

HEALTH CARE REFORM: ACA REPEAL AND REPLACE STALLS IN THE SENATE

On July 17, 2017, the U.S. Senate's effort to simultaneously repeal and replace the Affordable Care Act (ACA) came to an end. Just four days earlier, Majority Leader Mitch McConnell released a revised version of the Better Care Reconciliation Act (BCRA) – the Senate's bill to repeal and replace the ACA. The revised bill included changes that were intended to address some concerns of those opposing the original draft that was released in late June; however, four Senators – Susan Collins (R., Maine), Jerry Moran (R., Kan.), Mike Lee (R., Utah) and Rand Paul (R., Ky.) – came out in opposition to the revised bill, which left Sen. McConnell short of the 50 Republican votes needed to get the bill passed.

SENATE TO TAKE UP HOUSE BILL

With plans to repeal and replace the ACA at a standstill, Sen. McConnell issued a statement saying the Senate will take up the American Health Care Act passed by the U.S. House of Representatives in May 2017. If the Senate agrees, an amendment based on the 2015 legislation vetoed by President Obama will be offered to repeal the ACA with a two-year delay that allows for drafting and passing replacement legislation. Three Senators – Susan Collins (R., Maine), Shelley Moore Capito (R., W.Va.) and Lisa Murkowski (R., Alaska) – quickly came out in opposition to this plan. Nonetheless, Sen. McConnell announced plans to call for a vote on a motion to proceed next week (week of July 24-28, 2017).

WHAT'S NEXT?

The Republican strategy to repeal and replace the ACA is a three step process:

1. Repeal and replace parts of the ACA through the budget reconciliation process.
2. Make regulatory and sub-regulatory changes through the executive branch agencies.
3. Pass additional legislation outside of the budget reconciliation process.

With the first step to repeal and replace the ACA faltering and Republicans deeply divided over health care, it is not clear what the next move will be but some have suggested starting over. Rather than pushing legislation through the budget reconciliation process, some want to hold committee hearings and move any bills through the regular legislative process. However, it is an approach that would require cooperation from Democrats as 60 votes in the Senate would be needed to pass any legislation. With that in mind, Senate Minority Leader Charles E. Schumer (D., N.Y.) has called on Republicans to work with Democrats to pass bipartisan legislation. It remains to be seen if they take him up on the offer.

For now, all statutory and regulatory provisions of the ACA remain in full force. Employers should continue to administer their plans in full compliance with existing law. Keenan continues to monitor ongoing developments and will keep you updated.

Please contact your Keenan Account Manager for questions regarding this Briefing or if you require any additional information regarding the Affordable Care Act.

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