

PUBLICATION

AHCA Pulled From the House Floor Minutes before an Expected Vote

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The American Health Care Act (AHCA), the House Republican plan to repeal and replace the Affordable Care Act (ACA), was pulled from consideration at the last minute after Speaker Paul Ryan (R-WI) reportedly told President Donald Trump the measure did not have the support of a majority of the U.S. House. The abrupt reversal will be considered by some as a significant defeat for President Trump and congressional Republicans who must now decide how best to move forward. The future of the measure, which passed the House Energy and Commerce, Ways and Means, and Budget Committees on party-line votes, is unknown (for more information on the bill, please see our March 10 update "[Republican ACA Replacement Passes House Committees on Party Line Votes](#)").

This week, the AHCA was the subject of frenzied negotiations between House leadership (and President Trump), the conservative House Freedom Caucus and the moderate "Tuesday Group." The House Freedom Caucus pushed to lower the financial cost of the bill; provide additional flexibility for insurance companies through the elimination of the ACA's 10 essential health benefits; an earlier end to the Medicaid expansion (initially set for 2019); an option for states to choose a Medicaid block grant (rather than the AHCA's proposed per capita cap); and an acceleration of the expiration of the ACA's tax credits, among others. Moderate House Republicans, who raised concerns regarding the Medicaid rollback, also pushed for increased subsidies for older Americans to purchase health care and a delay in the repeal of the Medicare tax on wealthy Americans, among other issues of concern. In addition, the AHCA included state-specific incentives aimed at garnering support from Republican members from upstate New York and Illinois.

Key elements of the AHCA were:

TAXES	MEDICAID
<ul style="list-style-type: none">• Repeals ACA tax credit in 2020• Creates new tax credit adjusted by age ranging from \$2,000 – \$4,000 available to those under \$75,000/\$150,000 in income• Repeals Small Business tax credit in 2020• Delays "Cadillac Tax" until 2026• Repeals tax on OTC medications• Repeals tax increase on HSA non-qualified expenses• Repeals limit on FSA contributions• Reinstates employer deduction for Part D subsidy• Reinstates medical expense deduction to 5.8% threshold• Repeals Medicare wage surtax increase in 2023• Increases HSA limits, allows spousal catch-up payments, and allows HSA payments for	<ul style="list-style-type: none">• Codifies that expansion is optional• Repeals enhanced match rate for expansion population after 2019 for states that expanded before March 1, 2017• Implements per capita cap or block grant model in 2020 based on FY16 spending and indexed by medical CPI• Allows state option to require work as a condition of eligibility• Repeals Medicaid DSH cuts for non-expansion states in 2018• Repeals Medicaid DSH cuts for expansion states in 2020• No Medicaid for lottery winners• Requires individuals to provide documentation of citizenship or lawful presence before obtaining Medicaid coverage

<p>certain expenses incurred prior to establishment of HSA</p> <ul style="list-style-type: none"> • Repeals tanning tax • Repeals net investment tax • Reinstates deduction for insurance executives • Repeal of prescription drug tax • Repeal of health insurance tax • Repeals medical device tax • Gives states the option to establish a Basic Health Program using premium tax credit funds that would otherwise flow through the exchange or to apply for Section 1332 waivers using those same funds 	<ul style="list-style-type: none"> • \$10 billion to non-expansion states over five years for safety-net funding • Increases frequency of eligibility redeterminations • Repeals ACA presumptive eligibility for some • Reverts mandatory income eligibility level for poverty-related children back to 100% • Repeals 6%-point bonus in match rate for community-based attendant services and supports • Family planning no longer a mandatory covered service
MARKET REFORMS & STABILIZATION	MISCELLANEOUS
<ul style="list-style-type: none"> • Provides \$100 billion through 2026 for "Patient and State Stability Fund" to expand coverage, increase insurance options, promote access to benefits, improve maternity and newborn care, and reduce out-of-pocket spending • Provides \$85 billion for Americans age 50 to 64 to access insurance marketplaces • Creates a continuous health insurance coverage incentive beginning in 2019 by allowing plans to increase premiums by 30% for anyone with a 63-day or more lapse in coverage • Repeals insurance actuarial value standards • Loosens age-rating requirements to a 5:1 federal standard and state flexibility to set different ratio • Permits tax credits for "catastrophic" and some off-exchange products 	<ul style="list-style-type: none"> • Repeals cost-sharing subsidies in 2020 • Recaptures excess subsidy payments in 2018 – 2019 • Eliminates individual and employer mandate penalties • Repeals prevention fund • Increased funding for community health centers • Repeals Planned Parenthood funding • Repeals "essential health benefits"

If the bill had passed the House, it would have faced significant challenges in the Senate. A number of moderate and more conservative Senate Republicans expressed concerns with the legislation, echoing the dynamic seen in the House. The bill would also have faced a procedural challenge in the Senate, where the Senate Parliamentarian would have had to rule on whether the bill produced by the House was eligible for consideration under the expedited reconciliation procedures or if it would need to be amended before moving forward. In particular, the removal of the ACA's 10 essential health benefits required by all insurance plans was seen as a challenging inclusion. Initially, House Republican leadership elected not to include this in the legislation for fear that it would fall victim to the "Byrd Rule" that limits the scope of legislation passed through reconciliation. However, the provision was later added after the House Freedom Caucus insisted on its inclusion in exchange for their support, and some Senate Republicans intimated that the Parliamentarian might in fact agree to the measure's inclusion.

What happens next remains to be seen. During his comments after the bill's withdrawal, Speaker Ryan said, "Obamacare is the law of the land...We're going to be living with Obamacare for the foreseeable future." He pointedly refused to say whether or when he would move forward with another attempt at a full repeal and replacement. President Trump laid blame for the bill's failure on Democrats who refused to vote for the measure saying, "I think the losers are Nancy Pelosi and Chuck Schumer because now they own Obamacare." With the failure of the AHCA, the focus of the health care debate will now shift to Tom Price, the Secretary of Health and Human Services, and the regulatory efforts the Trump Administration pushes forward designed to stabilize the individual marketplace (see "[HHS Makes Its First Move to Stabilize the Individual Health Insurance Marketplace](#)" for our analysis of the proposed changes). Additionally, the Trump Administration will likely seek ways to encourage states to test out Medicaid strategies. However, it remains unknown whether congressional Republicans and the White House will push forward with another repeal package or if they will instead move to make changes to the ACA through regular order, which would require a veto-proof bipartisan majority of 60 votes in the Senate. President Trump seemed to indicate he was not interested in pushing forward with another repeal measure in the near future, saying after the bill's withdrawal "As you know, I've been saying for years that the best thing is to let Obamacare explode and then go make a deal with the Democrats and have one unified deal. And they will come to us, we won't have to come to them...After Obamacare explodes."

We will continue to monitor and report on proposed changes to the country's health care system as the debate progresses.