HHS | Hart Health Strategies Inc.

Health Policy Briefing

June 26, 2017

Discussion Draft of Senate Health Care Bill Released

Majority Leader Mitch McConnell (R-Ky.) released a **discussion draft** of the Senate GOP's health care bill last week titled the "Better Care Reconciliation Act of 2017." The bill could move to the floor once the Congressional Budget Office (CBO) completes its analysis. The CBO says that it aims to provide a score of the bill early this week.

Hart Health Strategies Inc. prepared a side by side comparison of the House-passed American Health Care Act (AHCA) and the draft Senate bill (Appendix A). The bill would provide $50 billion over four years to stabilize the insurance market. This funding would be in addition to cost-sharing subsidy payments, which would be extended through 2019. It also includes $62 billion over eight years for a state innovation fund, which could be used for coverage of high-risk patients, reinsurance, or other similar purposes. The bill would retroactively eliminate the individual and employer mandates to 2016. It repeals taxes on health insurers, medical devices, prescription drugs, and indoor tanning. It also eliminates the Affordable Care Act's (ACA) investment income tax and the Medicare surtax. The Cadillac tax on high cost health plans would be delayed from 2020 to 2026. Unlike the House-passed AHCA, the bill does not contain the 30% surcharge for lack of continuous coverage. Like the House bill, the Senate bill includes a provision to give states the flexibility to alter their health markets, which may include waiving essential health benefit requirements. However, unlike the House bill, the Senate uses a waiver process that is already in place – section 1332 waivers, with additional changes to the current waiver program. Like the House bill, it also changes insurer age rating to allow older adults to be charged as much as five times younger people. Premium subsidies would be provided to people in the individual market making up to 350 percent of the poverty level beginning in 2020. The current cutoff is 400 percent of the poverty level. The insurance subsidy system would also be less generous than under current law, and based on 58% of actuarial value (the cost of a low-level bronze plan), rather than a silver plan (which the Centers for Medicare and Medicaid

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Services has estimated to be near 70% actuarial value). The bill includes a provision to tighten subsidy eligibility on the basis of immigration status. Medicaid expansion would be phased from 2021 until 2024. Unlike the House bill, Federal spending on Medicaid would be capped using a more stringent measure of inflation (CPI-U), rather than the medical inflation rate (CPI-M) used in AHCA, beginning in 2025. The bill includes an additional $2 billion in fiscal year (FY) 2018 to address the opioid epidemic and (like the House bill) would defund Planned Parenthood for one year.

It is possible that McConnell made intentional omissions in the discussion draft so that senators can secure public victories in return for their vote. The Majority Leader plans to formally introduce a bill as early as Tuesday, followed by the marathon vote-a-rama amendment process later in the week, with a floor vote on final passage as early as Friday morning. McConnell must secure the votes of 50 of his Republican colleagues in order to pass the bill under reconciliation. This means that he can only afford to lose two votes given unanimous Democratic opposition to the measure. GOP leadership has expressed confidence that the chamber will successfully pass the bill.

The discussion draft has received strong praise from the President and Speaker of the House Paul Ryan (R-Wis.), but as it currently stands, there are five Republican senators opposed to the bill, with 14 undecided. The most conservative senators, including Rand Paul (KY), Ted Cruz (Texas), Ron Johnson (Wis.), and Mike Lee (Utah), continue to demand a more complete repeal of the 2010 health care law with a greater focus on lowering premiums and costs. Sen. Cruz is requesting additional state waivers from insurance regulations, allowing the purchase of insurance across state lines, and additional easing of regulations for insurers. Meanwhile, moderates like Sen. Dean Heller (R-Nev.) continue to express concerns about the phase out of Medicaid expansion. Sens. Lisa Murkowski (R-Alaska) and Susan Collins (R-Maine) are also pushing to remove the bill's one-year elimination of funding for Planned Parenthood. Sen. Rob Portman (R-Ohio) would like the Senate bill to include additional funds to combat the opioid epidemic. Leadership must also consider how changes will impact the likelihood of clearing the House of Representatives.

