



HEALTH REFORM ADVISORY PRACTICE

Weekly Legislative Update



Jan. 5, 2018

New Year, New Legislative Agenda, New Legislative Update Schedule

As the American public works on (and breaks?) their New Year's resolutions, the president and members of congress are working on a new legislative agenda for 2018. Healthcare policy might not be as central to the 2018 agenda as it was in 2017, but it will certainly continue to be a priority for 2018.

Employers will be particularly interested in healthcare policies that were raised but not fully addressed in 2017, including:

- Calls to further repeal and replace the Affordable Care Act (ACA), including the employer mandate and reporting requirements
- Delays for ACA-related taxes such as the Cadillac tax, health insurer tax (HIT) and medical device tax
- Expansion of health savings accounts and use of pre-tax accounts to pay for over-the-counter medications
- Appropriation of funds for the ACA's cost-sharing reduction subsidies (CSRs), which may help stabilize the individual market
- Appropriation of funds for the Children's Health Insurance Program (CHIP).

Despite repeal of the ACA's individual mandate in last month's tax-overhaul package, employers dealing with ACA employer mandate reporting (which was partially delayed, details in our [Alert](#)) know well that major pieces of the ACA remain in place. Some conservatives are pushing for a more complete repeal, but significant action may be a long-shot, especially in the Senate where Republicans, who couldn't pass a repeal and replace bill in 2017 with a 52-48 majority, now have a slimmer 51-49 majority.

Lockton comment: At the same time some federal lawmakers are looking to reduce the federal government's role in healthcare, some state legislatures are expected to further examine how to increase the role of state governments through single-payer or Medicaid-for-all options. Threats to repeal the ACA might even increase the demand for states to take action.

Further delays to the Cadillac tax, HIT and medical device tax, and lifting restrictions on paying for over-the-counter medications from pre-tax accounts may be more likely. The first opportunity for action will be in the government funding bill, which is necessary by Jan. 19 to avoid a government shutdown. Conversations with legislative aides lead us to suspect an ACA-tax package is more likely to happen in February, if at all.

Lockton comment: There are a host of non-healthcare related agenda items that will compete for priority, but any significant legislative action will be influenced by the realities of electoral politics. This is an election year, and frequently, little gets accomplished in election years. What does get accomplished is often relatively uncontroversial. As we saw in 2017, healthcare policy can be quite controversial, which means Republican-lawmakers may gravitate toward less controversial agenda items, in an effort to preserve their current majorities during the mid-term elections this November.

Changes to the Legislative Update Schedule

In 2017 we published a weekly legislative update, as comprehensive ACA repeal and replace and tax reform, and its healthcare policy implications, dominated the legislative agenda. The possibility of significant change remains, but as we sit today it doesn't seem likely that a weekly play-by-play in 2018 will be necessary. As such, look for our legislative updates to arrive less frequently.

We will continue to publish our updates on an ad hoc basis, and keep you up-to-date on significant compliance topics through our alerts, [blog](#) posts and webinars. Lockton Compliance Services and Lockton Retirement Services will also continue to meet frequently with legislators, regulators and other stakeholders to help inform the legislative and regulatory processes in a manner that is beneficial for plan sponsors.

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