



HEALTH REFORM ADVISORY PRACTICE

Weekly Legislative Update



Feb. 24, 2017

Republicans Move On with ACA Repeal and Replace Despite Tough Town Hall Meetings

Recess is supposed to be fun, right? For many Republican members of Congress, this week's recess was anything but.

Turmoil within the Republican Party has slowed the Affordable Care Act (ACA) repeal and replace efforts despite pledges of swift action during the 2016 elections. Defenders of the ACA have capitalized on the slower than expected timeline and targeted constituent town halls during this week's recess as an opportunity to sow additional seeds of disunity in the Republican caucus and save the ACA.

Lockton comment: Of all the ACA repeal and replace critiques this week, comments by retired Speaker of the House John Boehner, a Republican, may have been the sharpest. Boehner was quoted in a [Politico report](#) as saying ACA repeal and replace "is not what's going to happen." Instead, Boehner says Republicans are "basically going to fix the flaws and put a more conservative box around it." Boehner's evidence? "In the 25 years that I served in the United States Congress, Republicans never, ever, one time agreed on what a health care proposal should look like. Not once"

Acknowledging the public condemnation, many Congressional Republicans nevertheless continued to press for ACA repeal and replace, citing the outcry of other constituents who are pressing them to dismantle the healthcare law.

Published reports from earlier this week quote President Donald Trump as saying ACA-related legislation is likely to be submitted early to mid-March. This is consistent with reports that pieces of the legislation summarized in the [proposal](#) we discussed last week are likely to clear the Congressional Budget Office in early March.

Lockton comment: Key committees in Congress are scheduled to consider numerous healthcare related issues next week regardless of whether ACA repeal and replace legislation is introduced. Among those activities is a [House Education and Workforce Committee hearing](#) on association health plans, self-insurance and wellness programs.

What the draft legislation contains and whether enough Republicans will agree to it are both open questions. However, unconfirmed leaked drafts and our sources indicate key Republicans in Congress intend to impose taxes on workers and retirees who have employer-sponsored health insurance.

Lockton comment: There is not consensus among Republicans about imposing new taxes on workers and retirees, and the chorus of opposition is also growing outside of Capitol Hill. Leading the charge against capping the tax exclusion is [The Alliance to Fight the 40 | Don't Tax My Health Care](#), a diverse coalition of employers, unions, associations, brokers/consultants (including Lockton) and others.

Recent findings by The Alliance conclude “Just like the unpopular 40 percent ‘Cadillac Tax,’ the tax cap targets those who work for employers that employ higher numbers of older workers, women or those with larger families or family members with chronic or acute illnesses. Employers in high-cost areas or in specific industries, such as manufacturing or law enforcement, are also threatened.” As discussed in [our blog](#), we think capping the tax exclusion is bad policy and bad politics.

California Considers Single-Payer (Again)

California lawmakers have proposed a single-payer healthcare system for the Golden State that would provide universal healthcare coverage for all residents. The proposed measure includes no details on structure or funding, and was introduced just under a deadline for offering bills in the current legislative session; apparently the measure was introduced as a placeholder for more detailed terms to be fleshed out later.

California is one of several states considering a single payer structure. The problem for these initiatives has always been cost. Vermont’s legislature passed several years ago an aspirational bill calling for universal coverage in the state, but the state’s governor let the initiative die once it became apparent the state could not handle the cost. The measure would have been funded with an 11.5 percent payroll assessment on businesses and a sliding premium (up to 9.5 percent of income) on individuals.

Colorado voters crushed a ballot initiative last November that would have imposed a single-payer platform on the state’s residents. Again, the cost of the measure – in terms of taxes on individuals and employers – was largely the reason for its demise.

Cost will likely be the rub in California too. The state already boasts the nation’s largest number of individual tax brackets (10) and highest incremental state tax rate (13.3 percent). Yet that hasn’t stopped its legislature from trying. Twice in the past dozen years it has passed single-payer bills. Both bills were terminated by then-governor Arnold Schwarzenegger, a Republican. The current governor, Jerry Brown, is a Democrat. Time will tell what becomes of the new single-payer initiative.

Lockton comment: States are facing increasing pressure to play a larger role to ensure quality health coverage for their residents, and many in Congress seem happy to provide states with additional flexibility. Flexibility can be nice, but one has to wonder what the cost will be for multi-state employers that may face drastically different compliance obligations depending on the states where they have employees.

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