The Majority Leader's process for bringing a health care reform bill to the floor has been criticized by both Republicans and Democrats in recent weeks. Senate Democrats held the floor well in to the night last Monday to disrupt procedure and call attention to a lack of hearings or public debate on the measure. The protest was organized by Sens. Patty Murray (D-Wash.) and Brian Schatz (D-Hawaii). Some Republicans have also expressed disagreement with the arbitrary and self-imposed deadline to vote on the bill prior to the July 4th recess, especially given the lack of transparency and short amount of time provided for members to review the bill text.

HHS Releases Pandemic Influenza Plan

The U.S. Department of Health and Human Services (HHS) released its updated **Pandemic Influenza Plan** last week. The report was scheduled to be released in late 2016. HHS identifies seven domains on which to focus over the next decade: Surveillance, Epidemiology, and Laboratory Activities; Community Mitigation Measures; Medical Countermeasures: Diagnostic Devices, Vaccines, Therapeutics, and Respiratory Devices; Health Care System Preparedness and Response Activities; Communications and Public Outreach; Scientific Infrastructure and Preparedness; and Domestic and International Response Policy, Incident Management, and Global Partnerships and Capacity Building.

Grassley Asks FDA to Increase Access to Generics

Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) is **urging** the Food and Drug Administration (FDA) to expand access to generic drugs as a part of the agency's efforts to reduce prescription drug costs. In a letter to FDA Commissioner Scott Gottlieb, Sen. Grassley highlights two pieces of legislation specifically. S. 974, the Creating and Restoring Equal Access to Equivalent Samples (CREATES) Act, would give generics manufacturers more access to brand drug samples for testing. S. 124, the Preserve Access to Affordable Generics Act, would limit "pay-for-delay" arrangements in which generics companies agree not to enter the market for a period of time.

Bipartisan 340B Legislation Introduced

Lawmakers have introduced legislation that would allow rural and cancer hospitals to obtain 340B discounts on certain prescription drugs. H.R. 2889, the Closing Loopholes for Orphan Drugs Act, was introduced last week by Reps. Peter Welch (D-Vt.) and Gregg Harper (R-Miss.). The 340B drug-discount program currently includes an exemption for orphan drugs. This bill would limit the 340B program's orphan drug exclusion to apply only when drugs are used to treat the rare diseases they were developed to treat. H.R. 2889 would allow 340B drugs to be discounted when they are used for a wider indication.

Lawmakers Push for Unimplemented OIG Recommendations

Republican leadership of the House Energy and Commerce Committee is urging the Centers for Medicare and Medicaid Services (CMS) to act on unimplemented recommendations from the U.S. Department of Health and Human Services (HHS) Office of the Inspector General (OIG). The recommendations are in regard to Medicare Parts A, B, and D, and the Medicaid program, and date back to almost 30 years ago. In their **letter**, Chairman Greg Walden (R-Ore.), Oversight and Investigations Subcommittee Chairman Tim Murphy (R-Pa.), and Health Subcommittee Chairman Michael C. Burgess, M.D. (R-Texas) attached a list of 12 HHS OIG unimplemented recommendations. "We believe that implementing these regulations – all of which appear to be low cost and uncontested by CMS – within a year is an achievable goal," the lawmakers write. They also request that CMS prioritize the top 25 unimplemented recommendations including increasing surveyor efforts for hospices, rejecting prescription drug event records for Schedule II drugs when the prescriber ID is invalid, and reinforcing Medicaid requirements that prohibit adding unallowable room-and-board costs to States' reimbursement payments for Home and Community Based Services (HCBS).

