



American Hospital Association

2017 HFMA Western Symposium



Overview

- **Political environment**
 - New players
 - The process
- **Key issues**
 - Future of ACA
 - Medicaid restructuring
 - Medicare modernization
 - Regulatory relief
- **Our strategies**
- **What you can do to help**



Emerging players

OMB

- **Rep. Mick Mulvaney (R-SC)**
Director, Office of Management and the Budget



American Hospital
Association

Emerging players

White House

- **Stephen Miller**

- Senior Policy Advisor
 - Former staff to Senator Jeff Sessions (R-AL)

- **Domestic Policy Council**

- **Kathy Talento**

- Epidemiologist
 - Former staff to Senators Tom Tillis (R-NC) and Sam Brownback (R-KS)

- **Andrew Bremberg**

- Former HHS and Republican National Committee staffer

- **Paul Winfree**

- Heritage Foundation official

- **Zina Bash**

- Hospital executive, Doctors' Hospital at Renaissance, Texas
 - Policy staff, Cruz presidential campaign



Stephen Miller



ACA repeal...repair or replace

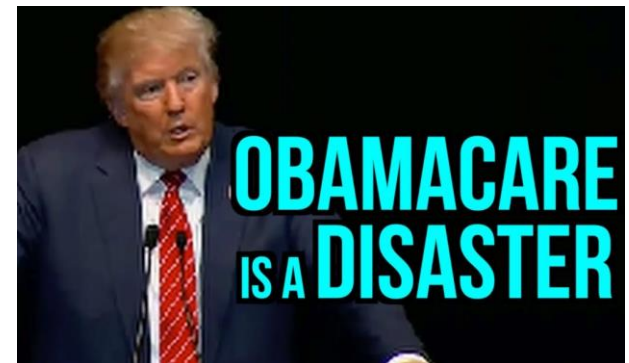
The Process

- **Executive action (regulatory)**



Examples of potential actions

- **Create additional exemptions to employer mandate**
- **Avoid IRS enforcement of individual penalties**
- **Fail to enforce employer mandate**
- **Revise medical loss ratio**
- **Extend availability of non-compliant ACA plans**
- **Stop Justice Department suits defending ACA**
- **Failure to pursue premium stabilization actions**
- **Increases barriers to enrolling in marketplace plans**
- **Disable or defund the CMS Center for Consumer Information and Insurance Oversight**
- **CMMI constraints**



More important than ever

- **Process**
- **Procedure**
- **Parliamentary rules**



ACA repeal...repair or replace

The Process

- Regulatory actions
- **Reconciliation**

reconciliation

rec.on.cil.i.a.tion

1. A budget process that allows Congress to use a simple majority to pass a bill that repeals Obamacare, the same way Democrats passed the Affordable Care Act in 2010.

(S)DailySignal.com



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Repeal and replace process underway

Budget Resolution Adopted

- Instructs the four authorizing committees—House Ways and Means and Energy and Commerce--and Senate Finance and Health, Education, Labor and Pensions to:
 - achieve at least \$1 billion *each* in savings in FYs 2017 through 2026 using the budget reconciliation process
 - submit their legislation to their respective Budget Committee by Jan. 27, 2017

115TH CONGRESS
1ST SESSION

S. CON. RES. _____

Setting forth the congressional budget for the United States Government for fiscal year 2017 and setting forth the appropriate budgetary levels for fiscal years 2018 through 2026.

IN THE SENATE OF THE UNITED STATES

Mr. ENZI submitted the following concurrent resolution; which was referred to the Committee on _____

CONCURRENT RESOLUTION

Setting forth the congressional budget for the United States Government for fiscal year 2017 and setting forth the appropriate budgetary levels for fiscal years 2018 through 2026.

1 *Resolved by the Senate (the House of Representatives*
2 *concurring),*

3 **SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET**

What could be in?



- **Repeal of employer mandate**
- **Repeal individual mandate**
- **Eliminate subsidies for exchanges**
- **End increased federal funds for Medicaid expansion**
- **Eliminate tax credits for small business that cover workers through exchanges**
- **Allow states to scale back eligibility standards for children under 19...repeals Medicaid CHIP “maintenance of effort”**
- **Eliminate taxes on high cost “Cadillac” plans**
- **Eliminate medical device tax**
- **Eliminate fees on health insurance plans**
- **Eliminate fees on brand name prescription drugs**
- **Eliminate provider payment reductions**

reconciliation

rec.on.cil.i.a.tion

1. A budget process that allows Congress to use a simple majority to pass a bill that repeals Obamacare, the same way Democrats passed the Affordable Care Act in 2010.

What can't be in?

- Allow young adults to stay on parents' coverage until age 26
- Prevent insurers from declining to cover pre-existing conditions
- Get rid of annual and lifetime coverage caps
- Limit the amount that insurers can charge older adults' premium costs that are no more than three times the cost of younger people's premiums
- Block insurers from rescinding coverage for consumers once they get sick



reconciliation

rec.on.cil.i.a.tion

1. A budget process that allows Congress to use a simple majority to pass a bill that repeals Obamacare, the same way Democrats passed the Affordable Care Act in 2010.

Another key player

Senate Parliamentarian



Elizabeth MacDonough



ACA repeal...repair or replace

The Process

- Regulatory actions
- **Reconciliation**
 - Stage 1
 - ✓ Vehicle: FY 2017 Budget Resolution
 - ✓ Focus: Repeal ACA
 - ✓ Timing: Winter 2017
 - Stage 2
 - ✓ Vehicle: FY 2018 Budget Resolution
 - ✓ Focus: Tax reform (and possibly Medicaid restructuring)
 - ✓ Timing: Fall 2017

reconciliation

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1. A budget process that allows Congress to use a simple majority to pass a bill that repeals Obamacare, the same way Democrats passed the Affordable Care Act in 2010.

