



At-A-Glance Guide from
Empyrean Benefit Solutions

February 2017

Affordable Care Act (ACA) Update: The Future of the Healthcare Law in 2017

ACA Update: The Future of the Healthcare Law in 2017

A key focus of Donald Trump's presidential campaign was repealing and replacing the Affordable Care Act (ACA). Within hours of his inauguration, President Trump signed an executive order targeting the economic burdens of the ACA, though the loosely-written order did not dictate specific courses of action be taken. While the order is incapable of dismantling the healthcare law on its own, it reinforces the new administration's intent to move forward with one of the central promises of its campaign. In the meantime, employers' questions surrounding the future of the ACA—and its possible replacement—abound.

Obstacles to Repealment

Enacted in 2010, the ACA has complex and far-reaching effects on other federal programs—in addition to its individual and employer mandates and provisions affecting insurance providers.

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THIS AT-A-GLANCE WILL COVER:

1. Obstacles to Repealment
2. Assessing ACA Alternatives
3. Overwhelming Requirements



Swiftly repealing the law without a sufficient replacement in place could leave approximately 18-20 million people without insurance¹, disrupt healthcare markets while abandoning ACA health plan options, and have other unintended negative consequences, insurance experts have warned.² Republican lawmakers met in late January to discuss a host of policies, including potential ACA replacement strategies, but no official measures were announced as a result of the meeting. In February, the Trump administration released regulations intended to stabilize individual insurance markets, which include shortening the open enrollment period for public exchanges and offering more plan design flexibility for participating carriers. However, these regulations do not affect employers' current ACA requirements.

Just a few days prior to Trump taking office on January 20, 2017, Republican senators began the ACA dismantling process by approving a budget resolution to break down large parts of the law. The Senate's budget resolution now continues through to the House and then on to the President. While this budget reconciliation process cannot be hindered by a filibuster, it is also not enough to completely repeal the ACA on its own. However, the move could greatly affect ACA-related government spending and taxing—which could eventually defund enforcement of the law.

2016 ACA Reporting: Key Dates

**Deadline to Furnish
1095-B and 1095-C
Forms to Employees:**
Extended from January
31, 2017 to March 2, 2017

Deadline to File:
No Extension. Paper
filings due February 28,
2017. Electronic filings
due March 31, 2017.

Employers filing 250
returns or more must file
electronically, using the
IRS's ACA Information
Returns (AIR) system.



Assessing ACA Alternatives

As a candidate, Trump ran on a platform of repealing the ACA without clearly indicating plans for a replacement or wholesale “fix” to the act. While the effort to repeal the ACA through Congressional vote is scheduled for 2017, the replacement strategy remains unclear and may not be fully realized until 2018³. At a January press conference, Trump announced plans to submit an ACA replacement after Representative Tom Price received confirmation as Secretary of Health and Human Services⁴. Though Price was confirmed on February 10, 2017, a replacement plan from the White House has yet to follow.

Price is known as one of the most outspoken critics of the ACA. In 2015, he sponsored a bill that would have repealed many parts of the healthcare law. Bill H.R. 3762, though vetoed by President Obama in early 2016, is expected to serve as a starting point for Price and Trump’s replacement strategy. However, any proposed ACA replacement will require bi-partisan support in order to gain enough votes to become law.

Looking Back on H.R. 3762: Its Potential Impact on Employers

Though vetoed in 2016, highlights from Rep. Price’s bill may provide a glimpse at changes to come. Below are some of the significant modifications H.R. 3762 would have made to the ACA⁵:

- Possibly eliminate hours tracking for variable hours employees
- Heavily alter or eliminate employers’ reporting requirements
- Eliminate the 40% excise tax on high-cost employer-sponsored health plans (also known as the “Cadillac tax”)
- Minimize or eliminate penalties for failing to meet ACA requirements



As Trump recognizes the complexity of healthcare benefits, he has hinted at possible parts of his replacement strategy such as increasing utilization of health savings accounts (HSAs) and high deductible health plans (HDHPs), as well as encouraging carrier competition by allowing policies to be sold across state lines⁶.

As employers await details regarding the administration's official replacement plan, Republican lawmakers have also suggested their own ACA alternatives. The Patient Freedom Act (PFA) is one recently-proposed concept that enables states to individually choose one of three options: 1) continue abiding by the ACA, 2) enact an alternative system utilizing federal assistance, or 3) develop an alternative system without federal assistance. The PFA also repeals both employer and individual mandates, and encourages states to automatically enroll residents in HDHPs via its second option⁷. While the PFA has gained a spotlight for providing states with a choice of direction, some have argued that its proposed execution will prove to be more complex than that of the ACA.⁸



