The Affordable Care Act (ACA) was passed by Congress and signed by President Obama in March 2010. Sometimes called “Obamacare,” many people do not realize that the law combined both Republican and Democratic approaches to expanding the number of Americans with affordable, comprehensive insurance as well as advancing quality and cost-saving changes to the U.S. health care system.

With the election of Donald Trump as President of the United States, and both the U.S. House and Senate under Republican control. Congress is currently considering a bill to repeal and replace the Affordable Care Act, called the American Health Care Act (AHCA replacement bill). This guide is intended to provide a brief, objective review of the Affordable Care Act and then outline the major changes being considered by Congress so that members of the public can be informed and have meaningful input into any replacement of the ACA.
The Affordable Care Act (ACA) — Key Provisions

Coverage Expansion: Medicaid Expansion, Financial Help in New Marketplaces, and Young Adult Coverage

One of the major goals of the Affordable Care Act (ACA) is to increase health insurance coverage to more Americans. While much work remains to be done to cover every American, the ACA was enormously successful in providing coverage to more than 20 million Americans. In West Virginia more than 225,000 are covered under the ACA.

Under the ACA, health coverage is expanded in three ways:

1) Medicaid eligibility is extended to more individuals and families

2) Financial help is available to make insurance affordable in the new insurance Marketplaces

3) Young adults up to age 26 are allowed to stay on their parents’ policies

Medicaid Expansion

For more than 50 years, the federal government and states have had a financial partnership to provide health care for children, people with disabilities and the poor elderly. In 2014, the Affordable Care Act gave states the option of expanding Medicaid to all low income people earning less than 138 percent of the federal poverty level (FPL) or about $28,000 for a family of three.

For the first three years of the expansion (2014-2016), the federal government paid 100 percent of the cost of insurance for Medicaid expansion enrollees. Beginning in 2017, West Virginia has to provide a match of five percent. The match increases every year until 2020 when it reaches 10 percent and stays there permanently under the ACA.

Under the Medicaid expansion, about 175,000 West Virginians enrolled in Medicaid. The new enrollees are single adults and families with income less than 138 percent of the Federal Poverty Level. The majority of the new enrollees work – but in jobs that do not provide health benefits. Research suggests that having coverage is making people healthier, saving lives, and protecting family budgets from high health care expenses.
Financial Help with Premiums, Deductibles, and Other Out-of-pocket Costs under New Insurance Marketplaces

The ACA created Health Care Exchanges or Marketplaces where individuals and families could buy private coverage, receive financial assistance based on their income, and have protections from discriminatory insurance practices. Before the ACA, insurance companies could either refuse to sell a plan, charge higher premiums, and/or not cover certain health care services because a person had a pre-existing health condition. In addition, a plan could arbitrarily impose a limit on the how much in dollars would be covered in one year or over a life-time. Further, new rules made sure that insurance policies were easier to understand, with standard formats, and no surprise details that left consumers with unpaid medical bills.

Nationally more than 8 million people took advantage of these new marketplace policies and more than 80 percent received financial assistance. In West Virginia about 35,000 enrolled for coverage in 2017 and 86 percent received financial assistance to pay the premium costs. Individuals and families earning less than 250 percent of the FPL also received significant financial assistance for deductibles and co-pays.

The Marketplace plans have received the most criticism of the ACA because premium subsidies were not high enough to make policies affordable for higher income people. While financial assistance was available for people earning 400 percent of the federal poverty level (a little more than $80,000 for a family of three), the greatest subsidies went to people earning less than 250 percent of the federal poverty level or around $50,000 for a family of three. The high cost of health insurance for those receiving little or no financial assistance is a problem that should be addressed.

In addition to helping pay premiums for insurance, the ACA also included financial help with deductibles and co-payments and other out-of-pocket costs for lower income people who purchased a plan in the Marketplace. The AHCA replacement bill does not include this important help. Rather, the AHCA replacement bill encourages high-deductible plans as described in the section below.