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Potential timetable

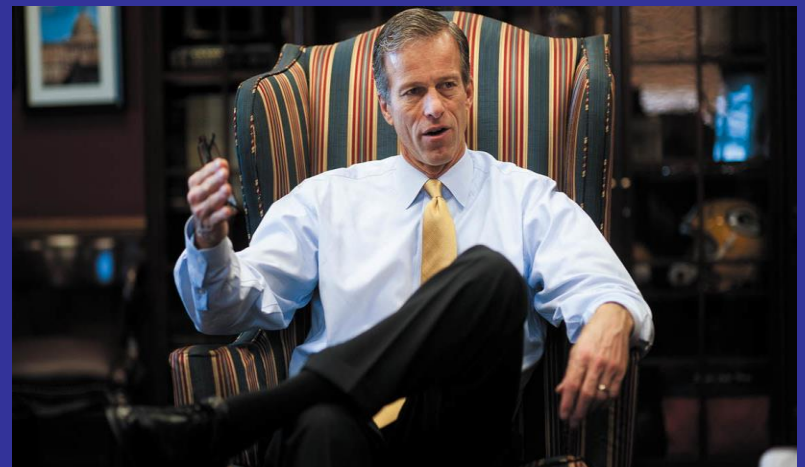
- **Mid-January** **Congress adopts FY17 Budget Resolution with reconciliation instructions to repeal ACA**
- **January 27** **Committees must report 2017 reconciliation bills**
- **February 20** **Target date for reconciliation bill repealing ACA to White House**
- **March 15** **Debt ceiling suspension expires**
- **April 28** **Continuing resolution expires**
- **May 1?** **Trump sends FY 2018 budget to Congress (maybe)**
- **June 30?** **Congress adopts FY 2018 Budget Resolution**
- **September 1?** **Committees must report FY 2018 reconciliation bills**
- **September 30?** **FY 2018 reconciliation bill to White House**
- **October 1** **FY 2018 begins**



On length of a transition

**“The view on that is probably
in a constant state of
evolution, based on who you
talk to.”**

**Senator John Thune (R-SD)
Republican Conference Chair
New York Times
December 7, 2016**



- **Moving to immediately repeal the health law is “a flawed concept”...repealing once a replacement was ready would be the more “prudent approach.”**
-- **Senator Bob Corker (R-TN)**
- **Would like to see a “detailed framework” for a replacement plan to accompany repeal, so people wouldn’t fear losing coverage.**
-- **Senator Susan Collins (R-ME)**
- **Republicans shouldn’t dawdle on a replacement plan.**
-- **Senator Tom Cotton (R-AR)**

Wall Street Journal

January 7, 2016

"It will be essentially simultaneously. The same day or the same week ... could be the same hour."

President-elect Trump
January 11, 2017



**“They break it,
they buy it.”**

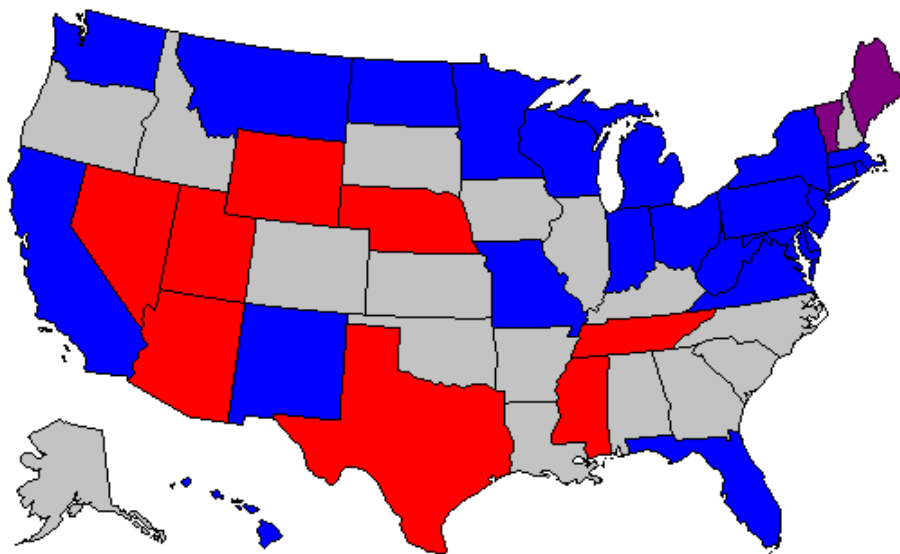


Senator Patty Murray (D-WA)

Politico

December 1, 2016

On the other hand



REPUBLICANS (8)

- Arizona (Jeff Flake)
- Mississippi (Roger Wicker)
- Nebraska (Deb Fischer)
- Tennessee (Bob Corker)
- Texas (Ted Cruz)
- Utah (Orrin Hatch)
- Wyoming (John Barrasso)
- Nevada (Dean Heller)

DEMOCRATS (25*)

- Florida (Bill Nelson)
- Indiana (Joe Donnelly)
- Maine (Angus King)
- Michigan (Debbie Stabenow)
- Missouri (Claire McCaskill)
- Montana (Jon Tester)
- North Dakota (Heidi Heitkamp)
- Virginia (Tim Kaine)
- West Virginia (Joe Manchin)
- Wisconsin (Tammy Baldwin)

* 10 states
won
by Trump



ACA repeal...and replace or repair

Other Challenges

- **Preserving coverage for those who could lose it**
- **Elements to be preserved**
 - Protections for people with pre-existing conditions
 - Young people remaining on parents' health insurance until 26
 - (Insurance) market uncertainty



“The idea that you can repeal the Affordable Care Act and not create market chaos is a total fantasy...insurers need to know the rules of the road in order to develop plans and set premiums.”