Budget Resolution Committee Vote Possible this Week

Less than 45 legislative days remain until the end of the fiscal year (FY) on September 30. A 2018 budget resolution continues to be negotiated among House Republicans. Budget Appropriations Chair Diane Black (R-Tenn.) is in talks with the House Freedom Caucus, which is pushing to make tax reform contingent on a high level of entitlement cuts. According to Freedom Caucus and Budget Committee member Mark Sanford (R-S.C.), a Committee vote could be held as early as this week. Work on health care reform prevents a floor vote on a new budget resolution, which is necessary to move annual appropriations bills. Once Congress passes a FY'18 budget resolution, it will void the FY'17 budget resolution that is currently being used as a vehicle for passing the Affordable Care Act (ACA) repeal through reconciliation. There has been some talk of canceling the month-long August recess in order to provide more time to mark up individual appropriations bills through regular order, but the idea doesn't appear to be gaining traction with Majority Leader Mitch McConnell (R-Ky.).

PACHA Sees Six Resignations

Six members of the Presidential Advisory Council on HIV/AIDS (PACHA) abruptly resigned last week, citing the President's lack of understanding or concern for public health issues, including the HIV/AIDS epidemic. In an op-ed for Newsweek, the council members outline the impact that the American Health Care Act (AHCA) would have on people living with HIV. They criticized the President for bringing a prominent abstinence-only sex education advocate into the Administration, and for failing to include the Council's input in policy decision-making. They vow to continue to work independently on issues related to HIV/AIDS. Fifteen members of the council remain following the resignations.

Diabetes Caucus Makes Insulin Price Inquiry

The Co-Chairs of the Congressional Diabetes Caucus, Tom Reed (R-N.Y.) and Diana DeGette (D-Colo.), have **written** to three pharmaceutical trade associations requesting information about the rising price of insulin. The members wrote to the Pharmaceutical Research and Manufacturers of America (PhRMA), the Pharmaceutical Care Management Association, and America's Health Insurance Plans. According to Reps. DeGette and Reed, the average price of insulin tripled between 2002 and 2013, on top of the higher deductibles, coinsurance, and formulary exclusions faced by patients. The lawmakers state that they have received conflicting information on insulin prices from industry, and request a response by July 28.

Committee Holds Hearing on Attorney Advertising

On Friday June 23, the House Judiciary Committee Subcommittee on the Constitution and Civil Justice held a hearing entitled "Examining Ethical Responsibilities Regarding Attorney Advertising." The hearing focused on misleading advertisements by trial lawyers that are frightening patients off their medications. Thirteen interested groups, including the Alliance of Specialty Medicine and the Heart Rhythm Society, submitted statements for the record. The witness testimony can be accessed **here**.

Trump Administration Staff Announcements

Thomas Bowman has been selected as Deputy Secretary of Veterans Affairs (VA). Bowman is currently the majority staff director for the Senate Veterans Affairs Committee, and has previously worked at the VA. He retired as a colonel after 30 years in the Marine Corps. Lance Robertson has been tapped for the position of assistant secretary for aging within the U.S. Department of Health and Human Services (HHS). Robertson is a gerontologist and has served as Oklahoma's director of aging services for the last 10 years. Emily Felder has been hired as the Centers for Medicare and Medicaid Service's (CMS) director of the Office of Legislation. She previously worked as the majority counsel for the House Energy and Commerce Committee.

Upcoming Congressional Hearings and Meetings

House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies; markup of FY 2018 Agriculture Appropriations Bill; 10:00 a.m., 2362-A Rayburn Bldg.; June 28

House Veterans' Affairs Subcommittee on Oversight and Investigations; hearing on H.R. 2006; H.R. 2749; H.R. 2781; and a draft bill to improve the hiring, training, and efficiency of acquisition personnel and organizations of the Department of Veterans Affairs, and for other purposes; 10:00 a.m., 334 Cannon Bldg.; June 29

Recently Introduced Health Legislation

S.1377 (introduced by Sen. Roger F. Wicker): A bill to remove the limitation on certain amounts for which large non-rural hospitals may be reimbursed under the Healthcare Connect Fund of the Federal Communications Commission, and for other purposes; Commerce, Science, and Transportation

H.R. 2938 (introduced by Rep. Norcross): A bill to amend titles XIX and XXI of the Social Security Act to remove barriers to access to residential substance use disorder treatment services under Medicaid and the Children's Health Insurance Program (CHIP); Energy and Commerce

