FAEGRE BAKER DANIELS

Updated 6/23/17

Side by Side Comparison – The Affordable Care Act, American Health Care Act and Better Care Reconciliation Act of 2017[1]

Provision	ACA	AHCA	BCRA
Insurance Subsidies	Individuals who purchase insurance through the health insurance exchanges and who make less than $48,000 a year are eligible for federal subsidies that buy down the cost of insurance. Subsidies are on a sliding scale based on a person's income and the relative cost of insurance in their area. Subsidies are automatically applied to insurance bills through direct payment from federal government to insurer.	Insurance subsidies in the form of tax credits will be tied to a person's age rather than income, but will phase out for individuals making over $75,000 a year. People under 30 are eligible for a credit of $2000, while people over 60 would be eligible for $4000. These subsidies will not be tied to the cost of insurance in an area, but will be directly paid to the insurer by the federal government. Additionally, a new fund is established to provide around $85 billion in tax assistance due to high premiums for individuals age 50 to 64.	Starting in 2020, tax credits will be tied to income, age and geography for individuals between 0-350% of the federal poverty level, unless they are eligible for Medicaid under their state's rules. Subsidies are advanceable, like the ACA's. Tax credit is benchmarked to a less generous plan than under the ACA. ACA cost-sharing subsidies will be funded through the end of 2019.
Individual Mandate	Unless exempted, individuals are required to obtain ACA-compliant health insurance or face an annual tax penalty.	Tax penalty will be dropped. Instead, individuals who go for more than two months without health insurance will face a "continuous coverage" surcharge of 30% when they buy a new insurance plan.	Tax penalty will be dropped—retroactive to tax year 2016. No surcharge for failing to maintain continuous coverage.

[1] Sources cited:
H.R. 3590, *The Patient Protection and Affordable Care Act*, 111th Congress (2009-2010)
H.R. 1628, *The American Health Care Act of 2017*, 115th Congress (2017-2018)
H.R. 1628, *Better Reconciliation Act of 2017*, 115th Congress (2017-2018), draft released on June 22, 2017.
"Compare Proposals to Replace The Affordable Care Act," *The Henry J. Kaiser Family Foundation*
Park, Haeyoun and Margot Sanger-Katz, "The Parts of Obamacare Republicans Will Keep, Change or Discard," *The New York Times*, 6 March 2017.
Levey, Noam N. and Kyle Kim, "A side-by-side comparison of Obamacare and the GOP's replacement plan," *The Los Angeles Times*, 15 March 2017.
Edwards, Jackie, "House Rules Committee Releases Text of Amendment to Health-Care Bill," *Bloomberg*, 23 March 2017

Employer Mandate	Large companies are required to provide health insurance to their employees or face financial penalties.	This provision is repealed.	This provision is repealed.
Young Adults	Young people are able to stay on their parents health insurance plans until the age of 26.	This provision will remain in place.	This provision will remain in place.
Essential Health Benefits	Insurers are required to offer 10 essential health benefits in all ACA-compliant coverage.	States establish their own standards for essential health benefits beginning in 2020 by applying for a Limited Waiver with HHS.	The ACA standard remains in place, though states may use a waiver to change the ACA standard.
Prohibition on Annual and Lifetime Limits	Insurers are barred from setting a limit on how much they have to pay to cover someone.	This provision will remain in place.	This provision will remain in place.
Age-rated Limit	Insurers can charge elderly customers no more than 3 times what they charge young adults.	Insurers are able to charge elderly customers up to 5 times what they charge young adults. States can allow insurers to exceed this 5:1 ratio beginning in 2018 by applying for a Limited Waiver with HHS.	Insurers are able to charge elderly customers up to 5 times what they charge young adults. States can select a higher or lower standard (without applying for a waiver).
Health Status Premium Underwriting	Insurers are barred from considering health status as a factor in setting a household's premium.	By applying for a Limited Waiver with HHS, states can allow insurers to consider health status in setting premiums for an individual who fails to maintain continuous coverage starting in 2019, provided the state sets up a risk mitigation program or participates in the Federal Invisible Risk Sharing Program.	The ACA standard will remain in place.
Preexisting Condition Coverage	Insurers are unable to deny coverage to people who have preexisting medical conditions.	This provision will remain in effect for individuals that retain continuous coverage.	The ACA standard will remain in place.