Sabrina Corlette
Professor, Health Policy Institute
Georgetown University
New York Times
December 2, 2016



ACA repeal...and replace or repair

Other Challenges

- **Restoring provider payment cuts**
 - **Updates: market-basket/productivity**
 - **Medicare DSH**
 - **Medicaid DSH**



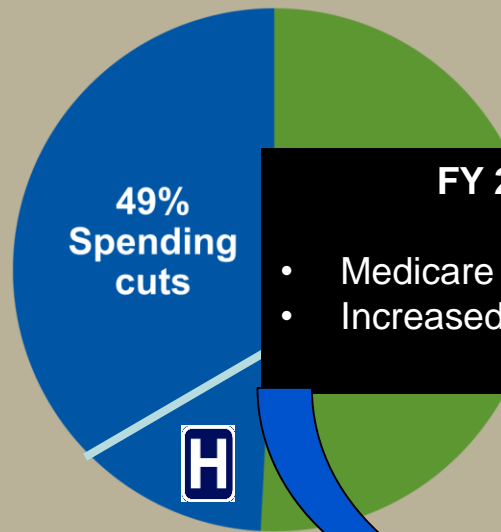
Restoring provider cuts

- **Making the case**



Where the Money Will Come From

10 year total: \$1.1 trillion (2010 to 2019)



Cuts include:

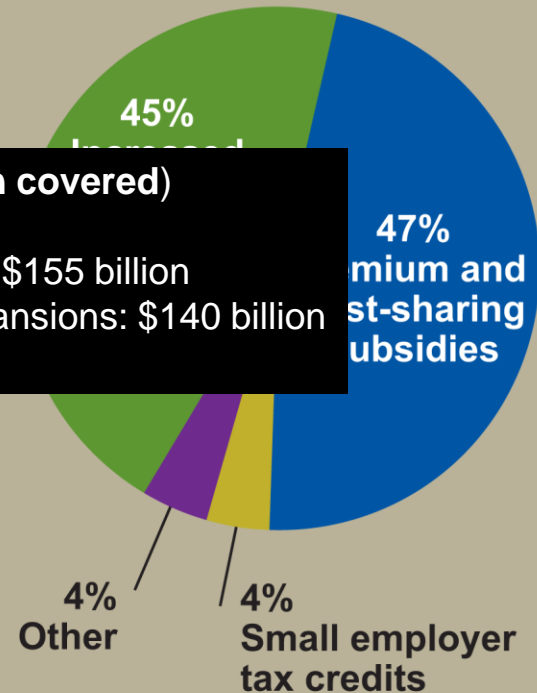
- Education cuts
- Long-term care insurance premiums
- Cutting payments to private Medicare Advantage plans
- Savings from Medicare, Medicaid, CHIP
- Savings from payments to hospitals serving the poor

New fees include:

- Fees on drug and device manufacturers and insurers
- Excise taxes on high-premium insurance plans
- Penalties paid by businesses and uninsured individuals
- Other taxes and fees

Where the Money Will Go

10 year total: \$965 billion (2010 to 2019)



FY 2010 – 2019 (32 million covered)

- Medicare & Medicaid reductions: \$155 billion
- Increased value of coverage expansions: \$140 billion

FY 2018 – 2026

- Lost coverage = \$165 billion
- Medicare reductions = \$289.5 billion
- Medicare & Medicaid DSH reductions = \$102.9 billion

Estimating the Impact of Repealing the Affordable Care Act on Hospitals

Executive Summary

Submitted to:

The Federation of American Hospitals (FAH)

The American Hospital Association (AHA)

Prepared by:

Dobson | DaVanzo

Allen Dobson, Ph.D.

Joan DaVanzo, Ph.D.

Randy Haught

Phap-Hoa Luu, M.B.A.

Tuesday, December 06, 2016 *Final Report*



December 6, 2016

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
U.S. Capitol Building, H-232
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
U.S. Capitol Building, H-204
Washington, DC 20515



The Honorable Mitch McConnell
Majority Leader
U.S. Senate
U.S. Capitol Building, S-230
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Speaker Ryan, Majority Leader McConnell, Minority Leader Pelosi and Minority Leader Schumer:

The American Hospital Association (AHA) and the Federation of American Hospitals (FAH) stand ready to help as the Congress and new Administration take shape and develop the health care system moving forward. As you know, hospitals and health systems provide essential medical services that assume a critical public health and safety role across the nation in every single state and every district.

We appreciate your commitment to ensuring access to affordable health care for all Americans. We also recognize that the 115th Congress is committed to a thorough reconsideration of the Protection and Affordable Care Act (ACA). At the same time, we value statements that emphasize the importance of protecting health care coverage – a goal we strongly support – and ensuring that patients have access to the care they need.

According to reports, it appears that the Congress is moving to repeal the ACA during the first few days of the new year without enacting accompanying legislation to fund the ACA. We support your support for the restoration of funding for patient care that were included in the ACA for purposes of funding reductions for uninsured, poor and disabled Americans. Restoring these cuts for updates, as well as Medicare and Medicaid Disproportionate Share Hospital (DSH) payments that support those facilities that take care of high volumes of uninsured, poor and disabled Americans.



