Healthcare Reform Update

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Status of the Affordable Care Act (ACA)
Congress finds no consensus on changes to the ACA:

- Constitutionality / statutory or budgetary
- Subsidy calculations and thresholds
- Replace or Repeal
- Payments to Insurers
- Insurance Plan design requirements
- Medicaid changes
<table>
<thead>
<tr>
<th>Year</th>
<th>National Enrollment</th>
<th>Texas Enrollment</th>
</tr>
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<tbody>
<tr>
<td>2016</td>
<td>12,681,874 enrollees</td>
<td>1,300,208 enrollees</td>
</tr>
<tr>
<td>2017</td>
<td>12,216,003 enrollees</td>
<td>1,227,290 enrollees</td>
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<tr>
<td>2018</td>
<td>11,750,175 enrollees</td>
<td>1,126,838 enrollees</td>
</tr>
<tr>
<td>2019</td>
<td>11,411,614 enrollees</td>
<td>1,087,240 enrollees</td>
</tr>
</tbody>
</table>
### ACA Exchange Marketplace

**Subsidies Snapshot**

<table>
<thead>
<tr>
<th>Location</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>84%</td>
<td>87%</td>
</tr>
<tr>
<td>Texas</td>
<td>87%</td>
<td>90%</td>
</tr>
</tbody>
</table>
### ACA Exchange Marketplace

**Cost Sharing Reductions (CSR) Snapshot**

<table>
<thead>
<tr>
<th>Location</th>
<th>2017</th>
<th>2018</th>
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<tbody>
<tr>
<td>United States</td>
<td>57%</td>
<td>53%</td>
</tr>
<tr>
<td>Texas</td>
<td>67%</td>
<td>59%</td>
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</table>
The Employer Mandate and ACA reporting requirements remain unchanged, along with the “Cadillac Tax” which is currently set to become effective in 2022.
Tax Reform, Spending Bills

Rules and Executive Orders

Lawsuits and Appeals
Constitutionality of the ACA after ending the Individual Mandate
On February 26, 2018, Texas and 19 other states* filed a lawsuit against the federal government. This lawsuit argues that without the Individual Mandate, there is effectively no tax, and without a tax, the entire ACA is unconstitutional.

As part of the Tax Reform Act of 2017, the Individual Mandate effectively ended in 2019, because enforcement will no longer be applied.

16 states and D.C. have been allowed to intervene and defend the ACA in this case.
Texas v. United States, cont.

December, 2018 – A federal judge declared the entire ACA to be invalid. The case was quickly appealed to the Fifth Circuit.

January 2019 - the House of Representatives passed a stand-alone resolution to allow it to intervene in ACA-related cases.
March 2019 - “The Department of Justice has determined that the district court’s comprehensive opinion came to the correct conclusion and will support it on appeal”, according to a DOJ spokesperson.

The Justice Department shifted its stance, after arguing in 2018 that some parts of the law – but not all of it – should be struck down. This likely ensures that the ACA and healthcare reform will be at the forefront of the 2020 presidential campaign.
At least 20 separate legal briefs have been filed by major stakeholders in support of defending the ACA, including:

- Insurers and provider organizations
- Patient, consumer, and children’s health advocates
- Disability rights advocates
- 24 State hospital associations
- 483 Tribal nations
- 35 cities, counties and towns including 4 Texas counties and 1 Texas city.
April 1: President Trump retreated from a push to introduce an ACA replacement plan before 2020, after an aggressive lobbying effort by Senate Republicans, who warned the effort could sink the party in the election.

April 3: The House voted on a “symbolic” resolution condemning the Administration’s endorsement of the ACA ruling.

April 7: White House Chief of Staff says White House will “absolutely” roll out a new health plan “fairly shortly”.
“Proponents of repeal/replace efforts focus on the proposition that there is some alternative to the Affordable Care Act that would maintain high levels of insurance coverage, but lower government and consumer cost with fewer government regulations. Neither logic nor evidence supports that proposition.”

Doug Elmendorf, Harvard Kennedy School Dean and former Director of the Congressional Budget Office
Expanding rules for Association Health Plans and Short-Term plans
While generally less expensive, many short-term plans do not contain the significant protections provided by the ACA, such as requirements for mental health coverage, maternity coverage, coverage of pre-existing conditions, and restrictions on annual and lifetime limits.