Relief for High Risk Individuals	Establishes two transitional programs, Reinsurance and Risk Corridors that run from 2014-2016 to provide funding to mitigate insurer losses that come from serving a high number of high risk individuals. Establishes a permanent Risk Adjustment program that transfers money between insurers based on the risk levels of their enrollees.	Establishes $100B state innovation funds for states to establish programs, such as reinsurance or high risk pools, that will provide or subsidize healthcare for high risk individuals. An additional $15 billion is appropriated to states for risk mitigation programs focused on mental health and substance abuse. In addition, $8 billion is available for states that obtain Limited Waivers to permit health status underwriting.	Establishes a "short-term" fund for states to establish programs like reinsurance or high risk pools for high risk individuals: $15 billion in 2018 and 2019; $10 billion in 2020 and 2021. Establishes "long-term" funding for states through the end of 2026 (ranging from $4 to $14 billion annually). $2 billion additional through 2019 to support state waivers.
Medicaid Expansion	States may expand Medicaid coverage for low-income individuals by expanding the eligibility cutoff to 138% of the poverty level (about $16,640 for an individual). The federal government has taken on almost all of the cost of this expansion, which is gradually phased down to 90%. Currently, 31 states have chosen to expand Medicaid coverage.	Medicaid expansion is discontinued in 2020. Coverage of Medicaid expansion populations would not be subject to meeting "essential health benefits" requirements. Additional states are immediately prohibited from expanding Medicaid, and Medicaid enrollment at ACA payment rates will be frozen at the end of 2019.	Medicaid expansion will be phased down over three years beginning in 2020 and discontinued in 2023. Coverage of Medicaid expansion populations would not be subject to meeting "essential health benefits" requirements. Medicaid enrollment at ACA payment rates will be frozen at the end of 2019.
Traditional Medicaid	Per prior legislation, Medicaid funding is based on federal matching formula (FMAP) based on the affluence of state. Federal match funding ranges from roughly 50% for affluent states to nearly 80% for the poorest states.	The FMAP model of open-ended federal match funding for Medicaid will be discontinued in 2020. Instead, states will have the option of receiving a lump sum block grant payment or a per-beneficiary amount based on enrollees and costs, with an annual	The FMAP model of open-ended federal match funding for Medicaid will be phased down over three years beginning in 2020. In 2023, states will have the option of receiving a lump sum block grant payment or a

	ACA makes some changes to the Medicaid program, but does not substantially change this matching formula.	inflation adjustment. States will also have the option of establishing a work requirement for recipients, and are eligible for 5% upward funding adjustment to cover administrative costs of doing so.	per-beneficiary amount based on enrollees and costs, with an annual inflation adjustment that is lower than the AHCA starting in 2026. Children with special needs will not be affected by caps, and children, the elderly and disabled will not be included under a block grant option. States that underspend within their caps will receive a bonus.
Health Savings Accounts	Currently, individuals and families can put $3400 and $6750, respectively, into a Health Savings Account tax-free. HSAs are only available to some consumers in the health insurance exchanges.	These levels will be raised to $6550 and $13,100 beginning in 2018. All individual market consumers can purchase HSAs.	HSA levels are raised similar to the AHCA. The tax penalty for using HSA funds for ineligible products will be lowered from 20 to 10 percent.
Tax Provisions	Insurance companies, pharmaceutical manufacturers, and medical device manufacturers all pay industry fees. Income tax on high earners. Employers with rich employer health benefits are subject to “Cadillac Tax.”	Industry fees and taxes are repealed. Cadillac Tax delayed until 2026. The repeal of the Additional Medicare Tax Increase for high earners is delayed until the end of 2022.	Industry fees and taxes are generally repealed. Cadillac Tax delayed until 2026. The repeal of the Additional Medicare Tax Increase for high earners is delayed until the end of 2022.