FOR IMMEDIATE RELEASE

Contact: Marie Wateau, American Hospital Association (AHA), (202) 638-5487
Leah Evangelista, Federation of American Hospitals (FAH), (202) 624-1526

NEW REPORT OUTLINES IMPACT OF POTENTIAL ACA REPEAL ON HOSPITALS AND HEALTH SYSTEMS

Health leaders express concern about the impact on patients and communities in Washington, D.C. (December 6, 2016) The American Hospital Association (AHA) and the Federation of American Hospitals (FAH) today sent letters to President-elect Trump and Congressional leaders highlighting a new report that details the impact a potential repeal of the Affordable Care Act (ACA) would have on hospitals and health systems as they strive to care for their communities.

Rick Pollack, AHA president and CEO, and Chip Kahn, FAH president and CEO, stressed that health coverage is key to ensuring patients have access to the care they need. They noted that any reconsideration of the ACA should be accompanied at the same time by provisions that guarantee similar coverage to those who would lose it. They also highlighted the important role hospitals play in providing essential medical services and critical public health infrastructure.

It appears Congress is moving to reconsider the ACA in the early days of the new year without enacting accompanying legislation specifically guaranteeing similar coverage for those who will lose it. If that approach is taken, they asked that any repeal legislation prospectively restore key hospital reductions included in the ACA to offset the cost of providing coverage. In that instance, the groups stated:

"... [W]e respectfully urge you to also include in such legislation the prospective repeal of funding reductions for Medicare and Medicaid hospital services for patient care that were included in the ACA for purposes of helping fund coverage for those who will lose it. We support your support for the restoration of Medicare hospital inflation update, as well as Medicare and Medicaid Disproportionate Share Hospital (DSH) payments that support those facilities that take care of high volumes of uninsured, poor and disabled Americans. Restoring these cuts for the future is absolutely essential to enable hospitals and health systems to provide the care that the patients and communities we serve both expect and deserve."

The report, which was commissioned by the AHA and FAH, was prepared by the health care economics firm Dobson / DeVanso. The report finds that, under the most recent repeal without

Restoring provider cuts

- Making the case
- **Senate focus**



Focus (Leadership +)

- **Alaska**
 - *Murkowski**
 - Sullivan
 - Young
- **Arizona**
 - *Flake**
 - *McCain*
 - *McSally*
 - Gosar
 - Franks
- **Colorado**
 - *Gardner*
 - Buck
 - Coffman
 - Lamborn
 - Tipton
- **Iowa**
 - *Ernst*
 - *Grassley**
 - Blum
- **Kansas**
 - *Roberts**
 - *Moran**
 - Jenkins
 - Yoder
- **Maine**
 - *Collins**
 - King
 - Poliquin
- **Nevada**
 - *Heller**
 - Amodei
- **Ohio**
 - *Portman**
 - Tiberi
 - Renacci
 - Stivers
 - (Bill) Johnson
- **Tennessee**
 - *Alexander**
- **West Virginia**
 - *Capito**
 - *Manchin*
 - Jenkins
 - McKinkley



Restoring provider cuts

- Making the case
- Senate focus
- **Ground game**
 - **Calls, letters, op-eds, DC visits**





Action Alert

Wednesday, December 14, 2016

Urge Your Legislators to Preserve Coverage as They Consider Efforts to Repeal and Replace the ACA

It is critical to make the case with lawmakers this month

The 114th Congress finished its work last week, and lawmakers have returned to their districts for the holidays. During this period, discussions about repealing the Affordable Care Act (ACA) will take place as Congress and President-elect Trump's administration have made it a priority for when the 115th Congress convenes on Jan. 3, 2017.

Please reach out to your representative and senators and urge them to preserve health coverage as part of any effort to repeal and replace the ACA. In your conversations with your legislators, please acknowledge that the ACA needs changes and that hospitals have offered solutions to fix it; and reiterate your commitment to working with them on legislation that achieves a shared goal of improving America's health care system through patient-centered care. At the same time, impress upon them that, if Congress decides to reconsider the ACA without simultaneously providing similar coverage, then they should include in such legislation either the prospective repeal of funding reductions to Medicare and Medicaid payments for hospital services that were included in the ACA or preserve the savings achieved through repeal in order to fund a future replacement bill.

The AHA and Federation of American Hospitals shared these concerns with President-elect Trump and congressional leaders last week in a letter urging them not to undertake ACA repeal without either simultaneous replacement or a restoration of the hospital cuts. In addition, we shared a [recent report from health economic firm Dobson | DaVanzo](#) that estimates the financial impact from 2018 – 2028 on hospitals under the most recent repeal bill, H.R. 3762. The report found hospitals would:

- face a net negative impact of \$165.8 billion regarding coverage losses;
- suffer a loss of \$289.5 billion in Medicare inflation updates if the payment reductions in the ACA are not restored; and
- experience \$102 billion in cuts if the ACA's Medicare and Medicaid Disproportionate Share Hospital (DSH) payment reductions are not restored.

Please discuss with your lawmakers how losses of this magnitude cannot be sustained and would adversely impact patients' access to care and hospitals' and health systems' ability to continue to provide services, and could potentially result in job losses.

You can find this report and the accompanying letter on our webpage dedicated to the transition – www.aha.org/transition2017. There you also will find:

- Our letters outlining areas where the new Administration and Congress can help [modernize the public policy environment](#) to enhance providers' ability to improve care and make it more affordable, including a [detailed list of regulatory relief actions](#) the new Administration could take immediately;
- [Talking points](#) to assist you in your conversations with your legislators;
- [Maps](#) of where individuals gained coverage through the Health Insurance Marketplace and Medicaid;
- Archives of our [most-recent webcasts](#); and
- [A rundown of the key players](#) in the new Administration and Congress;

New resources are being added daily, so please check back often.

