



## HEALTH REFORM ADVISORY PRACTICE

### Weekly Legislative Update



October 20, 2017

## A Call to Action for Plan Sponsors and a Busy Week in Congress

Congress was busy this week considering numerous topics impacting benefit plan sponsors:

- Delaying some Affordable Care Act (ACA) taxes, but not the Cadillac tax.
- Extending cost sharing reduction (CSR) payments in exchange for states having more flexibility to modify some ACA requirements.
- Tax reform without comprehensive health reform.

### Package Delaying ACA Taxes May Leave the Cadillac Tax in Place

Washington insiders we've spoken with tell us members of Congress are currently working on a package to eliminate or delay a number of ACA taxes; however, the so-called Cadillac tax is receiving little attention as part of that package.

The Cadillac tax is a 40 percent excise tax paid by employers if the value of an employee's health coverage exceeds certain levels. The tax goes into effect beginning in 2020, and many employers are looking at ways to modify their plan offerings to avoid becoming subject to the tax and the significant administrative burdens associated with it.

Employers not already thinking about the tax will need to soon, as rising medical costs will make it difficult for employers to offer quality coverage without eventually triggering the tax.

**Call to Action:** If you are opposed to the Cadillac tax, now is the time to contact your representatives in Congress and encourage them to eliminate the Cadillac tax and protect employer-provided health benefits. Click [here](#) for instructions on how to contact your representative and for sample language you can use.

Another component of the package Congress is discussing includes a delay or repeal of the health insurer tax. This is a tax paid by insurance carriers, but the cost is passed to employer plan sponsors in the form of a premium increase for insured plans. The tax was waived for

2017 but is set to return in 2018 and is expected to increase premiums between 3.5 to 4 percent.

### **Proposed Deal on CSR Payments Meets Immediate Opposition**

In last week's [Update](#) we discussed President Donald Trump's decision to stop funding CSR payments to insurers. In response, Senators Lamar Alexander (R-TN) and Patty Murray (D-WA) announced a bipartisan proposal this week to fund the subsidies in exchange for giving states more flexibility under the ACA. The proposal includes several provisions:

- Two years of funding for the CSRs.
- A provision allowing people over 30 years old to enroll in "copper plans," which are less comprehensive than other ACA plans but have lower premiums. These plans are currently available only to people under 30 years old.
- \$106 million in funding for ACA marketplace enrollment outreach in 2018 and 2019.
- Fewer constraints on states seeking waivers from some of the ACA's coverage requirements.

Initial reports indicated Trump was supportive of the proposal; however, the president quickly changed course and indicated it was a bailout of insurance companies. This charge is consistent with the messaging of many conservative members of Congress, which makes the bill's success unlikely. At this point, the most likely, though still improbable, path forward for the proposal is that it gets included in a broader package of funding bills expected to be considered late this year.

### **Senate Budget Resolution Propels Tax Reform and Slows Opportunities for Partisan Health Reform**

Late Thursday, the Senate passed a budget resolution for the government's 2018 fiscal year. Included in the resolution was a provision allowing the Senate to pass tax reform legislation with only Republican votes.

Despite the initial demands by some Republican senators, the budget does not include language readily allowing Republicans to simultaneously pass both tax reform and comprehensive health reform on a partisan basis. This means Republicans will have to wait until at least next spring to take another swing at a comprehensive ACA repeal and replace bill.

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