H.R. 2953 (introduced by Rep. Burgess): A bill to amend the Congressional Budget Act of 1974 respecting the scoring of preventive health savings; Budget

H.R. 2957 (introduced by Rep. Graves): A bill to amend titles XVIII and XIX of the Social Security Act to provide for enhanced payments to rural health care providers under the Medicare and Medicaid programs, and for other purposes; Energy and Commerce, Ways and Means, Budget

H.R. 2959 (introduced by Rep. Lujan): A bill to amend title XXI of the Social Security Act to allow for parent mentors to be eligible to receive outreach and enrollment grants under the Children's Health Insurance Program under such title, and for other purposes; Energy and Commerce

H.R. 2972 (introduced by Rep. Waters): A bill to amend the Public Health Service Act to authorize grants for training and support services for Alzheimer's patients and their families; Energy and Commerce

H.R. 2973 (introduced by Rep. Waters): A bill to provide for the issuance of an Alzheimer's Disease Research Semipostal Stamp; Oversight and Government Reform, Energy and Commerce

H.R. 2974 (introduced by Rep. Pocan): A bill to amend the Internal Revenue Code of 1986 to establish an excise tax on certain prescription drugs which have been subject to a price spike, and for other purposes; Energy and Commerce, Ways and Means

H.R. 2976 (introduced by Rep. Ros-Lehtinen): A bill to amend the Higher Education Act of 1965 to allow for the deferment of certain student loans during a period in which a borrower is receiving treatment for cancer; Education and the Workforce

H.R. 2982 (introduced by Rep. Hanabusa): A bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to restore Medicaid coverage for citizens of the Freely Associated States lawfully residing in the United States under the Compacts of Free Association between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; Energy and Commerce

H.R. 2984 (introduced by Rep. Maloney): A bill to amend the Patient Protection and Affordable Care Act to restrict Members of Congress who represent a State with a waiver approved under the amendments made by the American Health Care Act of 2017 to the same health insurance coverage as is available under such waiver to their constituents; House Administration, Energy and Commerce

H.R. 2985 (introduced by Rep. Maloney): A bill to amend the Patient Protection and Affordable Care Act to restrict Members of Congress who represent a State with an essential health benefits (EHB) waiver, approved under the amendments made by the American Health Care Act of 2017, to the lowest actuarial value health insurance coverage that is available under the waiver; House Administration, Energy and Commerce

H.R. 2986 (introduced by Rep. Maloney): A bill to amend the Patient Protection and Affordable Care Act to restrict Members of Congress who represent a State with a premium age band waiver, approved under the amendments made by the American Health Care Act of 2017, to the highest age band premium for health insurance coverage that is available under the waiver; House Administration, Energy and Commerce

H.R. 2990 (introduced by Rep. Richmond): A bill to amend title II of the Social Security Act to prohibit inclusion of Social Security account numbers on Medicare cards, and for other purposes; Ways and Means

S. 1391 (introduced by Sen. Hirono): A bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to restore Medicaid coverage for citizens of the Freely Associated States lawfully residing in the United States under the Compacts of Free Association between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; Finance

S. Res. 198 (introduced by Sen. Tester): A resolution expressing the sense of the Senate that any sweeping health care legislation must be drafted in public under the watchful eye of the people of the United States; Rules and Administration

H.Res.402 (introduced by Rep. David Scott): Supporting the designation of July 2017 as Uterine Fibroids Awareness Month; Energy and Commerce

H.Res.403 (introduced by Rep. David Scott): Supporting the designation of March 2018 as Endometriosis Awareness Month.