These plans are not regulated by state departments of insurance.

Healthier people may opt out of the individual market in favor of these restricted plans, leaving behind the sickest, costliest and most heavily subsidized consumers.
March 28, 2019

A federal judge has rejected the administration's attempt to expand association health plans.

The judge said that the Department of Labor's rule oversteps the administration's authority under the Employee Retirement Security Income Act, calling the suggested plans a “magic trick” to avoid compliance with the ACA.
Continuation of Cost-Sharing Reduction (CSR) payments to insurance companies
Cost Sharing Reduction (CSR) is a discount that lowers the amount some Exchange participants have to pay for deductibles, copayments, and coinsurance. The ACA caps these out-of-pocket costs for Exchange enrollees who earn less than 250 percent of the federal poverty level (about $31,000 for an individual).

CSR payments are made to insurers to make up the difference between the plan’s out of pocket amount and what the patient is required to pay.

The federal government stopped CSR payments in October 2017 despite insurer lawsuits, but has paid a number of insurers since that time due to court rulings.
Impact of eliminating CSR payments:

- Affects 22 million people who buy plans on their own (no employer coverage).

- Significant cost **increases** for Exchange participants who don’t qualify for subsidies.

- Most Exchange participants who purchased Silver plan coverage and qualified for subsidies will not see higher premiums, because the amount of their subsidy will rise to cover the increase.
Administration rules broadening exemptions to ACA’s contraceptive coverage mandate
Continued efforts to rollback Trump Administration’s ruling to bypass ACA birth control requirements

ACA compliant health plans cover birth control without a copay, with exemptions for houses of worship and some privately-held companies.

The Trump administration’s ruling expanded on those exemptions.
California and Pennsylvania, December, 2017 – Judges issued preliminary injunctions blocking the administration from enforcing the ruling.

Massachusetts, March, 2018 – Federal judge dismissed lawsuit over Administration’s ruling, which allows any company to seek an exemption to ACA’s provisions on birth control based on moral or religious grounds.

California and Pennsylvania, January, 2019 – Judges issued new preliminary injunctions that cover all 50 states, halting January 14 effective date for new rules to go into effect.
Medicaid Expansion
Most of the provisions of the ACA repeal and replace attempts over the past several years have focused on changes to the Medicaid program, which is a cornerstone of the Affordable Care Act.

72.5 million Americans were enrolled in Medicaid in 2018. 4.3 million were Texans, and nearly 75% of those were children.
What is Medicaid?

Medicaid is the government-run health program that provides insurance primarily to:

- people with disabilities
- under-65 seniors
- pregnant women
- single parents with low incomes

The goal of the program is to provide medical coverage to people with insufficient income to purchase commercial health insurance.
PERCENTAGE OF PEOPLE COVERED BY MEDICAID

Percentages for adults, ages 19-64

- 20% of all Americans
- 12% of all adults
- 39% of all children
- 49% of all births
- 40% of all poor adults
- 76% of all poor children
- 64% of all nursing home residents
- 30% of all adults with disabilities
- 60% of all children with disabilities

In the absence of Medicaid, the services provided to its current participants would still have to be paid for.

Providers would either shift the costs onto paying patients/insurers, or write off the losses which potentially leads to financial ruin.

Programs like county-funded indigent care would be even more costly.
Texas is one of 14 states that have not accepted Medicaid expansion since it was initially offered in 2015.

2018 midterm elections: Voters in Idaho, Nebraska, and Utah approved expansion; however in Nebraska and Utah, state legislatures are modifying the expansion to reduce the potential number of new Medicaid enrollees, and Idaho’s governor is adding work requirements.
Estimates in the first year of expansion indicated that non-Medicaid expansion states would pay $152 billion over the next 8 years to extend Medicaid in the other states, while receiving nothing in return.

Expanding Medicaid would also reduce uncompensated care, saving these states between $22.5 to $27.9 billion over ten years.

Non-expansion states argue that if federal funding for the expansion is reduced or eliminated in the future, the state will not have enough money to continue providing Medicaid services to the expanded population.
In Texas, over 1 million uninsured residents would gain coverage with expansion – about 22% of our 4.5 million uninsured.

At nearly 17%, Texas has the highest uninsured rate in the nation, almost double the national average.

