Einstein
Advanced Health Insurance Solutions

NEWSALERT

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*Health Reform*

# ACA Repeal and Replace Effort Fails; What's Next?

ALTHOUGH THE Senate's effort to repeal and replace the Affordable Care Act has failed, the Trump administration seems intent on not enforcing the regulations governing the law in order to make it fail.

In the last weeks of July Senate Republicans were busy trying to repeal the ACA, but each of their efforts fell short. A vote on legislation to repeal and replace the ACA failed, as did a vote on a straight-out repeal, as concerns mounted about the fallout for millions of Americans.

Then came the death knell when the Senate failed to pass a "skinny" repeal, which the leadership had hoped would be the basis for a bill that was sent to a conference committee and that would be hashed out with assistance from the House.

The GOP failed in part because of the likely fallout from their legislation. The Congressional Budget Office in January said in a report that repealing the Medicaid expansion and exchange subsidies while not touching other parts of the ACA would spell the end for many insurance markets.

It noted that under such a scenario 32 million more people would be uninsured and premiums would almost double.

Senate Majority Leader Mitch McConnell in early July said publicly that if the GOP could not move the current legislation or repeal the ACA, they would quickly have to cooperate with Democrats to shore up some state insurance markets which have been losing insurers willing to write coverage.

## Letting it implode

So what's left now is a law that is still in jeopardy as President Trump has promised to let the ACA die by not enforcing the regulations that govern it. That would mean:

- Not enforcing the employer mandate.
- Not enforcing the individual mandate to purchase coverage for people who do not receive it from their work.
- Not enforcing the penalties for not complying with the employer and individual mandates.
- Not pursuing an appeal against a lawsuit challenging the legality of the tax credits used to help people buying coverage to afford it. If the Trump administration fails to appeal an earlier ruling, which has been stayed pending appeal, the subsidies would be deemed illegal and disappear.
- Not enforcing the IRS reporting requirements


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*Health Legislation*

# Trump Wants to Loosen Tax Credits Rule for Small Employers

THE TRUMP administration is crafting regulations allowing small employers to bypass government-run exchanges to purchase coverage and still be eligible for a tax subsidy.

Part of the Affordable Care Act provides for small employers to be eligible for a tax credit if they purchase health insurance for their workers on federally operated exchanges for small businesses.

However, the Small Business Health Care Tax Credit is only available to employers that bought coverage on the Small Business Health Options Program (SHOP), leaving those who bought plans on the private market out of luck.

Now the Centers for Medicare & Medicaid Services (CMS) has announced its intention to bring in changes that would allow small business to be eligible for a tax credit even if they don't purchase plans directly from the government-run SHOP marketplaces.

The CMS noted that as of January 2017, 7,600 employers had active SHOP-purchased insurance covering some 39,000 workers around the country. If SHOP-purchased coverage from state-run exchanges is included, then 27,000 employers had active coverage through SHOP marketplaces, covering nearly 230,000 individuals.

These numbers are far below the 4 million individuals it expected to be covered by SHOP-purchased policies.

To give small firms more flexibility in buying coverage, the CMS is proposing new regulations that would allow a small business or its broker to directly enroll employees with an insurance company, rather than having to do so through the SHOP marketplace, and still be eligible for tax credits.

Firms could still be eligible to utilize the ACA's Small Business Health Care Tax Credit, even if the plan was obtained outside the SHOP marketplaces.

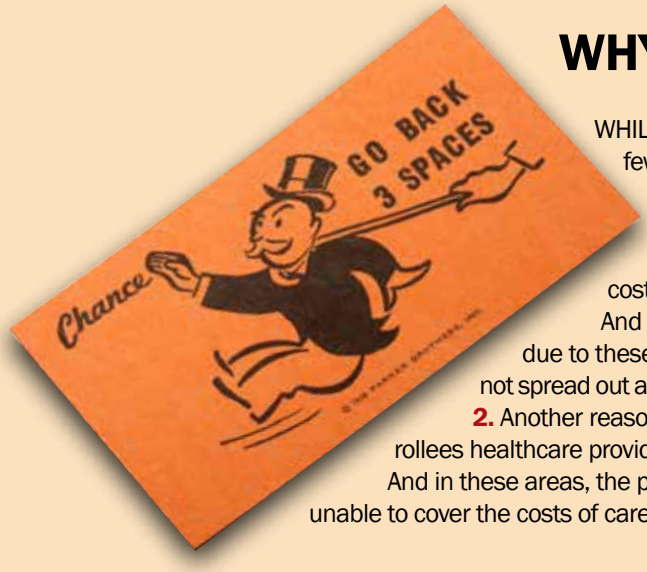
The move follows the Obama administration in December repealing a rule that required insurers to offer a SHOP plan in a given state if they wanted to participate in that state's individual marketplace.

Under the approach that the CMS envisions, "Instead of enrolling online at *HealthCare.gov*, employers would enroll directly with an insurance company offering SHOP plans, or with the assistance of an agent or broker registered with the Federally-facilitated SHOP."

Employers would still obtain a determination of eligibility by going to *HealthCare.gov*.

Employers that have enrolled in SHOP coverage for plan years that began in 2017 would be able to continue using *HealthCare.gov* in 2018 for enrollment and premium payment, until their current plan year ends and it's time to renew.

Under the planned CMS changes, it is anticipated that states operating state-based SHOP marketplaces would be able to provide for online enrollment, or could opt to direct small employers to insurance companies and SHOP-registered agents and brokers to directly enroll in SHOP plans. ❖




## WHY THE ACA IS FAILING, REASONS 1 & 2

WHILE THE Affordable Care Act has seen mixed results in terms of benefits, there are a few reasons that it's failed to reign in insurance premium increases.

