

July 2017

Summary of the Restoring Americans' Healthcare Freedom Reconciliation Act of 2015

This summary describes key provisions of H.R. 3762, the Restoring Americans' Healthcare Freedom Reconciliation Act of 2015, legislation passed in the 114th Congress to repeal key elements of the Affordable Care Act (ACA). The bill was vetoed by President Obama in January 2016.

Restoring Americans' Healthcare Freedom Reconciliation Act of 2015 H.R. 3762	
Date plan announced	Approved by House and Senate in 114 th Congress, vetoed by President
Overall approach	<ul style="list-style-type: none"> • Repeal ACA mandates (2015) and premium and cost sharing subsidies (2018). • Retain private market rules including requirement to guarantee issue coverage, set premiums based on modified community rating, prohibition on pre-existing condition exclusions, requirement to cover essential health benefits, requirement to extend dependent coverage to age 26. • Retain health insurance marketplaces, annual Open Enrollment periods (OE), and special enrollment periods (SEPs). • Eliminate the Medicaid expansion. Eliminates statutory authority to cover childless adults up to 133% FPL and eliminates the enhanced match rate for the Medicaid expansion, effective January 1, 2018 • Prohibit federal Medicaid funding for Planned Parenthood clinics for one year. • No change to Medicare benefit enhancements or provider/Medicare Advantage plan payment savings. • Eliminate the Prevention and Public Health Fund and rescind any unobligated balances of the fund. Provide supplemental funding for community health centers of \$235 million for FY 2016. Appropriate \$750 million per year for each of fiscal years 2016 and 2017 to award grants to states to address the substance abuse public health crisis and urgent mental health needs • Repeal all ACA revenue provisions • Transfer revenues to the Medicare Hospital Insurance Trust Fund to extend Medicare solvency
Individual mandate	<ul style="list-style-type: none"> • Tax penalty for not having minimum essential coverage is eliminated effective January 1, 2015
Premium subsidies to individuals	<ul style="list-style-type: none"> • Repeal repayment cap on ACA premium tax credit subsidies for individuals, effective January 1, 2016. • Repeal ACA premium tax credit subsidies for individuals, effective January 1, 2018
Cost sharing subsidies to individuals	<ul style="list-style-type: none"> • ACA cost sharing subsidies are repealed effective January 1, 2018.
Individual health insurance market rules	<ul style="list-style-type: none"> • ACA private health insurance market rules are retained

Benefit design	<ul style="list-style-type: none"> • ACA requirement to cover essential health benefits is not changed. • ACA requirement for maximum out-of-pocket limit on cost sharing is not changed • ACA requirement for plans to be offered at specified actuarial values/metal levels is not changed • Prohibition on lifetime and annual dollar limits is not changed • Requirement for group plans and compliant individual market plans to cover preventive benefits with no cost sharing is not changed. • Requirement for all plans to apply in-network level of cost sharing for out-of-network emergency services is not changed
Women's health	<ul style="list-style-type: none"> • ACA essential health benefit requirement for individual and small group health insurance policies is not changed • Requirement for individual and group plans to cover preventive benefits, such as contraception and cancer screenings, with no cost sharing is not changed. • Prohibition on gender rating is not changed • Prohibition on pre-existing conditions exclusions, including for pregnancy, prior C-section, and history of domestic violence, is not changed. • Prohibit federal Medicaid funding for Planned Parenthood clinics for one year, effective upon date of enactment. Specifies that federal funds to states including those used by managed care organizations under state contract are prohibited from going to such entity.
Health Savings Accounts (HSAs)	<ul style="list-style-type: none"> • Eliminate ACA increase in tax penalty for non-qualified HSA withdrawals, effective January 1, 2016
High-risk pools	<ul style="list-style-type: none"> • No provision
Selling insurance across state lines	<ul style="list-style-type: none"> • No provision
Exchanges/ Insurance through associations	<ul style="list-style-type: none"> • State exchanges continue. • Single risk pool rating requirement for plans first sold on or after January 1, 2014 is not changed
Dependent coverage to age 26	<ul style="list-style-type: none"> • Requirement to provide dependent coverage for children up to age 26 for all individual and group policies is not changed.
Other private insurance standards	<ul style="list-style-type: none"> • Minimum medical loss ratio standards for all health plans are not changed • Requirement for all health plans to offer independent external review is not changed. • Requirements for all plans to report transparency data, and to provide standard, easy-to-read summary of benefits and coverage are not changed.
Employer requirements and provisions	<ul style="list-style-type: none"> • Tax penalty for large employers that do not provide health benefits is reduced to zero, retroactive to January 1, 2015 • Wellness incentives permitted under the ACA are not changed • Repeal tax credits for low-wage small employers, effective January 1, 2018.
Medicaid	<p><i>Financing</i></p> <ul style="list-style-type: none"> • Eliminates statutory authority to cover childless adults up to 133% FPL and option to extend coverage to adults above 133% FPL, effective after December 31, 2017 and eliminates the enhanced match rate for the Medicaid expansion as of January 1, 2018. Also eliminates the enhanced match rate transition percentage for pre-ACA expansion states as of January 1, 2018. • Repeals reductions in state DSH allotments. • Reduces FMAP for territories from 55% to 50% as of January 1, 2018, and eliminates additional Medicaid payment increase to territories as of September 30, 2017.

