



ACA COMPLIANCE BULLETIN

HIGHLIGHTS

- Congress approved a budget resolution to begin the process of repealing the ACA.
- The budget resolution will be used to draft budget reconciliation legislation to repeal certain ACA provisions.
- A full repeal of the ACA cannot be accomplished through the budget reconciliation process.

IMPORTANT DATES

January 13, 2017

Congress approves a budget resolution for fiscal year 2017, which begins the process of repealing the ACA.

January 27, 2017

Targeted deadline for drafting a budget reconciliation bill including repeal provisions

CONGRESS CLEARS PATH FOR ACA REPEAL

OVERVIEW

On Jan. 13, 2017, the U.S. House of Representatives passed a [budget resolution](#) for fiscal year 2017 to **begin the process of repealing the Affordable Care Act (ACA)**.

The budget resolution—which was approved by the U.S. Senate on the preceding day—does not, itself, repeal the ACA. However, any budget reconciliation bill drafted as a result of the resolution is likely to include a number of provisions to repeal—and possibly replace—at least some ACA provisions.

ACTION STEPS

This budget resolution is a nonbinding spending blueprint that is used to create federal budget legislation through a process called “reconciliation.” As a result, it does not need presidential approval, and does not become law.

House and Senate committees have targeted Jan. 27, 2017, as the deadline to draft a budget reconciliation bill following the budget resolution, although some have indicated that the process may take longer. Once drafted, a reconciliation bill can be passed by both houses with a simple majority vote.

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Overview

Because both the House and Senate have approved the budget resolution, committees from both chambers will now begin the process of drafting repeal legislation. If this legislation is passed in both the Senate and the House by at least a simple majority vote, it would then go to President-elect Donald Trump for approval.

Republicans have given some indication as to what this repeal legislation may include, although many questions still remain. At this time, Republicans have not agreed on a plan to either repeal or replace the ACA.

However, a full repeal of the ACA cannot be accomplished through the budget reconciliation process. **A budget reconciliation bill can only address ACA provisions that directly relate to budgetary issues—specifically, federal spending and taxation.** A full repeal of the ACA must be introduced as a separate bill that would require 60 votes in the Senate to pass.

ACA Provisions That May Be Affected

Because this repeal is taking place as part of a budget reconciliation, Congress cannot repeal any ACA provisions that are not related to the federal budget (for example, the requirement to cover young adults to age 26 or the prohibition on pre-existing condition exclusions).

However, many of the ACA's tax and spending provisions are likely to be affected. This may include a number of key ACA provisions, such as:

- ✓ **The individual mandate**—The ACA's individual mandate requires most individuals to obtain acceptable health insurance coverage for themselves and their family members or pay a penalty. Because this provision is enforced as a tax, it is a key target for repeal through the budget reconciliation process.
- ✓ **The employer shared responsibility rules**—The ACA's employer shared responsibility rules require applicable large employers to offer an acceptable level of health coverage to full-time employees (and their dependents) or pay a penalty. This provision is also enforced as a tax, and therefore, is also a key target for repeal through the budget reconciliation process.
- ✓ **Federal Exchange subsidies for low-income individuals**—The ACA created health insurance subsidies to help eligible individuals and families purchase health insurance through an Exchange. These subsidies have long been a target for opponents of the ACA, and are currently being challenged in federal court. Therefore, it is likely that the budget reconciliation bill will include provisions affecting these subsidies.

The budget resolution does not, itself, repeal the ACA. However, any reconciliation bill drafted as a result of the resolution is likely to include a number of repeal provisions.

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Looking Ahead

Despite Democratic opposition, Republicans have enough votes in both the Senate and the House to pass a budget reconciliation bill to repeal aspects of the ACA. In addition, Trump has vowed to approve legislation repealing the ACA.

Nevertheless, there is growing concern over the impact that a full or partial repeal of the ACA would have on the American public. Although Republicans have expressed an intent to enact a repeal and replacement simultaneously, members of both parties have concerns over whether that may be possible.