Young adults under age 26

In 2011, the law permitted young adults under age 26 to stay on their parents’ policy. Young adults did not have to be students to remain on their parents’ coverage. They could be working, married, or living in another state and keep their parents’ coverage. 15,000 young adults benefitted from this part of the law in West Virginia and stayed on their family coverage. This part of the law would be retained under the newly proposed American Health Care Act.
The impact of the coverage expansions:

The impact of the ACA expansion provision: the Medicaid expansion, private coverage with premium subsidies in the Marketplace, and allowing young adults to stay on their parents’ coverage; has resulted in more than 20 million Americans and more than 225,000 West Virginians having coverage through the ACA.

The question for American and West Virginians is: Will replacement of the American Health Care Act increase coverage or cause an erosion of coverage for millions of Americans?

<table>
<thead>
<tr>
<th>Health Insurance Coverage for West Virginians under the ACA</th>
</tr>
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<tbody>
<tr>
<td>Uninsured in 2013 just before implementation of ACA expansions</td>
</tr>
<tr>
<td>257,000</td>
</tr>
<tr>
<td>Uninsured in 2015 after the ACA expansion</td>
</tr>
<tr>
<td>108,000</td>
</tr>
<tr>
<td>Coverage for young adults</td>
</tr>
<tr>
<td>15,000</td>
</tr>
<tr>
<td>Coverage in the Exchange/Marketplace (2017)</td>
</tr>
<tr>
<td>35,000</td>
</tr>
<tr>
<td>Coverage through Medicaid</td>
</tr>
<tr>
<td>175,000</td>
</tr>
<tr>
<td><strong>Total coverage through the ACA in West Virginia</strong></td>
</tr>
<tr>
<td><strong>225,000</strong></td>
</tr>
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</table>

Prevention

One of the benefits provided under the ACA is the requirement that health insurance companies provide clinically appropriate preventive measures without a deductible or copayment. While much of the debate on the ACA preventive measures center on contraceptive coverage (and all FDA-approved contraceptives including long lasting reversible contraceptives are required to be provided without a deductible or copay), there are many other services provided without a deductible or copay. Some services include: childhood immunization, screening for domestic violence, screening and treatment of obesity, age-appropriate colonoscopies, pap smears and mammography, adult immunizations, etc.

Removing the financial barrier to receiving appropriate preventive measures has moved our country’s health care system away from one being focused on almost exclusively on treatment to one that places greater value on prevention.
ACA Health Insurance Consumer Protections

1) Benefits
The ACA requires insurance companies to offer a robust set of benefits. These include the preventive measures outlined above and:

- In-patient and out-patient hospital services
- Maternity and newborn care
- Mental health services including treatment for addiction
- Prescription drug coverage
- Laboratory services
- Chronic disease management
- Pediatric services, including oral and vision care

2) No Pre-existing Condition Exclusions
All health insurance plans (individual and group plans) are barred from excluding coverage of pre-existing health conditions, or denying coverage all together based on a person’s health history or the health history of family members.

3) Rating Reforms
No health plans can charge higher premiums based on an applicant or enrollee’s health status or gender. Insurance companies can only charge older people three times what they charge younger people.

How the ACA Pays for Reforms
The ACA is funded in two primary ways: it reduces the cost of Medicare primarily through reduced payments to hospitals for the treatment of Medicare patients; and increases in taxes. The tax increases include:

- An additional Medicare Hospital Insurance payroll tax on high-income people and an additional Medicare investment-income tax (on unearned income) — that is paid only by individuals with incomes above $200,000 ($250,000 for married couples).
- Tax increases for the insurance companies, the prescription drug manufacturers and medical device manufacturers.
- Penalties for large employers (over 50 employees) who do not provide health insurance coverage to their employees. And penalties for individuals who do not have health insurance coverage.
- The so-called “Cadillac tax,” which is a tax on employer sponsored health insurance policies costing more than $10,200 for a single policy or $27,500 for a family policy.
The American Health Care Act — the ACA Replacement Bill Currently in Congress — Key Provisions

The Congressional Budget Office (CBO) has “scored” the impact of the AHCA replacement bill. Below are some of the impacts that the nonpartisan CBO found that passage of the AHCA would have.