AHA Executive Vice President of Government Relations and Public Policy Tom Nickels and Senior Vice President of Public Policy Analysis and Development Ashley Thompson will review these points and resources during our [next members-only Town Hall webcast on Thursday, Dec. 15 at 4 p.m.](#) [Click here](#) to register.



GRASSROOTS ADVOCACY

Organizational impact



Wednesday, January 4, 2017

Urge Your Legislators to Simultaneously Repeal and Replace the ACA or Restore the Law's Hospital Reductions

The impact of repeal without replace while keeping the ACA cuts on [hospital name] is outlined below

The 115th Congress is underway, and discussions about repealing the Affordable Care Act (ACA) are taking place in earnest. Congress and President-elect Trump's administration have made repeal and replace one of their top legislative priorities, with a goal of having a bill on the President-elect's desk by Feb. 17.

Please reach out to your representative and senators today and urge them to preserve health coverage by simultaneously repealing and replacing the ACA. It's important to communicate that we understand the ACA needs changes and that hospitals have offered solutions to fix it, and we are committed to working with them on legislation that achieves a shared goal of improving America's health care system through patient-centered care. If Congress decides to reconsider the ACA without simultaneously providing similar coverage, then we encourage that they include in such legislation the prospective repeal of funding reductions to Medicare and Medicaid payments for hospital services that were included in the ACA.

Yesterday, Congressional Republicans introduced their 2017 budget resolution, providing reconciliation instructions that would begin the process to repeal and replace parts of the ACA. The process of reconciliation requires only 51 votes for passage in the Senate rather than the usual 60 votes. The instructions to Committees of jurisdiction do not provide policy details about how to repeal the ACA and the instructions do not preclude the Committees from adopting any specific policy. The instructions require the Committees of jurisdiction to provide an overall amount in savings, but the Committees also can spend money on specific policies if, overall, the reconciliation legislation reduces the federal deficit.

The potential impact of repeal without replace while keeping the ACA cuts from fiscal year 2018 – 2026 to [hospital name] is estimated to be:

- [XXXXX] in productivity and market-basket adjustments for acute inpatient care under the inpatient prospective payment system; and
- [XXXXX] in Medicare and Medicaid disproportionate share hospital (DSH) payments for hospitals in your state.

For more on the impact of ACA repeal on hospitals and health systems, see the [report from health economic firm Dobson | DeVanzo](#), released Dec. 6 by the AHA and the Federation of American Hospitals. That report estimates the financial impact from 2018 – 2026 on hospitals under the most recent repeal bill, H.R. 3762. The report found hospitals overall would:

- face a net negative impact of \$165.8 billion regarding coverage losses;
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- experience \$102.9 billion in cuts if the ACA's Medicare and Medicaid DSH payment reductions are not restored.

Please discuss with your lawmakers how losses of this magnitude with repeal of ACA coverage cannot be sustained and would adversely impact patients' access to care and hospitals' and health systems' ability to continue to provide services, and could potentially result in job losses.

You can find this report and the accompanying letter to the President-elect on our webpage dedicated to the transition – www.aha.org/transition2017. There you will find additional resources such as talking points, archives of our recent webcasts and a rundown of key figures in Congress and the new administration. New resources are being added daily, so please check back often.



**American Hospital
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Restoring provider cuts

- Making the case
- Senate focus
- Ground game
- **Air cover**
 - Coalition to Protect America's Healthcare



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The leading voice for hospitals.

AHRA AKRON REGIONAL HOSPITAL ASSOCIATION

NHA Nevada Hospital Association

MHA Maine Hospital Association

MHA MISSOURI HOSPITAL ASSOCIATION

NHA Nebraska Hospital Association

WNYHA Western New York Healthcare Association

NDHA North Dakota Hospital Association

OHHA OHIO HOSPITAL ASSOCIATION

SFHA SOUTH FLORIDA HOSPITAL & HEALTHCARE ASSOCIATION

KNA KANSAS HOSPITAL ASSOCIATION

NorMet Northern Metropolitan Hospital Association Representing Hospitals in the Hudson Valley Region

MHA MICHIGAN HEALTH & HOSPITAL ASSOCIATION

Minnesota Hospital Association

HCNCA

MHA AN ASSOCIATION OF MONTANA HEALTH CARE PROVIDERS

WHA WISCONSIN HOSPITAL ASSOCIATION

MSHA MISSISSIPPI HOSPITAL ASSOCIATION

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Tell Congress to protect patients.

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Change is coming to health care. Ask
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The trifecta

- **ACA...repeal and replace**
- **Medicaid restructuring**
- **Medicare modernization**



Medicaid restructuring

- **Congressional process**

- **Timing**

- **Approaches**

- Block grants
- Per capita caps
- Innovation and waivers





THE
HILL

News Alert

Governors planning 'active' role in ObamaCare rewrite

State leaders are positioning themselves to have a key voice in a potential rewrite of ObamaCare next year.

With the election of Donald Trump, Republican leaders in Congress have promised a dramatic overhaul of President Obama's signature policy.

The National Governors Association (NGA), a proudly bipartisan group representing every state, is now eyeing a more public — and more aggressive — role alongside GOP leaders as they attempt to gut the massive federal program.

[Read the full story here](#)

November 26, 2016

- Alaska
- Arizona
- Arkansas
- Illinois
- Indiana
- Iowa
- Kentucky
- Michigan
- Nevada
- New Jersey
- New Mexico
- North Dakota
- Ohio

Governors planning 'active' role in ObamaCare rewrite

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The National Governors Association (NGA), a proudly bipartisan group representing every state, is now eyeing a more public — and more aggressive — role alongside GOP leaders as they attempt to gut the massive federal program.