H.R.2999 (introduced by Rep. David B. McKinley): To amend title XXVII of the Public Health Service Act to limit co-payment, coinsurance, or other cost-sharing requirements applicable to prescription drugs in a specialty drug tier to the dollar amount (or its equivalent) of such requirements applicable to prescription drugs in a non-preferred brand drug tier, and for other purposes; Energy and Commerce

H.R.3010 (introduced by Rep. Anna G. Eshoo): To provide for the identification and documentation of best practices for cyber hygiene by the National Institute of Standards and Technology, and for other purposes; Science, Space, and Technology

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Comparison of the House and Senate Repeal and Replace Legislation

Key topic	House bill, the "American Health Care Act" (AHCA) H.R. 1628 (as it passed the House on May 4, 2017)	Senate bill draft, released on June 22, 2017
INSURANCE CHANGES		
ACA Insurance Subsidies	Eliminates the ACA's income-based subsidies and replaces them with a refundable, age-based tax credit for health care purchased in the individual market (shift from the Exchange requirement). The subsidies would be keyed primarily to age, rising as people get older. Financial assistance would be phased out for individuals making more than $75,000 and married couples earning more than $150,000. Subsidies could be used to buy any plan approved by a state.	Tax credits are based on both income and age, unlike the ACA which based it solely on income and the House bill that was based on age with income cut-offs. Beginning in 2020, the income eligibility will drop from 400 percent of the federal poverty level to 350 percent. It will also go down to 0 percent of the poverty level. If a person qualifies for Medicaid, they would not be eligible for tax credits. Changes the definition of aliens ("an alien lawfully present" in the ACA to "a qualified alien".[1])
ACA Cost-Sharing Subsidies	Eliminates cost-sharing subsidies as of 2020.	Includes two years of funding for cost-sharing reduction payments. Eliminates the program after those two years (2020, same as House).
Health Savings Accounts (HSA)	Permits tax-favored health savings accounts (HSAs), Archer Medical Savings Accounts (MSAs), health flexible spending arrangements (FSAs), and health reimbursement arrangements to be used to purchase over-the-counter medicine that is not prescribed by a physician. Repeals the increase in the tax on distributions from HSAs and Archer MSAs that are not used for qualified medical expenses. The bill reduces the tax on HSA distributions from 20% to 10% and reduces the tax for Archer MSA's from 20% to 15% to return the taxes to the levels that existed prior to the enactment of the ACA. Increases the limits on HSA contributions to	Same as House.

[1]Qualified alien. -- For purposes of this chapter, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—
(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.],
(2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],
(3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157],
(4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year,
(5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104–208),
(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7)] as in effect prior to April 1, 1980; or
(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

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	match the sum of the annual deductible and out-of-pocket expenses permitted under a high deductible health plan. Permits both spouses of a married couple who are eligible for HSA catch-up contributions to make the contributions to the same HSA account. Permits an HSA to be used to pay certain medical expenses that were incurred before the HSA was established. If the HSA is established during the 60-day period beginning on the date that an individual's coverage under a high deductible health plan begins, the HSA is treated as having been established on the date coverage under the high deductible health plan begins to determine whether an amount paid is used for a qualified medical expense.	
Individual and Employer Mandates	Repeals the ACA's tax penalties on people who remain uninsured and on larger employers who do not offer coverage. The repeal is retroactive to 2016. Replaces the individual and employer mandates with a "continuous coverage" requirement. Eliminates small group market from continuous coverage since this would be duplicative. Currently, the small group market has complied with certain continuous coverage standards, like guaranteed renewability, since the Health Insurance Portability and Accountability Act of 1996, known as HIPAA.	Repeals the ACA's tax penalties on people who remain uninsured and on larger employers who do not offer coverage. The repeal is retroactive to 2016. Does not include the continuous coverage changes.
Pre-Existing Conditions	Levies a 30% premium penalty on those new health insurance enrollees who have had a gap in coverage of 63 days or more in the 12 months prior to enrollment (shift in pre-existing condition requirements).	Not included.
Qualified Small Employer Health Reimbursement Arrangements	Not included.	Modifies the provisions related to small businesses, eliminating the requirement that the plans made available by those businesses "constitute affordable coverage."
Age Bands	Widens the age band for cost of coverage (from current three to one to five to one, with the flexibility of the States to set their own ratio).	Same as House.
Actuarial Tiers	Beginning in 2020, health insurance benefits no longer must conform to actuarial tiers (e.g., silver level benefits).	Eliminates the "applicable second lowest cost silver plan" (benchmark for premium tax credits) and inserts a new definition of "applicable medium cost plan," which is defined as a 58% actuarial value.
Limitation on Recapture of Excess Advance Payments on Premium	Not included	Eliminates the limitation for tax years ending after December 31, 2017.

