACA Regulations

Although congressional Republicans may take some time before they return their focus to health care reform, the regulatory agencies will likely move forward with efforts to minimize what they believe are the adverse impacts of the law. Specifically, the agencies will take steps to comply with President Trump’s [January 20 executive order](#) to:

- “take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act and prepare to afford the States more flexibility and control to create a more free and open healthcare market”
- “exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications”

Comment. Unless and until Congress changes the ACA, or the executive agencies take action or exercise any authority to eviscerate portions of the law through regulatory action or diminished enforcement, employers should remain vigilant in their compliance efforts. Specifically, employers are encouraged to timely satisfy the various reporting and disclosure requirements (including IRS Forms 1094-C and 1095-C and Summaries of Benefits and Coverage, or SBCs), and to comply with the employer shared responsibility “play” provisions, unless they’ve made the decision to be subject to and “pay” one of the two assessments.

In Closing

Future issues of *Legislate* will examine the impact of Speaker Paul Ryan’s, R-Wis., decision not to hold a vote on the AHCA proposal.

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