

AMERICAN HEALTH CARE ACT PASSES HOUSE— WHAT DOES IT MEAN FOR EMPLOYERS?

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On May 4, 2017, the American Health Care Act (AHCA) was passed, 217 to 213, by the House of Representatives. No Democrats voted for it and 20 Republicans voted against the bill. AHCA now heads to the Senate, where approval, in its present form, will not occur. The Congressional Budget Office has not yet rated this version of the AHCA and its projected costs or savings to the federal government, states, employers, and individuals can only be estimated.

Most of the news reports on AHCA have addressed elimination of the individual mandate (fine for not having health insurance), tax credits for individuals purchasing insurance, premium costs, pre-existing condition coverage, high risk pools, and Medicare payments; all important

issues. We want to provide you with a summary of the most prominent points of AHCA which apply to employers:

1. AHCA is designed to repeal and replace the Affordable Care Act (ACA), but substantial parts of ACA are retained under different names. Many regulations issued under ACA will be retained, except where AHCA expressly contradicts language in regulations.
2. The employer mandate (requirement that employers with 50 or more employees must provide insurance or pay a penalty) remains, but the penalty is reduced to zero. (Retention of the employer mandate is a byproduct of the budget reconciliation process used to pass the AHCA.)
3. The small business credit (to employers with fewer than 25 full-time equivalent employees) for offering health insurance is eliminated.
4. The reporting and compliance requirements

have not changed for Applicable Large Employers (ALE) (at least 50 full-time employees, including full-time equivalent employees) who will still have to file the 1095 series IRS form.

5. Removal of the Flexible Spending Account (FSA) contribution limit of \$2,500.
6. Implementation of the Cadillac tax on high-cost insurance policies is delayed until 2026.
7. The ACA surcharge on payroll taxes is repealed resulting in an estimated \$300 billion tax cut.

8. Annual limits on Health Savings Accounts (HSAs) will be increased and the penalty tax on withdrawals for non-qualified purposes is reduced back down to its pre-ACA rate of 10%.

These are AHCA's eight take-aways for employers. But, the chances of AHCA passing the Senate (if it passes) unchanged is zero. Senate leaders have already announced they are starting from scratch in drafting health insurance legislation. We will continue to monitor the legislation and report on substantive legislative action.



About the Author. Charles M. Russman is a member of Bodman's Employee Benefits and Executive Compensation Practice Group. He has extensive experience with virtually every type of employee benefit and executive compensation structure, and he is able to provide efficient, effective and innovative counsel when it comes to designing, maintaining, and correcting executive compensation, retirement plans, and welfare benefit plans.



About the Author. Donald H. Scharg has more than 30 years of experience in the areas of labor law, construction labor law, employment discrimination, and employee relations. He has represented employers in collective bargaining contract arbitrations, 312 arbitrations, wrongful discharge, and discrimination claims. Don has conducted many seminars for management on employment discrimination, sexual harassment, wrongful discharge, family leave, and other topics. He also regularly contributes articles to professional and business publications regarding employment law issues.

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