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Tax Credits		
Dependent Care Coverage	Preserves ACA provision that let young adults stay on parental coverage until they turn 26	Same as House.
State Waivers/Essential Health Benefits (EHBs)	States may apply to the Department of Health and Human Services (HHS) for waivers to increase the ratio by which health insurance premiums may vary by age and to waive the requirement for insurance to cover the essential health benefits. These waivers and the waiver to allow premiums to vary by health status do not apply to health plans offered through the CO-OP program, multi-state plans, plans the federal government makes available to members of Congress and their staff, or plans under PPACA provisions that allow state flexibility.	States get a $2 billion incentive to apply for a waiver and would be able to forgo ACA's insurance requirements, including one requiring states to have an exchange, as well as rules for what benefits insurers must cover, what qualifies as a health plan, and the actuarial value of the plans.
Patient and State Stability Fund/EHBs/Inducements for 1332 Waivers	Creates a Patient and State Stability Fund that would allow states to provide financial assistance to high-risk patients, promote preventive care, and reduce patients' out-of-pocket costs. (Money available FY18-22). Funding is allocated to states based on each state's share of incurred claims and uninsured individuals below the poverty line. To receive funding after 2019, states must provide matching funds at a rate that varies from 7% to 50% based on the year and whether the state applied for funding. Increases appropriations for 2020 by $15 billion for maternity coverage, newborn care, and services for individuals with mental health or substance use disorders. Establishes the Federal Invisible Risk Sharing Program, administered by the CMS, to pay health insurers for certain individuals' claims in order to lower premiums in the individual market. The bill appropriates $15 billion for this fund for 2019-2026. The bill appropriates $8 billion for the Patient and State Stability Fund to be allocated to states with a waiver to allow premiums to vary by health status in order to reduce costs for individuals whose premiums increased due to the waiver.	Stabilization fund of $15 billion in reinsurance funds to insurers for both 2018 and 2019 and $10 billion for both 2020 and 2021. CMS will determine how the funds are allocated. Additional funding will go to states that will have to partially cover reinsurance (total of $62B), including $8B in 2019, $14B for 2020, $14B for 2021, $6B for 2022, $6B for 2023, $5B in 2024, $5B in 2025, and $4B in 2026.
Small Business Health Plans	Not included.	Defines a small business health plan, along with a process for filing and certification. Additional requirements include issues related to sponsors and trustees and participation and coverage requirements.
Medical Loss Ratio	Not included.	Eliminates federal medical loss ratio standard as of January 1, 2019. Allows the State to determine the appropriate medical loss ratio amount.

