

Health Care Policy in 2020

What Employers Need to Know

Lehigh Valley Business Coalition on Health

March 2020



National Alliance

of Healthcare Purchaser Coalitions

Driving Innovation, Health and Value

Agenda

- Brief History of the ACA – How did we get here?
- Proposals to replace/reform the ACA – What did and didn't happen?
- New proposals under discussion by presidential candidates
- Other policy implications for employers

Brief History of the ACA

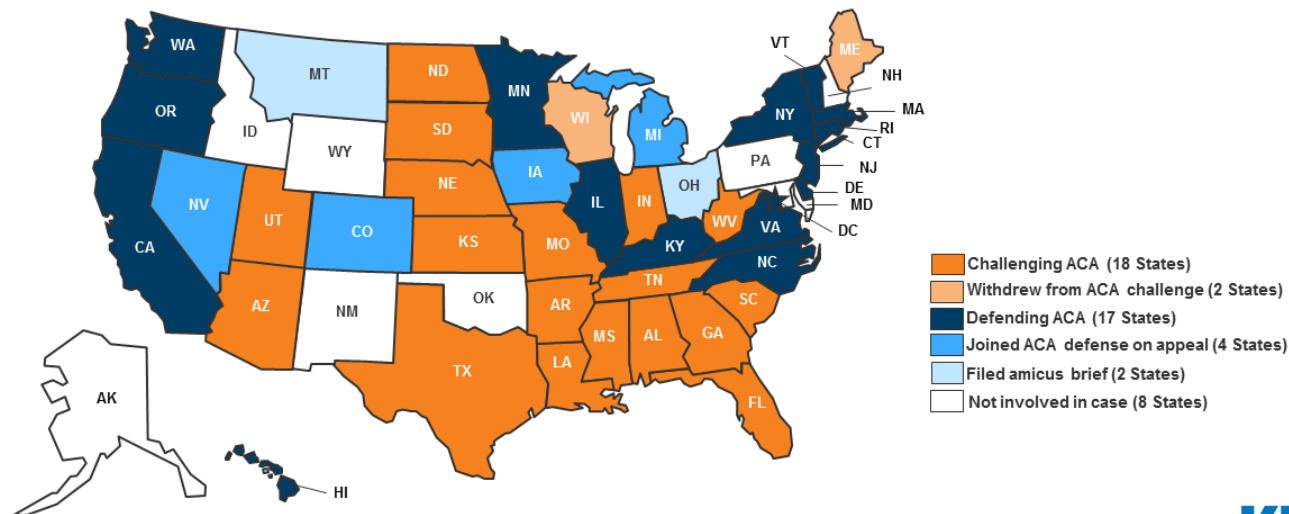
- Enacted on March 23, 2010
 - Passed Congress through budget reconciliation process; no bi-partisan support
 - Effective date for most major provisions was 2014
- First open enrollment period for Marketplaces: November 2013 – March 2014
- Enrollment slow to start, increased slightly in the first few years, and has remained stable in recent years at about 20 million
- US Supreme Court ruling on ACA's constitutionality (*NFIB v. Sebelius*): June 2012
 - Coverage mandates constitutional
 - Mandatory Medicaid expansion unconstitutional

Brief History of the ACA

- Cadillac Tax repeal (Consolidated Appropriations Act, 2020)
 - But no “pay-for”
- Tax Cuts and Jobs Act of 2018
 - Individual mandate penalty reduced to \$0; is entire law invalid now?
 - Federal court case currently at 5th Circuit Court of Appeals

Figure 1

States' positions in *Texas v. U.S.*



Proposals to Replace/Reform the ACA – Congress (2011-2017)

- 2011: Republicans gain majority in House of Representatives
 - Repealing the Job-Killing Health Care Law Act
 - House passed 245–189
 - Bill was offered as an amendment to an unrelated bill in the Senate, but was voted down
- 2012: After ruling in NFIB v. Sebelius, House held another (largely symbolic) repeal vote
- 2013: ACA repeal tied up in government shutdown
 - House Republicans refused to fund the federal government unless accompanied by delays and changes to multiple provisions in the ACA
- 2015: Restoring Americans' Healthcare Freedom Reconciliation Act of 2015
 - Would have repealed individual and employer mandates; repeal Cadillac Tax
 - House passed using budget reconciliation
 - Amended version passed in Senate, sent back to House, which passed again
 - Vetoed by President Obama; House failed to override veto
- 2017: Republicans gain majority in Senate

Proposals to Replace/Reform the ACA – 115th Congress (2017-2018)

Bill	Major Provision(s)	Senate Action	House Action
S. Con. Res. 3	Allowing the repeal of the Affordable Care Act through the budget reconciliation process	Passed 51-48	N/A
American Health Care Act (HR 1628)	Repeal mandates, replace with late enrollment penalty; allow age rating up to 5:1 unless state adopts different ratio; encourage use of HSAs by increasing limits	None (see ANSs below)	Passed on May 4, 2017
Better Care Reconciliation Act (ANS HR 1628)	Create association health plans (SBHPs); increased flexibility for states under 1332 waivers, including EHB changes	Discussion draft proposed on June 22, 2017	N/A
Obamacare Repeal Reconciliation Act (ANS HR 1628)	Eliminates Medicaid expansion; encourage use of HSAs by eliminating the increase in tax penalty for non-qualified HSA withdrawals; eliminate tax credits for low-wage small employers	Posted on the Senate Budget Committee web site on July 19, 2017	N/A
Health Care Freedom Act (ANS HR 1628)	Repeal ACA individual mandates, and suspend employer mandate from 2016 until January 1, 2025; encourage use of HSAs by increasing limits up to annual out-of-pocket limit under qualified high deductible health plans	Defeated 49–51 on July 27, 2017	N/A

Proposals to Replace/Reform the ACA – Trump Administration

- Executive Order 13765: Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal
 - Signed January 20, 2017
- Medicaid work requirements
 - Federal litigation ongoing
- Cost-sharing reductions ended
 - Issuers are now “silver-loading”
- Short-term limited-duration insurance
- Association health plans
- Eliminate funding for assister programs

Presidential Candidate Proposals

- Medicare for All/Single Payer
 - End of private insurance, including ERISA/employer-provided coverage
 - Higher taxes on middle class, but offset by elimination of health care costs paid by individuals and families
- Public Option
 - Buy-in to Medicaid (w/ no income restrictions)
 - Buy-in to Medicare (w/ no age restrictions)
 - Private insurance remains in place, but public option open to those who are offered employer insurance
 - May eventually result in single payer if public option truly competes with private

Other Employer Implications

- Surprise Billing
 - Coalition Against Surprise Medical Billing
- Prescription Drug Costs
 - Employers Rx
- HRA changes
 - IRS Guidance published July 2019
 - Coverage of preventive care for chronic diseases
- Direct contracting/narrow networks
 - Other value-based payment arrangements
- Price Transparency
 - CMS rules: Hospital Price Transparency and Transparency in Coverage