[Read the full story here](#)

November 26, 2016

“Adding Medicare to the debate would fall into the category of biting off more than we can chew.”

Senator Lamar Alexander (R-TN)

Chairman, HELP Committee

Politico

December 2, 2016



**“We say to our
Republicans that want to
privatize Medicare: go try
it...make our day.”**

Senator Charles Schumer (D-NY)
Minority Leader
Washington Post
December 2, 2016



Other transition strategies

- **Making the our voices heard**
 - Updating key contact networks
 - Letter to the President Elect...our agenda
 - Quick hits on regulatory relief (transition team)



AHA outlines policy priorities in letter to President-elect Trump

The AHA today outlined its policy priorities for working with the incoming administration in a [letter](#) to President-elect Donald Trump (see the News Now item below for details). AHA President and CEO Rick Pollack and Executive Vice President Tom Nickels will discuss the letter, as well as the latest news on the transition team's activities and what they could mean for hospitals, on Friday, Dec. 2 at 1 p.m. ET during a special Town Hall webcast. Visit www.aha.org/townhall to register.



Regulatory relief agenda

- Suspend hospital star ratings
- Lift barriers to clinical integration
- Cancel Stage 3 of meaningful use
- Adjust readmission measure to reflect differences in socio-demographic factors
- Use regulatory discretion for enforcement of 96 hour CAH rule
- Make mandatory bundled payment programs voluntary
- Expand Medicare coverage of telehealth services
- Prohibit enforcement of direct physician supervision requirements
- Remove faulty hospital quality measures
- Hold RAC contractors accountable
- Refocus ONC on certification of EHRs
- Rescind CMS guidance on prohibiting the use of secure units in hospitals treating patients who are prison or jail inmates
- Remove HIPAA barriers to sharing information for clinically integrated care
- Allow treating providers to access their patients' substance use disorder records
- Extend the moratorium on enforcement of federal contractor requirements against hospitals receiving TRICARE and other federal health reimbursement programs
- Suspend electronic clinical quality measure reporting requirements
- Eliminate unfair LTCH hospital regulation
- End onerous home health agency pre-claim review
- Restore compliant codes for IRF 60 percent rule
- Postpone and reevaluate post-acute care quality measure requirements
- Exempt hospitals from mandatory Medicare Part B drug demonstration project
- Protect hospital-based ACOs from restrictive IRS ruling
- Stop federal agency intrusion into private sector accreditation standards
- Undo agency over-reach on so called "information blocking"
- Maintain timely patient access to laboratory developed tests
- Maintain timely patient access to compounded drugs
- Allow flexibility for providers who want to share treatment space to address gaps in patient access to care



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Regulatory Relief

The balance between flexibility in patient care and regulatory burden seems to have reached a tipping point. The Centers for Medicare & Medicaid Services (CMS) and other agencies of the Department of Health and Human Services (HHS) released 43 proposed and final rules in the first 10 months of the year alone, comprising almost 21,000 pages of text. In addition to the sheer volume, the scope of changes required by the new regulations is beginning to outstrip the field's ability to absorb them. Moreover, this does not include the increasing use of sub-regulatory guidance (FAQs, blogs, etc.) to implement new administrative policies.

There are numerous duplicative and excessive rules and regulations. The AHA suggests the following actions to immediately reduce burdens on hospitals and patients. These regulations are promulgated by CMS (Table 1), other agencies within HHS (Table 2) and other departments of the federal government (Table 3).

TABLE 1. ACTIONS TO BE TAKEN BY CMS

Action	Description
Suspend hospital star ratings	Despite objections from a majority of the Congress, CMS published a set of deeply flawed hospital star ratings on its website this fall. The ratings were broadly criticized by quality experts and Congress as being inaccurate and misleading to consumers seeking to know which hospitals were more likely to provide safer, higher quality care. <i>The AHA calls on the Administration to suspend the faulty star ratings from the Hospital Compare website.</i>
Cancel Stage 3 of "meaningful use" program	Hospitals face extensive, burdensome and unnecessary "meaningful use" regulations from CMS that require significant reporting on use of electronic health records (EHRs) with no clear benefit to patient care. These excessive requirements are set to become even more onerous when Stage 3 begins in 2018. They also will raise costs by forcing hospitals to spend large sums upgrading their EHRs solely for the purpose of meeting regulatory requirements. <i>The AHA urges the Administration to cancel Stage 3 of meaningful use by removing the 2018 start date from the regulation. The Administration also should institute a 90-day reporting period in every future year of the program, and gather input from stakeholders on ways to further reduce the burden of the meaningful use program from current requirements.</i>
Suspend electronic clinical quality measure reporting requirements	Hospitals have spent significant time and resources to revise certified EHRs to meet CMS electronic clinical quality measure requirements for 2016, with no benefit for patient care. Moreover, CMS acknowledges that the electronic test submissions by hospitals and physicians do not accurately measure the quality of care provided. Despite these facts, CMS regulations double the electronic clinical quality measure reporting requirements for hospitals for 2017, creating additional burden without an expectation that the data generated by EHRs will be accurate. <i>The AHA urges the new Administration to suspend all regulatory requirements that mandate submission of electronic clinical quality measures.</i>