<table>
<thead>
<tr>
<th>Impact</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase number of uninsured Americans by 2018</td>
<td>14 million</td>
</tr>
<tr>
<td>Increase number of uninsured Americans by 2026</td>
<td>24 million</td>
</tr>
<tr>
<td>Reduction of federal monies to the states for Medicaid (2017-2026)</td>
<td>$880 billion</td>
</tr>
<tr>
<td>Reduction in the federal deficit (2017-2026)</td>
<td>$337 billion</td>
</tr>
</tbody>
</table>

Federal Funding Cuts to Medicaid

The Affordable Care Act replacement bill in Congress, the American Health Care Act (AHCA replacement bill) will cut federal Medicaid dollars available to West Virginia in two ways:

1) **End the federal financial commitment for the Medicaid expansion** by phasing out the extra federal matching dollars by January 2020 for new enrollees.

2) **End the historic Medicaid state-federal financial partnership** by fundamentally altering the way Medicaid is financed. Instead of a federal match for state spending, the new law would pay states on a per capita basis.

Cuts to Federal Dollars for the Medicaid Expansion

Under the Affordable Care Act, West Virginia is allowed to expand Medicaid to all families under age 65 earning at or below 138 percent of the federal poverty level (about $28,000 for a family of three.) In the first three years of the expansion, the federal government paid 100 percent of the cost. Beginning in 2017, states began to pay 5 percent of the cost. This amount increases to 10 percent in 2020 and stays there indefinitely under current law.

The AHCA replacement bill ends the enhanced federal match for new enrollment in the ACA’s Medicaid expansion starting in January 2020. West Virginia could continue to receive the 90 percent enhanced match for West Virginians enrolled at that time as long as they do not experience a gap in coverage of more than one month going forward. No new enrollees in the expansion would be covered by the 90 percent match.

In the long-term, West Virginia would lose millions of federal dollars of federal support for Medicaid and be faced with difficult choices to consider raising new state revenue, cutting people off Medicaid, reduce the number of covered services, making enrollees pay more out-of-pocket, and/ or cutting payments to doctors, hospitals, and other health providers.
Cuts to Federal Dollars for the Entire Medicaid Program through Per Capita Caps

These proposed changes not only affect Medicaid expansion, but affect traditional Medicaid and have nothing to do with the ACA. The AHCA replacement bill will fundamentally change the financial structure of Medicaid. Instead of the historic state-federal financial partnership that allows states to share with the federal government any increases in Medicaid costs, the House bill uses Medicaid per capita caps to place a ceiling on how much the federal government would provide to a state each year. Over time, the federal dollars will shrink as a percentage of the total costs of the Medicaid program, thus forcing West Virginia to shoulder a greater and greater share with state dollars.

People Buying Marketplace Plans will receive Less Financial Help with Premiums, Deductibles, and Other Out-of-pocket Costs

There are distinct differences between the premium tax credit subsidies provided in the ACA and the AHCA replacement bill. Those differences include:

1) how tax credits are calculated,

2) how much assistance is provided, and

3) whether there is any assistance provided to moderate-income families to assist with deductibles, copays and out-of-pocket maximums.

The ACA provides tax credits based on a person’s income, age, and the cost of insurance policies in their county. The ACA protects people from paying more than a certain percentage of their family income for a comprehensive health insurance plan.

The AHCA replacement bill provides a fixed dollar amount of tax credits, regardless of income up to $75,000 for an individual, but like the ACA does vary these tax credits based on age. The chart on the right lists these tax credits for single person earning less than $75,000 a year.

These different methods of determining the amount of tax credits creates winners and losers. The winners under the AHCA replacement bill are generally people who are younger, higher-income, or live in low-premium areas (this is not West Virginia). Conversely, people who have lower-incomes, are older, or live in high-premium areas such as West Virginia get lower amounts of tax credits under the AHCA replacement bill then they currently do under the ACA.

