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U.S. SENATE RELEASES ITS REPUBLICAN HEALTH CARE BILL -- DID REPEAL AND REPLACE TURN INTO PRESERVE AND EXPAND?

The Senate released its much anticipated Republican Health Care Bill yesterday as a discussion draft. The draft is called the **Better Care Reconciliation Act of 2017** (the Bill) and is described as an “Amendment in the Nature of a Substitute” for the House’s American Health Care Act (H.R. 1628, or AHCA). The Bill is 143 pages in length.

Quick Notes:

- The Bill is being scored by the CBO presently and its report is due within days
- Senate Majority Leader Mitch McConnell still intends to introduce the Bill to the full Senate for a vote next week before the July 4th Congressional recess; unless there are not enough Republican votes to pass the Bill
- This July 4 date seems a bit softer than when it was first announced
- Fifty-one votes are required to pass the Bill (including that of Vice President Mike Pence if necessary); meaning Senate Republicans can only afford two defections from their ranks
- Currently there are at least four conservative republican senators who are signaling that they cannot support the Bill in its current form, and two or three moderate senators reserving judgement until they have studied it

Those hoping for a significant repeal /replace measure from the Senate will be disappointed. As anticipated, the Bill appears to be an amendment of the AHCA, which is an amendment of the ACA with Medicaid funding reductions that won’t begin until 2021 and then phased in over three years, through 2024. Even Jonathan Gruber, the MIT economist who had significant input in the economic theory behind both Mass Health Reform (Chapter 58 of the Acts of 2006) and the ACA appeared on morning network TV yesterday stating he was pleased that the Senate Bill did not repeal the ACA.

OVERVIEW OF THE DISCUSSION DRAFT OF SENATE AMENDMENT TO H.R. 1628

Following below is a very brief overview of the Bill produced by the U.S. Senate Committee on the Budget (COB). It reads like the republican press release it is. According to the COB, the discussion draft of the Senate Amendment to H.R. 1628 will:

- **Help stabilize collapsing insurance markets** that have left millions of Americans with no options by providing:

- **Short-Term Stabilization Funds**: The Bill helps balance premium costs and promote more choice in insurance markets throughout the country by helping address coverage and access disruption – the fund will provide \$15 billion per year in 2018 and 2019; \$10 billion per year in 2020 and 2021
- **Cost-Sharing Reductions**: The Bill continues federal assistance – through 2019 – to help lower health care costs for low-income Americans in the individual market
- **Free the American people from the onerous ACA mandates** that require them to purchase insurance they don't want or can't afford by:
 - Repealing the individual and employer mandate penalty amounts by changing them to zero
- **Improve the affordability of health insurance**, which keeps getting more expensive under ACA by providing:
 - **A Long-Term State Innovation Fund**: The fund dedicates \$62 billion, over 8 years, to encourage states to assist high-cost and low-income individuals to purchase health insurance by making it more affordable
 - **Tax Credits**: Targeted tax credits will help defray the cost of purchasing insurance; these advanceable and refundable credits - adjusted for income, age and geography - will help ensure those who truly need financial assistance can afford a health plan
 - **Health Savings Accounts**: Expanded tax-free Health Savings Accounts will give Americans greater flexibility and control over medical costs; increased contribution limits will help pay for out-of-pocket health costs and to help pay for over-the-counter medications
 - **ACA Tax Relief**: Costly ACA taxes that contribute to premium increases and hurt life-saving health care innovation, like the taxes on health insurance, prescription drugs, medical devices, and “high-cost” employer sponsored plans are repealed
 - **State Empowerment Through State Innovation Waivers (ACA 1332 Waiver)**: States will have additional flexibility to use waivers that exist under the ACA law to decide the rules of insurance in their state and ultimately better allow customers to buy the health insurance they want. The Department of Health and Human Services (HHS) will be allowed to fast-track applications from states experiencing an ACA emergency
- **Preserve access to care** for Americans with pre-existing conditions, and allow children to stay on their parents' health insurance through age 26

- **Strengthen Medicaid** for those who need it most by giving states more flexibility while ensuring that those who rely on this program won't have the rug pulled out from under them. The Bill:
 - Targets Medicaid to Those Most in Need: In 2021, begins gradual reductions in the amount of federal funds provided to expand Medicaid under the ACA, restoring levels of federal support to preexisting law by 2024 while providing fairness for non-expansion states
 - Provides New Protection for the Most Vulnerable: Guarantees children with medically complex disabilities will continue to be covered
 - Provides Additional State Flexibility To Address The Substance Abuse And Mental Health Crisis
 - Provides Flexibilities for Governors: Allowing states to choose between block grant and per-capita support for their Medicaid population beginning in 2020, with a flexibility in the calculation of the base year. Allows states to impose a work requirement on non-pregnant, non-disabled, non-elderly individuals receiving Medicaid
 - Provides New Protections for Taxpayers: Curbing Medicaid funding gimmicks that drive up federal costs

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Stay tuned. The Congressional and national debate on the health reform is far from over. What seems clear thus far is that the ACA has not been repealed in any significant way by either republican bill. One commentator described the process in Congress thus far as the republicans pulling the ACA by its roots out of the democrat lawn and planting it in the republican lawn. That's an interesting perspective for sure.

Please contact me if you have any questions.

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