Action	Description
Remove faulty hospital quality measures	Improvements in quality and patient safety are accelerating, but the ever increasing number of conflicting, overlapping measures in CMS programs take time and resources away from what matters the most – improving care. Most recent measure additions to the inpatient quality reporting (IQR) and outpatient quality reporting (OQR) programs provide inaccurate data, and do not focus on the most important opportunities to improve care. <i>We urge the Administration to remove all IQR and OQR measures added to the programs on or after Aug. 1, 2014. These measures also should be removed from CMS pay-for-performance programs, such as readmissions and hospital value-based purchasing.</i>
Eliminate unfair Long-term Care Hospital (LTCH) regulation	With the implementation of site-neutral payments for LTCHs, which began in October 2015 (as mandated by the Bipartisan Budget Act of 2013), the LTCH "25% Rule" has become wholly outdated, excessive and unnecessary. The purpose of the 25% Rule is to reduce overall payments to LTCHs by applying a penalty to selected admissions exceeding a specified threshold, even if the patient meets LTCH medical necessity guidelines. Given the magnitude of the LTCH site-neutral payment cut – a 73% reduction, on average, to one out of two current cases – CMS should rescind the 25% Rule and instead rely on the site-neutral payment policy to bring transformative change to the LTCH field.
End onerous home health agency pre-claim review	Home health agencies in five states have been unfairly subjected to a mandatory Medicare demonstration launched in August 2016 that is testing a requirement for pre-claim review. This demonstration adds unnecessary paperwork and delays payment for an estimated 1 million claims per year. <i>The AHA urges the Administration to end this onerous demonstration program.</i>
Restore compliant codes for inpatient rehabilitation facility (IRF) 60% Rule	During the transition to ICD-10-CM, CMS reduced the number conditions that qualify toward compliance under the IRF "60% Rule," which is a criterion that must be met for a hospital or unit to maintain its payment classification as an IRF. Yet certain codes that qualified under ICD-9-CM were inadvertently omitted as a result of the conversion to ICD-10-CM. <i>We urge the Administration to restore those codes that counted toward the 60% Rule presumptive compliance test, but lost their eligibility as of June 1, 2016, during the transition to the new coding system.</i>
Postpone and reevaluate post-acute care quality measure requirements.	Recent laws and regulations are rapidly expanding the quality and patient assessment data reporting requirements for post-acute care providers. The requirements have been implemented aggressively, and without adequate time for stakeholder input. The result is duplicative reporting requirements – such as two different mandated ways of collecting patient functional status data for IRFs – and enormous confusion in the field. <i>We urge the Administration to suspend any post-acute care quality reporting requirements finalized on or after Aug. 1, 2015, and to work with the post-acute care community to develop requirements that strike a more appropriate balance between value and burden.</i>
Withdraw proposed mandatory Part B drug demonstration	CMS has proposed a mandatory Medicare demonstration program that would unfairly hold hospitals financially accountable for the high prices charged by drug manufacturers. <i>The AHA urges the Administration to withdraw this proposed rule.</i>
Protect Medicaid DSH Hospital Payments	CMS's proposed rule that addresses how third-party payments are treated for purposes of calculating the hospital-specific limitation on Medicaid disproportionate share hospital (DSH) payments could deny hospitals access to needed Medicaid DSH funds. The Medicaid DSH program provides essential financial assistance to hospitals that care for our nation's most vulnerable populations. CMS has

Other transition strategies

- **Creating a constituency for preserving coverage**
 - Demographics
 - GOP Expansion states
- **Developing multi-stakeholder platform:**
 - Transition gap...preserving private markets
 - Replacement approaches
- **Defining Medicaid “restructuring”...flexibility, accountability and fairness (non-expansion states)**
 - Allied hospital association strategy (Manatt)
- **Reinforcing hospitals as employers and economic engines**



In 2015, America's hospitals treated 142 million people in their emergency departments, provided 581 million outpatient visits, performed almost 127 million surgeries and delivered nearly 4 million babies. Every year, hospitals provide vital health care services like these to hundreds of millions of people in thousands of communities. However, the importance of hospitals to their communities extends far beyond health care.

The health care sector has traditionally been an economic mainstay, providing stability and job growth in communities. Health care added an average of 34,000 jobs per month from December 2015 to November 2016.¹

Hospital care is an important component of the health care sector. Hospitals:

- Employ more than 5.7 million people.
- Are the second-largest source of private sector jobs.
- Purchase nearly \$852 billion in goods and services from other businesses.

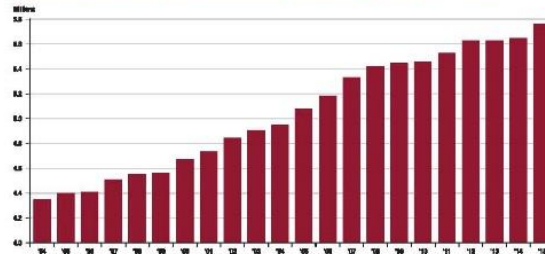
The goods and services hospitals purchase from other businesses create additional economic value for the community. With these "ripple effects" included, each hospital job supports about two additional jobs, and every dollar spent by a hospital supports roughly \$2.30 of additional business activity. Overall, hospitals:

- Support 16 million total jobs, or one of 9 jobs in the U.S.
- Support more than \$2.8 trillion in economic activity.

¹ Bureau of Labor Statistics. Current Employment Statistics Highlights, November 2016

Hospitals directly employ over 5.7 million people...

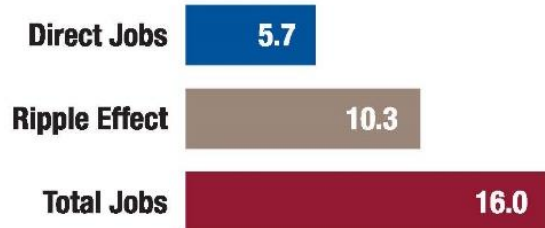
Number of Full-time and Part-time Hospital Employees, 1994 – 2015



Source: Analysis of American Hospital Association Annual Survey data, 2015, for community hospitals.