<table>
<thead>
<tr>
<th>Age</th>
<th>Amount of Tax Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 to 30</td>
<td>$2,000</td>
</tr>
<tr>
<td>30 to 40</td>
<td>$3,000</td>
</tr>
<tr>
<td>40 to 64</td>
<td>$4,000</td>
</tr>
</tbody>
</table>
The chart below illustrates the difference in how tax credits are calculated under the ACA and the AHCA replacement bill. These examples are all based on a person living in Kanawha County.

<table>
<thead>
<tr>
<th>Age</th>
<th>Annual Income</th>
<th>Amount of ACA Tax Credit</th>
<th>Amount of Tax Credit under the House Bill</th>
<th>Difference Dollar Amount</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>27</td>
<td>$20,000</td>
<td>$5,240</td>
<td>$2,000</td>
<td>-$3,240</td>
<td>-62%</td>
</tr>
<tr>
<td>27</td>
<td>$75,000</td>
<td>0</td>
<td>$2,000</td>
<td>+$2,000</td>
<td></td>
</tr>
<tr>
<td>40</td>
<td>$20,000</td>
<td>$6,590</td>
<td>$3,000</td>
<td>-$3,590</td>
<td>-55%</td>
</tr>
<tr>
<td>40</td>
<td>$75,000</td>
<td>0</td>
<td>$3,000</td>
<td>+$3,000</td>
<td></td>
</tr>
<tr>
<td>60</td>
<td>$20,000</td>
<td>$12,880</td>
<td>$4,000</td>
<td>-$8,880</td>
<td>-69%</td>
</tr>
<tr>
<td>60</td>
<td>$75,000*</td>
<td>0</td>
<td>$4,000</td>
<td>+$4,000</td>
<td></td>
</tr>
</tbody>
</table>


*The premium tax credit starts to phase out for people with incomes above $75,000 by 10 cents for every dollar of income above $75,000; the tax credit is reduced to zero at $95,000 for individuals up to age 29 and up to $115,000 for individuals age 60 or older.

An important difference between the ACA and the AHCA replacement bill is also on assistance for paying deductibles, copays and out-of-pocket maximums. The ACA provides what is called cost sharing reductions. These assist individuals and families who earn just above the Medicaid income eligibility (about $16,000 a year for an individual) up to 250 percent of the federal poverty level (about $37,100 for an individual), although the assistance for people between 200 percent of the FPL and 250 percent is minimal.

There is no assistance for these individuals and families with their deductibles or copays under the American Health Care Act.

This is no small loss. Nearly 19,000 West Virginians received roughly $24 million in cost sharing reductions in 2016. Nationally, those earning up to 150 percent of the FPL received on average $1,440; those earning between 150 and 200 percent of the FPL received $1,068 on average; and those between 200 and 250 percent of the FPL received on average $144.

The premium tax credit can be used to purchase health plans that cover the 10 essential benefits required under the ACA, which are sold off the state Marketplace. However, the tax credits for policies sold outside the Marketplace are not advance-payable (will not reduce the each monthly premium as it comes due during the year).

**Alternatives to the Individual Mandate**

The AHCA replacement bill eliminates the individual mandate that requires people to have coverage or face a fine. The AHCA replacement bill recognizes the potential for people to “game” the insurance system by waiting until they are sick before they buy coverage. The **AHCA replacement bill instead requires insurance companies to charge 30% higher premiums for anyone with a gap in coverage** (63 days or more).
Age and Gender Rating

The AHCA replacement bill allows states to set their own age rating ratio. Without state action, the AHCA replacement bill allows insurances companies to charge older people a premium five times higher premium than younger people (the ACA set that limit at three to one).

AHCA replacement bill retains the ACA prohibition on gender rating. Insurers cannot charge a woman more for the same plan than a man.

