Keenan & Associates

BRIEFING
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HEALTH CARE REFORM: REPUBLICAN BLUEPRINT TO REPEAL & REPLACE THE ACA

On February 16, 2017, Republicans in the U.S. House of Representatives released a 19-page blueprint outlining the expected elements of a "repeal and replace" of the Affordable Care Act (ACA). The plan, which draws heavily on the A Better Way proposal released by Speaker of the House Paul Ryan in 2016, has not yet been introduced as actual legislation. Speaker Ryan has indicated that a bill will be introduced in the next few weeks.

HIGHLIGHTS OF THE BLUEPRINT

The aspects of "repeal and replace" touched on in the blueprint are as follows:

- Elimination of the individual and employer mandate penalties.
- Protecting patients with pre-existing conditions and ensuring dependents up to age 26 can stay on their parents' insurance.
- Tax relief:
  - Elimination on the taxes on premiums, prescription drugs, and medical devices.
  - Eliminating the ACA ban on using pretax funds for over-the-counter medication.
  - Rolling back the threshold for deducting medical expenses to pre-ACA level.
- Enhancing and expanding Health Savings Accounts (HSAs):
  - Increasing maximum HSA contribution limit.
  - Allowing both spouses to make catch-up contributions to the same HSA.
- Providing universal, portable monthly tax credits for all citizens or qualified aliens not offered insurance through their employer or a government program:
  - Advanceable and refundable.
  - Age-rated, available to dependents up to age 26, portable and grows over time.
  - Credit can be used to purchase any available plan approved by a state and sold in the person's individual insurance market, including catastrophic coverage. Credit can be used for COBRA. Excess funds can be deposited into an HSA.

- Repealing Medicaid expansion under ACA:
  - States (like California) that choose to keep their Medicaid programs open to new enrollees in the ACA expansion population would continue to receive enhanced payments for a limited period of time. Thereafter, those states would be reimbursed at their traditional match rates for these beneficiaries. States would be given a choice of receiving a block grant or receiving a Medicaid allotment based on the existing federal medical assistance percentage (FMAP) on a per capita basis.
- Repeal ACA's cuts to Disproportionate Share Hospital (DSH) payments.
- Later legislation to:
  - Increase flexibility to employers to offer affordable, quality health care to employees.
  - Promote innovation and competition in the insurance market.
  - Allow individuals and families to purchase insurance across state lines.

Unknowns

Since the blueprint is a brief outline of anticipated legislation, there are still many unanswered questions. The blueprint does not address:

- Coverage mandates, including no co-pays for preventive services
- Impact of legislation on annual and lifetime dollar limits on essential health benefits
- The annual cap on out-of-pocket costs
- Employer reporting requirements
- How individual tax credits will interact with employer-provided coverage
- The fate of the Cadillac tax
- Whether there will be any changes to the employee tax exemption for employer-provided coverage

Employer Impact

If enacted in its current form, the impact of this plan will likely be greater in the individual market than to employer-provided plans in the small and large group markets. Employers, including those subject to collective bargaining agreements, would probably see minimal change to their plans. The potential impact could change, however, if the blueprint is amended or actual legislation addresses any of the unknowns discussed above.

For example, in the small group market, insurers must provide coverage that includes an "Essential Health Benefits Package" (EHB Package). The EHB Package must include all 10 categories of essential health benefits, limit cost-sharing and provide a necessary "metal" level of coverage (i.e., bronze, silver, gold or platinum). If legislation were to remove this requirement, then employers could see less robust plans with higher cost-sharing available in the small group market with lower premium costs.

Insurers are not obligated to offer the EHB Package for large group coverage. However, those that do cover any of the categories of essential health benefits cannot place annual or lifetime dollar limits on the value of those benefits. If legislation were to remove this prohibition, then large employers could potentially see these limits reintroduced into plan designs with some likely reduction in premium costs.

California Impact

Depending on the legislative details, repeal and replace legislation could have a profound impact on the State of California, which expanded its Medi-Cal population under the ACA and receives approximately $20 billion a year from the federal government in Medicaid funding and subsidies to individuals who purchase coverage through Covered California. There is scant detail on the "innovation grants" in the blueprint and it is unknown how this would affect the individuals and families who obtain subsidized coverage. Whatever happens at a federal level, there is likely to be a legislative response in California. However, at this point it is premature to say what that response would look like.

Conclusion

With majorities in the House and the Senate and a willing President, Republicans stand poised to change the health insurance marketplace in far-reaching ways this year. However, this process is just beginning. Legislation will be heard in committees and debated in the House before moving to the Senate. This is the beginning of what is likely to be a months-long legislative and regulatory process with many twists and turns. Keenan will continue to update you throughout. As of now, all of the statutory and regulatory provisions of the ACA are in full force and effect.

Please contact your Keenan Account Manager for questions regarding this *Briefing*.