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MEDICAID PROVISIONS		
State Allotment	Overhauls the broader Medicaid program to end its open-ended federal financing. Instead, each state would receive a limited amount based on its enrollment and costs (per capita cap system). That federal payment would be increased according to a government measure of medical inflation. Creates a new option for States to opt to receive, starting Fiscal Year 2020, a flexible block grant of funds for providing health care for their traditional adult and children populations served in the per capita allotment. Funding for the block grant would be determined using the same a base year calculation for the per capita allotment reforms.	Same as House, except for the following: Beginning in 2025, funding is tied to a slower growth rate than in the House bill (CPU-urban). Language related to the block grant option is different but has the same overall concept.
ACA Expansion Requirement	Terminates the ACA's mandatory requirement for States to expand Medicaid for certain childless non-disabled, non-elderly, non-pregnant adults up to 133% FPL. Also sunsets the optional ability for a State to cover adults above 133% FPL, effective December 31, 2017. (Previous versions allowed for expansion until 2019.)	Same as House, except that it is more phased out from 2021 to 2024.
ACA Expansion Federal Medical Assistance Percentage (FMAP)	Preserves the ability of States to cover Medicaid expansion enrollees (childless non-disabled, non-elderly, non-pregnant adults) at a State's regular Federal Medical Assistance Percentage (FMAP) by designating a new optional category in Section 1902(nn) of the Social Security Act.	Same as House.
ACA Expansion Grandfathering	Medicaid expansion enrollees who were enrolled in Medicaid expansion prior to December 31, 2019 receive "grandfathered" status. States will receive the enhanced matching rate under current law (90 % in CY2020), for grandfathered enrollees as long as such individuals remain eligible and enrolled in the program.	Not included.
ACA Expansion FMAP	Beginning in 2020, the bill eliminates: (1) the enhanced FMAP for Medicaid services furnished to adult enrollees made newly eligible for Medicaid by the ACA; and (2) the expansion of Medicaid, under the ACA, to cover such enrollees.	Same process but beginning in 2025. Phases out the FMAP "bonus" starting in 2020.
Presumptive Eligibility	Amends Medicaid to limit the state option for a participating-provider hospital to preliminarily determine an individual's Medicaid eligibility for purposes of providing the individual with medical assistance during a presumptive eligibility period.	Same as House.
Coverage of Children	Lowers, from 133% to 100% of the official poverty line, the minimum family-income threshold that a state may use to determine the Medicaid eligibility of children between the ages of 6 and 19.	Same as House.
FMAP for Home and	Reduces the FMAP for Medicaid home- and	Same as House.

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Community Based Attendant Services and Supports	community-based attendant services and supports.	
Eligibility Redetermination	No less frequently than every six months, states must redetermine the eligibility of adult enrollees made newly eligible for Medicaid by PPACA. The bill temporarily increases by 5% the FMAP for expenditures that are attributable to meeting this requirement.	Same as House.
Work Requirement	Creates a new section of the Social Security Act to give States the option of instituting a work requirement in Medicaid for nondisabled, nonelderly, non-pregnant adults as a condition of receiving coverage under Medicaid. States could begin using this new option on October 1, 2017. To ensure that states have the tools capable to implement the work requirement, the amendment provides a 5% administrative FMAP bump to states who choose to implement a work requirement.	Same as House.
FMAP Allotment for Elderly and Disabled	Increases the annual inflation factor for the elderly and disabled from CPI-U Medical to CPI- U Medical +1.	Same as House (for the period in which CPI-U Medical is being utilized).
Planned Parenthood	Imposes a one-year funding moratorium on Planned Parenthood.	Planned Parenthood defunded for one year.
Lottery Winnings	Counts lottery winnings above $80,000 over multiple months, thus preventing individuals with significant financial means from inappropriately shifting the cost of their care to the Medicaid program.	Not included.
Medicaid EHBs	Repeals the requirement that State Medicaid plans must provide the same "essential health benefits" that are required by plans on the exchanges, returning flexibility to the States on December 31, 2019.	Same as House.
Medicaid Retroactive Eligibility	Removes the current time of coverage for a Medicaid eligible person from "in or after the third month before the month" of application to the month of application. As such, reduces the cost to States for medical expenses incurred prior to the application.	Same as House.
Grandfathering of Waivers	Not included.	Allows managed care waivers to continue (no need to renew), provided that the State continues to abide by the terms and conditions.
Home and Community Based Services (HCBS) Waivers	Not included.	Requires the HHS Secretary to implement procedures to encourage HCBS waivers for home and community-based services.
Medicaid and CHIP Performance Bonus Payments	Not included.	For FY23 through FY26, provides $8B in bonus payments for States based on their performance (including improvement) on certain quality measures if they have lower than expected aggregate medical assistance expenditures.
Coordination with States	Not included.	Requires coordination with key State officials with

