



ACA COMPLIANCE BULLETIN

REPUBLICANS END ATTEMPTS TO REPEAL AND REPLACE ACA

OVERVIEW

Following the midterm elections, Republicans in the U.S. Senate have indicated that they will no longer attempt to repeal and replace the Affordable Care Act (ACA). The midterms created a power split in Congress, with Democrats retaking control of the U.S. House of Representatives and Republicans retaining control of the Senate.

Many Democrats campaigned on health care issues, including retaining the ACA's popular protection for individuals with pre-existing conditions. Senate Majority Leader Mitch McConnell (R-Ky) has recognized that the Democrat-controlled House will not support any proposals to repeal and replace the ACA. Instead, lawmakers have indicated that they may work together, on a bipartisan basis, to make small changes to improve the ACA.

ACTION STEPS

A Democrat-controlled House will shield the ACA from repeal for at least the next two years. As a result, the ACA will remain current law and employers must continue to comply with all applicable ACA provisions.

HIGHLIGHTS

- With Democrats taking control of the House, Republicans have indicated that they will no longer attempt to repeal the ACA.
- Many Democrats successfully campaigned on health care issues, such as protections for individuals with pre-existing conditions.
- It is possible that lawmakers will work together to change specific ACA provisions.

IMPORTANT DATES

Nov. 6, 2018

Midterm elections

January 2019

Newly elected members of Congress take office

Nov. 3, 2020

Next general election day in the U.S.

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Attempts to Repeal and Replace the ACA

President Donald Trump promised to immediately work to repeal and replace the ACA when he took office. Although Republicans controlled both the House and Senate, they narrowly failed to pass bills to repeal the ACA in 2017.

The Republicans' efforts to repeal and replace the ACA came to an end on July 28, 2017, when members of the Senate voted 49-51 to reject a "skinny" version of a bill to repeal and replace the ACA.

Despite these failed attempts to repeal the ACA, Congress did roll back specific provisions of the ACA, such as the individual mandate, which requires individuals to obtain health insurance to avoid paying a penalty. Also, President Trump and his administration have used the regulatory process to change specific ACA rules, such as:

- ✓ Expanding the availability of short-term, limited-duration insurance, which is not subject to the ACA's market reforms;
- ✓ Making it easier for small employers to join together to purchase health insurance as an association health plan; and
- ✓ Proposing to expand the options for health reimbursement arrangements (HRAs), such as allowing HRAs to be used to pay for individual health insurance coverage.

Next Steps

Because the midterm elections shifted the balance of power in Congress, the ACA will remain current law and employers must continue to comply with all applicable ACA provisions. Employers should continue to monitor ACA developments because it is likely that the Trump administration will continue issuing regulations that change how the ACA is implemented. It is also possible that lawmakers may work together, on a bipartisan basis, to change specific ACA provisions that are unpopular with voters or negatively impacting the insurance market.

Although Republican lawmakers have indicated that they will no longer attempt to repeal the ACA in its entirety, the Trump administration will likely continue to use the regulatory process to lessen the impact of certain ACA reforms.