Other Changes

- Eliminates hospital presumptive eligibility for all groups and presumptive eligibility for expansion adults effective January 1, 2018.
- Repeals increase in Medicaid eligibility to 133% FPL for children ages 6-19 as of December 31, 2017. The minimum federal income eligibility limit for these children will revert to 100% FPL.
- Ends state maintenance of effort provision (which prevents states from using Medicaid/CHIP eligibility standards, methodologies, or procedures for children under age 19 that are more restrictive than those in effect on March 23, 2010) as of September 30, 2017.
- Eliminates 6% enhanced FMAP for Community First Choice option to provide attendant care services, effective January 1, 2018.
- Repeals the essential health benefits requirement for those receiving alternative benefit packages, including the expansion group, as of January 1, 2018.
- Repeals enrollment simplification and Marketplace coordination requirements as of January 1, 2018.

Medicare

Revenues

- Repeal the annual fee paid by branded prescription drug manufacturers, beginning after December 31, 2015
- Reinstate the tax deduction for employers who receive Part D retiree drug subsidy (RDS) payments to provide creditable prescription drug coverage to Medicare beneficiaries, beginning after December 31, 2015
- Repeal the HI payroll tax on high earners, beginning after December 31, 2015

Coverage enhancements

- ACA benefit enhancements (no-cost preventive benefits; phased-in coverage in the Part D coverage gap) are not changed

Reductions to provider and plan payments

- ACA reductions to Medicare provider payments and Medicare Advantage payments are not changed

Other ACA provisions related to Medicare are not changed, including:

- Increase Medicare premiums (Parts B and D) for higher income beneficiaries (those with incomes above \$85,000/individual and \$170,000/couple).
- Authorize an Independent Payment Advisory Board to recommend ways to reduce Medicare spending if the rate of growth in Medicare spending exceeds a target growth rate.
- Establish various quality, payment and delivery system changes, including a new Center for Medicare and Medicaid Innovation to test, evaluate, and expand methods to control costs and promote quality of care; Medicare Shared Savings Accountable Care Organizations; and penalty programs for hospital readmissions and hospital-acquired conditions.

State role

- Appropriate \$750 million per year for each of FY 2016 and 2017 for grant program to states to address the substance abuse crisis or to respond to urgent mental health needs. Secretary of HHS has discretion to allot funds among states and may give preference to states with disproportionate incidence of substance abuse problems or disproportionately urgent mental health needs.
- State option to establish a state based health insurance exchange remains unchanged
- State option to apply for Section 1332 waivers is unchanged
- State consumer assistance/ombudsman program is not changed, and is not funded.

	<ul style="list-style-type: none"> • State option to establish a Basic Health Program (BHP) is retained, though federal subsidy funding that would flow through BHP would be eliminated starting in 2018.
Financing	<ul style="list-style-type: none"> • ACA taxes repealed, effective January 1, 2016, except where otherwise noted: <ul style="list-style-type: none"> - Tax penalties associated with individual and large employer mandate, reduced to zero effective on January 1, 2015 - Cadillac tax on high-cost employer-sponsored group health plans is repealed effective January 1, 2018 - Increase in Medicare payroll tax (HI) rate on wages for high wage individuals; also 3.8% tax on unearned income for high income taxpayers - Tax on tanning beds - Tax on health insurers - Tax on pharmaceutical manufacturers - Excise tax on sale of medical devices - Provision excluding costs for over-the-counter drugs from being reimbursed through a tax preferred health savings account (HSA) - Provision increasing the tax (from 10% to 20%) on HSA distributions that are not used for qualified medical expenses - Annual limit on contributions to Flexible Spending Accounts (FSAs) repealed - Annual limit on deduction for salary in excess of \$1 million paid to employees of publicly held corporations repealed - Income threshold for medical expense deduction reduced from 10% to 7.5%
Sources of information	https://www.congress.gov/bill/114th-congress/house-bill/3762/text