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		respect to key aspects of the Medicaid changes.
Optional Assistance for Certain Inpatient Psychiatric Services	Not included.	Clarifies that a State option may include the provision of certain inpatient psychiatric services.
PENALTIES AND TAXES		
Tanning Tax	Eliminates tax effective June 30, 2017	Eliminates tax effective September 30, 2017
Tax on Branded Prescription Drugs	Eliminates tax effective January 1, 2017	Same as House.
Tax on Medical Devices	Eliminates tax effective January 1, 2017	Same as House.
Tax on "Cadillac" Health Plans	Delayed until 2026, instead of 2020 as per current law	Same as House.
Annual Fee on Health Insurance Providers	Repeals the annual fee imposed on certain health insurance providers based on market share	Same as House.
Net Investment Income	Repeals the 3.8% tax on the net investment income of individuals, estates, and trusts with incomes above specified amounts.	Same as House.
Employers and Medicare-Eligible Retirees	Permits employers who provide Medicare-eligible retirees with qualified prescription drug coverage and receive federal subsidies for prescription drug plans to claim a deduction for the expenses without reducing the deduction by the amount of the subsidy.	Same as House.
Medical Expense Deduction	Accelerates relief from the Medical Expense Deduction by one year (effective beginning in 2017) and makes necessary conforming changes. It also reduces the qualifying adjusted gross income threshold from 10 percent to 5.8 percent— which is lower than the pre-ACA level of 7.5 percent.	Same as House, except that the income threshold is set at 7.5 percent – the pre-ACA level.
Additional Medicare Tax	Repeals the additional Medicare tax that is imposed on certain employees and self-employed individuals with wages or self-employment income above specified thresholds.	Same as House.
Tax Credits for People Between the Ages of 50 and 64	The House changes also contain nods to calls from lawmakers to increase tax credits for older people to address projected cost spikes under the GOP bill, without actually making that change. Instead, the House bill would enact a different, placeholder provision to increase a medical tax deduction, with roughly the same cost, $85 billion over 10 years. House lawmakers say they then expect the Senate will actually codify the change to increase tax credits for people between the ages of 50 and 64.	Not included.
Health Insurer Employee Compensation	Eliminates the $500,000 limit on the amount of an individual employee's compensation that health insurers can deduct from their taxes beginning January 1, 2017	Same as House.
Abortion Related Provision	Prohibits use of tax credits to purchase any plan that covers elective abortions. Currently if a health plan covers abortions it must collect a separate premium to pay for such procedures.	Excludes from the definition of "qualified health plan" any plan that includes coverage for abortions, except under certain circumstances, beginning in 2018.

Key topic	House bill, the "American Health Care Act" (AHCA) H.R. 1628 (as it passed the House on May 4, 2017)	Senate bill draft, released on June 22, 2017
Small Business Tax Credit	Repeals the small business tax credit beginning in 2020. Between 2018 and 2020, under the proposal, the small business tax credit generally is not available with respect to a qualified health plan that provides coverage relating to elective abortions.	Same as House.
Penalty for Erroneous Claims of Error	Not included.	Increases the penalty (beginning in 2020) from 20% to 25%.
FSA Salary Reduction Contributions	Repeals the limitation on FSA salary reduction contributions.	Same as House.
OTHER		
Community Health Centers	Adds $422 million in funding for community health centers	Same as House.
Prevention and Public Health Fund	Repeals the Prevention and Public Health Fund appropriations for fiscal year 2019 onwards. Any unobligated PPHF funds remaining at the end of fiscal year 2018 are to be rescinded.	Same as House, except that it doesn't deal with the unobligated balances.
DSH Payments	Repeals the Medicaid Disproportionate Share Hospital (DSH) cuts for non-expansion States in 2018. States that expanded Medicaid would have their DSH cuts repealed in 2020.	Same policy goal as House. Includes additional language related to the allotment distribution.
Implementation Funding	Establishes and appropriates $1 billion for the American Health Care Implementation Fund to provide for the implementation of programs in this bill.	Establishes and appropriates $500M for the Better Care Reconciliation Implementation Fund to provide for implementation of programs in this bill.
Support for State Response to Opioid Crisis	Not included.	Provides $2B for grants to States to aid with the opioid crisis.