What the AHCA Replacement Bill Does NOT Change

The American Health Care Act does preserve positive provisions of the Affordable Care Act, including the following:

1) Children will be allowed to stay on the parents’ plan until age 26

2) Insurers must offer insurance coverage to all who apply during open enrollment periods or special enrollment periods (called guaranteed issue). President Trump has submitted administrative rule-making changes that would shorten open-enrollment periods and tighten up rules dealing with special enrollment periods (for example when a person loses their job, is divorced, etc.)

3) Insurers cannot discriminate based on pre-existing condition through denials, benefit exclusions or charging higher premiums just because of a pre-existing condition. However, if the person has had a gap of 63 days without insurance before applying for coverage, they will be charged 30% higher premiums.

4) Preventive services remain covered without a deductible or copay including contraceptive coverage.

5) The prohibition on annual and life-time limits on total payment for covered services under a plan by the insurer remains.

6) The ACA requirement to cover 10 essential benefits except for enrollees in Medicaid after 2019. Maternity care must be covered as under the ACA. (Note: maintaining the essential health benefits under the AHCA probably has more to do with legislative rules governing budget reconciliation than it does to having a commitment that all of these services should be required.)

7) The Medical Loss Ratio minimum standards, which require insurance companies to spend at least 80 percent of the premium that they collect on paying medical claims and improving quality, are not changed.

8) Standards for independent external review of denied claims remains.

9) Requirements for all plans to provide standard, easy-to-read explanations of benefits and coverage remains.
AHCA Replacement Bill Promotes High-Deductible Plans Paired with Health Savings Accounts

The AHCA replacement bill modifies the federal tax code rules to promote high-deductible health insurance plans paired with a tax-advantaged Health Savings Account (HSA). It loosens restrictions and raises the amount that can be contributed to an HSA. It also lowers the penalty for a withdrawal for non-qualified health expenses.

An HSA is not health insurance. HSAs are savings accounts where a person with extra income can put money away to pay for health services not covered by insurance (i.e. deductibles, co-pays, dental care and other services not covered by insurance.) Money placed in a HSAs is generally not taxable. They can be a good benefit for people with disposable income. They are not a realistic option for lower income West Virginians who have little or no disposable income. If a family has to choose between keeping the electricity on and saving money to pay for future medical bills, HSAs are not a viable option.

Seventy percent of HSA contributions come from households with incomes over $100,000. In contrast, less than 5 percent of tax payers with incomes below $50,000 make contributions, which average less than $1,500 yearly among those who contribute.

Innovation and Stability State Grants: Inadequate Funding

The AHCA replacement bill includes an “Innovation and Stability” grant program to the states. It is not clear how this money will be distributed to the states or the full range of ways the dollars can be used to help stabilize premiums in the individual market.

These monies could be used for:

- Providing assistance to help low and middle income people afford deductibles and other out-of-pocket expenses.
- Compensating insurers for taking on high risks.
- Improving access to preventive, vision, dental, and mental health care.
- Establishing state run high risk pools.

There is, however, inadequate funding to provide all of these services.

How the AHCA Replacement Bill Cuts Taxes

The AHCA replacement bill would eliminate ACA taxes on wealthy individuals and insurance and drug companies.

The plan would repeal the ACA’s two Medicare taxes — the additional Hospital Insurance tax on high-income people and the Medicare tax on unearned income — that is paid only by individuals with incomes above $200,000 ($250,000 for married couples). Their repeal would mean that high-income
taxpayers would no longer face Medicare taxes on all their income — unlike low- and moderate-income earners.

These changes (plus several smaller provisions of the AHCA replacement bill) would cost $594 billion over 2017 to 2026. According to the Center on Budget and Policy Priorities, the 400 highest-income taxpayers (who on average make more than $300 million a year) would get annual tax cuts averaging about $7 million each in 2025. Millionaires would get tax cuts of more than $50,000 each, on average, in 2025.

The AHCA replacement bill also repeals the penalties for large employers (over 50 employees) who do not provide health insurance coverage.

Finally, the AHCA replacement bill delays the implementation of the so-called “Cadillac tax,” which is a tax on employer sponsored health insurance policies costing more than $10,200 for a single policy or $27,500 for a family policy.