**1.** One of the main reasons for the ACA's problems is that the costs for young people buying coverage on exchanges is too high and the penalty for not buying coverage is too low. When the penalty is less than $1,000 and a policy can easily cost more than $5,000 per year, for many young individuals the choice is a no-brainer.

And because young individuals have not participated in the plans as much as expected due to these two dynamics, the remaining pool of insureds is older and sicker. Since the risk is not spread out as much as the crafters of the ACA envisioned, insurers are being forced to raise rates.

**2.** Another reason for its failure is that in many smaller communities, there is a lack of potential enrollees healthcare providers, so fewer insurers are willing to write business there.

And in these areas, the poor participation rates by younger individuals has left many insurers in the red and unable to cover the costs of care with the premiums they collected. ❖

*Employee Benefits*

# As Competition for Talent Increases, Firms Boost Benefits

AS COMPETITION for talent heats up, more companies are not only offering higher salaries, but also boosting their employee benefit offerings, according to a new study.

Nearly 33% of organizations surveyed said they had increased their overall benefits in the last 12 months, a Society for Human Resource Management (SHRM) study found recently. The majority of benefits increases were in health insurance and wellness programs.

On the flipside, only 6% of firms said they had reduced benefits, mostly citing the need to remain financially stable, whether it was due to increasing costs of benefits, economic factors or poor organizational performance.

Despite these numbers, almost all employers surveyed were concerned about the rising costs of group health insurance. From 2016 to 2017, health care insurance costs increased an average of 11%.

In fact, 66% of employers said they were very concerned about controlling health care costs, and another 31% were "somewhat concerned."

The challenge for employers today is navigating the uncertainty swirling around the Affordable Care Act and dealing with rising insurance premiums. After all, with 91% of employees rating health care benefits as important, managing these offerings and their costs is crucial for employers. ❖

## Different approaches to savings

- Although preferred provider organizations remain the most common type of health care plan, more organizations include a health savings account component in their health care coverage.
- 95% of employers now offer health coverage to opposite-sex spouses and 85% offer it to same-sex spouses.
- 34% of companies offer health coverage to part-time employees.
- 59% of firms have a general wellness program for their staff.
- The average employee copay for generic medication was $11, whereas brand medication copays were $33 for formulary and $58 for non-formulary drugs.
- Employee coinsurance ranged from an average of 27% for generic to 31% for non-formulary brand medication.
- 85% of organizations offered a mail-order prescription program, which can reduce drug outlays for employees.

## How you can optimize benefits

The SHRM recommends that you:

1. Conduct employee surveys and look at your participation levels to find out which benefits your employees value most.
2. Benchmark your survey and analysis results with your industry peers so you can see where you stand in relation to your competition for talent.
3. Focus on managing benefit costs. Currently, the trend in cost control has focused on health reimbursement arrangements and HSAs.
4. Review how you are communicating your benefits to your employees to make sure they understand the offerings. If you have low uptake of certain benefits, consider reviewing how you are presenting the benefits to your employees and consider a different approach.

*Health Expenses*

# Employees and Employers Save with Cafeteria Plans

AS HEALTH care costs continue rising and employees are being asked to shoulder more of the expense burden, you can help them by offering a tax-advantaged plan that allows them to save for medical expenses.

These cafeteria plans, which are governed by Section 125 of the Internal Revenue Service Code, allow your employees to withhold a portion of their pre-tax salary to cover certain medical or child-care expenses. Employees can save an average of 30% in federal, state and local taxes on items they already pay out of pocket.

Because these benefits are free from federal and state income taxes, an employee's taxable income is reduced, which increases the percentage of their take-home pay.

Moreover, the plans benefit employers, as well. Since the pre-tax benefits aren't subject to federal social security withholding taxes, employers don't have to pay FICA or workers' comp premiums on those funds. A cafeteria plan can save employers an average of almost $115 per participant in FICA payroll taxes.

Being able to pay for your benefits on a pre-tax basis, you are looking at a 25-30% saving on your contributions, when compared with using after-tax dollars.

There are three primary types of cafeteria plans:

## TYPES OF CAFETERIA PLANS

**Premium-only plan (POP):** POP plans allow employees to elect to withhold a portion of their pre-tax salary to pay for their premium payments. Most companies currently have this set up through their payroll provider. A POP plan is the simplest type of Section 125 plan and requires little maintenance once it's been set up through your payroll.

**Flexible spending account:** With an FSA an employee pays – on a pre-taxed basis through salary reduction – for out-of-pocket medical expenses that aren't covered by insurance (for example, annual deductibles, doctor's office copayments, prescriptions, eyeglasses and dental costs).

**Dependent care flexible spending accounts:** The dependent care FSA is an attractive benefit for employees who pay for child care or long-term care for their parents. Employees may hold back as much as $5,000 annually of their pre-tax salary for dependent care expenses, which include expenses they pay while they work, look for work or attend school full time.

## HOW AN FSA WORKS

Before the start of the year, employees estimate how much they expect to spend on medical expenses and dependent care over the course of the year.

Employees should be careful to not put too much into the account. (They can carry over $500 in unused funds from the prior year into the new year, but any funds in excess of that would be forfeited.)

Whatever amount they choose to deduct for the year will be deducted on a pro-rated basis from each paycheck and deposited into their FSA.

On or after the first day of the plan year, an employee is restricted from changing or revoking the Section 125 agreement with respect to the pre-tax premiums until the plan year has ended, unless a change in family status occurs.

Your employees pay out-of-pocket expenses upfront and then submit a claim and documentation to the plan administrator. They are then reimbursed for their expense in the form of a check or account transfer. ❖