...but with "ripple effects" included, support 16 million total jobs.

Impact of Community Hospitals on U.S. Jobs (in millions), 2015



Source: Analysis using BLS PMSI (1997-2006) multiplier, released in 2006, applied to 2015 American Hospital Association Annual Survey data. Note: Multiplier released in 2010 and subsequent years is for gross product at national level. Multiplier used in this chart. The sum of the direct and ripple effect may be less than or greater than the total contribution due to rounding.

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- **Affordability strategy**
 - Cost of caring



Hospitals and health systems are where the most complex care is provided for ill and injured patients. Yet, spending on inpatient and outpatient care has grown more slowly than spending on other health services. Hospitals and health systems have worked intensively to make care more effective and efficient.

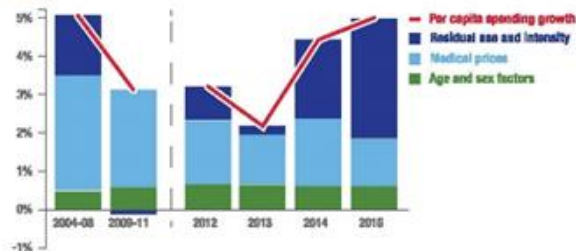
In recent years, health care spending growth has been driven primarily by increased use and intensity of services.

- Health insurance coverage has grown to cover an additional 20 million people since 2010.
- An aging population uses more health care, on average.
- Today's population has a higher rate of chronic disease, with more than half of Americans having chronic conditions like diabetes and heart disease.
- Medical advances bring health benefits that often raise costs.

Hospital and health system spending is growing more slowly than the health care average.

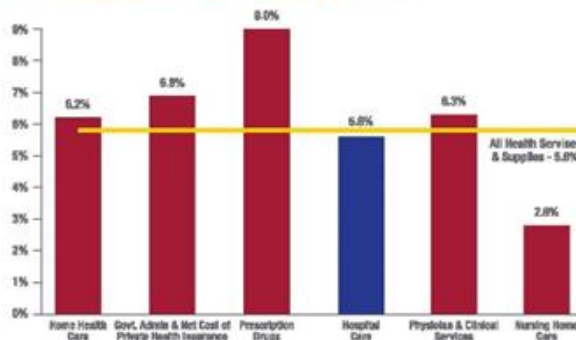
- Growth in Medicare spending for all hospital services - inpatient and outpatient - is at its lowest level in 17 years. Inpatient spending actually declined by 1.9% in 2015.
- Hospital price growth, as measured by the Hospital Producer Price Index, was just 0.9% in 2015, the slowest rate since 1998 and down from 1.3% in 2014.

Health care spending growth, including in hospitals, has largely been driven by increased use and intensity of services provided in 2014 and 2015.



Source: Centers for Medicare and Medicaid Services, Office of the Actuary, National Health Statistics Group, *Health Affairs*, December 2, 2016.

Spending for hospital care continues to grow more slowly than the health care sector average (percent change in spending, 2014-2015).



Source: Centers for Medicare & Medicaid Services, Office of the Actuary, Data released December 2, 2016.

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- **Member communication and engagement**



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From Congressional Leaders:

- House Budget Chairman and HHS Secretary Nominee Tom Price (R-GA) – [Empowering Patients First Act](#): Legislation to repeal and replace the Affordable Care Act
- House Speaker Paul Ryan (R-WI) – [A Better Way](#): Vision for policy changes in six major areas, including health care
- Senate Republican Policy Committee – [First Steps in Obamacare Repeal and Replace](#): Outlines steps Congress could take to repeal the Affordable Care Act

From Other Thought Leaders:

- [How to Repeal the Affordable Care Act: A Roadmap](#) (McIver Institute, Paul Winfree and Brian Blase)
- [The Affordable Care Act of 2017: Challenges for President-Elect Trump and Congress](#) (Commonwealth Fund, David Blumenthal and Sara R. Collins)
- [Keeping tabs on a potential ACA repeal: Three questions to watch](#) (Brookings Institute, Molly E. Reynolds)
- [The future of public health under President Trump](#) (Harvard T.H. Chan School of Public Health, John McDonough)
- [Repealing Obamacare and Getting Health Care Right](#) (Heritage Foundation, Nina Owcharenko)
- [Transcending Obamacare: Achieving Truly Affordable, Patient-Centered, Near-Universal Coverage](#) (Manhattan Institute, Avik Roy)
- [Repeal without replace is a terrible idea](#) (AEI, James C. Capretta)
- [Raising the insurance rate without Obamacare](#) (AEI, Joel M. Zinberg)
- [A Winning Alternative to Obamacare](#) (2017 Project)



In the News

- [Many in Florida count on Obama's health law, even amid talk of its demise](#) (New York Times, Abby Goodnough)
- [Under President Trump, repealing and replacing Obamacare will be harder than it looks](#) (Forbes, Avik Roy)
- [What to know about the future of Obamacare](#) (CNN, Susan Scutti)
- [When having insurance still leaves you dangerously uncovered](#) (New York Times, Aaron E. Carroll)
- [How Trump's post-Obamacare plans could hurt the bottom lines of insurers and hospitals](#) (CNBC, Dan Mangan)
- [Trump and the GOP can absolutely repeal Obamacare – and 22 million people would lose health insurance](#) (Vox, Sarah Kliff)

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American Hospital Association

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