Texas is giving up $66 billion in federal support between 2013 and 2022.
Medicaid Gap for states that did not accept expansion

- Under expansion, Medicaid eligibility increases to 138% of Federal Poverty Level (FPL)*. The Federal government funded 100% of the expansion for the first year (reduces to 90% by 2020)

- In order to get subsidies for purchasing coverage on public exchanges, an individual must earn at least 138% of the FPL (assumption was that people earning below FPL would be covered by Medicaid)

*29,435 for a family of 3 in 2019
The “Medicaid Gap” occurs when an individual makes too much to qualify for Medicaid, but less than 138% of FPL, and so cannot get subsidies on public exchange

This coverage gap resulted in 29% of uninsured adults in Texas having no coverage options under the ACA (includes 91% of uninsured adults whose incomes are below the FPL)
Medicaid Work Requirements and State waivers
8 states have work-requirement waivers approved by the CMS, and the agency currently is requests from seven others, including five that have not expanded Medicaid.

Most of these require non-disabled adults to participate in “community engagement” activities such as work, job training, education or volunteering.
A federal judge recently vacated Medicaid work requirement waivers in Arkansas and Kentucky, saying that HHS exceeded its authority in approving waivers that could lead to tens of thousands of people losing Medicaid coverage.

The ruling was appealed by Arkansas and is expected to head to the U.S. Supreme Court.
State Waivers

A few states have received federal approval for waivers which allow them to change some ACA health plan requirements. These changes must:

- Provide equally comprehensive coverage to at least the same number of people,
- Not increase individuals’ out-of-pocket costs, and
- Not cost the federal government more than it would spend under the provisions of the ACA.

So far, most waivers allow the states to establish reinsurance programs; however some states’ waiver applications have been rejected.

CMS says “the Affordable Care Act remains the law”.
Looking ahead: 2019 and beyond

If ACA invalidation is upheld, Congress will have to come up with solutions for:

- **Pre-existing conditions**
  Concern over loss of ACA protections including mandatory acceptance of individuals with pre-existing conditions, age-rating of premiums, limits on annual/lifetime maximums, etc.

- **Loss of coverage impact**
  If ACA invalidation is upheld, there is no replacement plan in place to cover the millions of people currently using Exchange marketplace plans. This could be a major factor in the 2020 election cycle.
Outside the ACA Debate:
Controlling Healthcare Costs
The fight over the ACA obscures America’s real health care crisis: *health care costs that rose to $3.65 trillion in 2018*

The fundamental truth about health coverage: *somebody has to pay for the claims.*
Prices for medical care typically grow faster than inflation

YEAR-OVER-YEAR CHANGE IN CONSUMER PRICE INDEX

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<table>
<thead>
<tr>
<th>Country</th>
<th>Healthcare Costs Per Capita</th>
</tr>
</thead>
<tbody>
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<td>USA</td>
<td>$10,209</td>
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<tr>
<td>OECD Average</td>
<td>$4,069</td>
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<tr>
<td>Switzerland</td>
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<td>U.K.</td>
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<td>Italy</td>
<td>$3,542</td>
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United States per capita healthcare spending is more than 2x the average of other developed countries.
Both the Administration and Congress have begun putting pressure on drug manufacturers and Pharmacy Benefit Managers (PBM) in an attempt to slow cost increases for prescription drugs. They are also working on changes that would give the Medicare and Medicaid program more power to negotiate prices and limit drug formularies. Change in this area will be hard-fought by the pharma industry. 16 Fortune 500 companies are drug manufacturers or PBM. The industry spends a lot of money on lobbying and advertising efforts.
Chronic disease is the leading cause of death and disability in the U.S.

Patients with chronic diseases account for 90% of all U.S. healthcare spending.
Percent of Chronic Diseases Caused by Lifestyle

- Cancers: 71%
- Stroke: 70%
- Heart Disease: 82%
- Diabetes (Adult Onset): 91%
Invest in Your Health

- Feel good
- Look good
- Reduce effects of aging
- Extend lifespan – quality and quantity
- Spend less on health care
- Set a good example for your children / grandchildren
Leaders Can Drive Change & Engagement

- Help your employees understand the physical, mental and financial costs of their healthcare – tools are available
- Support Fitness/Wellness in your county
- Invite your Wellness Consultant to trainings
- Set up a County-specific wellness incentive that rewards completion
Questions?

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“These pills will help you stay asleep.
They change your dreams into
Powerpoint presentations!”