Employers' Next Steps

Despite the uncertainty surrounding the future of the ACA, **it is critical that employers continue to abide by the status quo until official changes are made and confirmed by the IRS.** Companies are still liable for penalties incurred for ACA non-compliance as long as current regulations are in effect. As deadlines fast approach and a timeline for major alterations remains elusive, it appears highly unlikely that the ACA will be fully repealed before employers are due to furnish and file. Currently, Applicable Large Employers (ALEs) with over 50 full-time employees are still required to fulfill their ACA responsibilities, or they could risk up to \$3 million in penalties. Consulting firm Accenture has estimated that employers' penalty risk could reach up to \$31 billion over the course of this second ACA reporting cycle.⁹

In 2015, employers were required to provide adequate coverage to at least 70% of their full-time employees. In 2016, this requirement rose to 95% – significantly narrowing employers' margin of error. The ACA considers full-time employees to be those working 30 hours per week or more.

In addition to a robust benefits administration platform, Empyrean provides clients with the comprehensive compliance solutions they need to master the toughest ACA challenges:

- Proprietary look-back hours tracking tool
- Coding engine to quickly and accurately determine the correct codes needed to complete Form 1095-C
- Dedicated in-house compliance experts to ensure solutions adhere to the latest regulations



Companies that traditionally define full-time employees by a 40 hour per week threshold must adhere to the IRS's definition for reporting purposes, which poses additional risks for employers – especially those with many variable hour employees.

Fortunately, the IRS has extended acceptance of “good faith” reporting requirements, which provides employers some relief from penalties related to missing or incorrect data. However, HR leaders must still be prepared to prove a valid effort was made to accurately obtain and report this information if audited. The IRS also extended the deadline to furnish 1095-B and 1095-C forms to employees by 30 days, though the deadline to file with the IRS was *not* extended.

Requirements Can Seem Overwhelming

Without the right strategy, meeting the ACA's requirements can quickly become an overwhelming task that pulls HR's focus away from important business initiatives. Achieving ACA success requires seamless coordination and cooperation over multiple internal departments – but with the support of a proper partner, you and your team can accurately and efficiently deliver on your responsibilities.

Empyrean offers four comprehensive service options:

Option 1:

Full-service project management with forms fulfillment, including data translation and coding for use on ACA forms, IRS filing coordination, IRS audit assistance as needed, and individual employee 1095 form distribution.

Option 2:

Full-service project management without forms fulfillment.

Option 3:

Translation of data into coded “forms-ready” files for use by your chosen tax form provider.

Option 4:

Delivery of data for coding and use in-house or by your chosen tax form provider.



Initially, many employers assumed their payroll systems would be capable of managing the information needed to complete ACA reporting. However, these systems lack the necessary combination of benefits and hours-tracking data demanded by the IRS – which only caused confusion and elevated risk as employers tried to gather information across disjointed systems.

For this second reporting year, many employers turned to a trusted benefits administration partner to help meet these complex challenges. Unlike payroll systems, benefits administration systems with dedicated ACA solutions are able to collect and report the information needed to satisfy their requirements.

At Empyrean, we have developed ACA solutions and services that work in tandem with our benefits administration platform, to provide clients with a full spectrum of options to match their resources and meet their unique needs. Utilizing these solutions can help HR teams tackle even the most difficult and time-consuming aspects of their ACA requirements with ease.

Empyrean 2015/2016 ACA Successes:

- ✓ All required mailing sent out on-time
- ✓ All filings completed ahead of deadline
- ✓ 100% of clients' Empyrean-derived data was accepted as compliant



From its inception, the ACA has undergone frequent and rapid-fire changes – and this pace is expected to continue as efforts to dismantle and replace the law move forward. Acquiring the support of a benefits administration partner with proven compliance-solution development expertise can bring peace of mind to you and your team, and prevent headaches and penalties as inevitable regulatory transformations take shape.

Conclusion

Changes are in store for the ACA. In the meantime, employers must remain compliant with official requirements while staying vigilant of new regulations as they are handed down. Preparing for the unknown may seem daunting, but can become a much simpler task with proper support. The right partner will be dedicated to providing comprehensive and rapidly-evolving solutions that meet the latest regulatory challenges – helping your team stay focused and ahead of the curve.

Getting help from a knowledgeable benefits administrator such as Empyrean is increasingly beneficial to help reduce internal staff burdens, streamline your compliance responsibilities, and provide expertise in managing complex, ever-changing IRS reporting obligations.

To learn more visit our website at www.GoEmpyrean.com



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About Empyrean

Empyrean Benefit Solutions is one of the fastest-growing providers of technology and services for managing employee health benefits programs. Empyrean provides enrollment, eligibility management, ACA reporting, and other plan administration services to employers, insurance brokers, and healthcare exchanges. Unlike other providers, Empyrean combines the industry's most client-adaptive and configurable benefits technology platform with expert, responsive service to deliver Hi-Touch benefits administration.

Visit www.GoEmpyrean.com for more information.

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