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Hours after the new Congress convened on Jan. 3, 2017, chairman of the Senate Budget Committee, Sen. Mike Enzi, R-WY, introduced a resolution that serves as Republican lawmakers' first steps to repealing and replacing the ACA. To overcome a Democratic filibuster in the Senate, Republican lawmakers will have to use a special legislative maneuver, called a budget resolution, to repeal parts of the ACA that have budgetary or tax implications. Enzi's resolution calls on the Senate to draft and submit a bill to the Budget Committee by Jan. 27, 2017.

2017 Healthcare Compliance Highlights

Certain changes to some ACA requirements take effect in 2017 for employers sponsoring group health plans, such as increased dollar limits. To prepare for 2017, employers should review upcoming requirements and develop a compliance strategy. Here are some of the requirements effective in 2017. Note this list is not exhaustive and may not be applicable to you.



- **Cost-sharing Limits:** For the 2017 plan year, the annual limit on total enrollee cost-sharing for essential health benefits (EHB) is \$7,150 for self-only coverage and \$14,300 for family coverage.
- **Health Flexible Spending Account (FSA) Contributions:** The ACA limits an employee's pre-tax salary reduction contributions to a health FSA each year. The limit is increased to \$2,600 for 2017.
- **Summary of Benefits and Coverage (SBC):** A new SBC template and related materials were released for use beginning on or after April 1, 2017.

- **Reinsurance Fees:** Health insurance issuers and self-funded group health plans that provide major medical coverage must pay fees to a reinsurance program for 2014–2016. Fully insured plan sponsors do not have to pay the fee directly. Reinsurance fees do not apply for 2017 and beyond, although the 2016 reinsurance fees will be paid in 2017.
- **Health Plan Affordability:** An applicable large employer's (ALE) health coverage is considered affordable if the employee's required contribution for the lowest-cost self-only coverage that provides minimum value does not exceed 9.5 percent of the employee's household income for the taxable year (adjusted to 9.69 percent for plan years beginning in 2017).
- **Section 6055 and 6056:** For the 2016 calendar year, reporting deadlines under Section 6055 and/or Section 6056 are as follows:
 - Information returns must be filed with the IRS by Feb. 28, 2017 (or March 31, 2017, if filed electronically); and
 - Written statements must be furnished to individuals by March 2, 2017. This reflects a 30-day extension of the furnishing deadline provided in Notice 2016-70.

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The Presidential Election's Impact on Healthcare

Donald Trump's victory in the election, along with Republican majorities retained in both the Senate and House of Representatives, will likely have a significant impact on a number of compliance issues over the next four years.



During his campaign, Trump called for a repeal of President Barack Obama's hallmark health care reform legislation, the Affordable Care Act (ACA). In addition, Trump's victory raises uncertainty over the future of other policies enacted under President Obama, including the new overtime requirements under the Fair Labor Standards Act (FLSA).

Throughout his presidential campaign, Trump ran on a platform of repealing and replacing the ACA. In addition, since its enactment, Republicans in both the Senate and the House of Representatives have virtually all opposed the ACA, calling for its repeal.

Due to the sweeping Republican victories seen in this election, it is likely that some changes will be made to the ACA over the next four years. While it is largely unclear, at this time, what those changes will look like, Republicans in the past have suggested the following:

- Fully repealing the ACA, with or without a potential replacement health care reform legislation
- Partially repealing key provisions (such as the individual and employer mandates), while retaining some less controversial provisions
- Changing the Medicare and Medicaid programs
- Implementing new policies intended to expand coverage and lower health care costs

However, the newly elected officials will not take office until early 2017. This means that there will likely be no significant legislative or regulatory changes to the ACA before then. Due to the additional uncertainty for employers, with compliance obligations hinging on the political process, employers

may want to hold off on making any large-scale changes related to their employer-provided health care.

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New Stand-alone HRA Option Available for Eligible Small Employers

Due to the Affordable Care Act (ACA), most stand-alone health reimbursement arrangements (HRAs)—an HRA that is not offered in conjunction with a group health plan—have been prohibited since 2014. However, on Dec. 13, 2016, the [21st Century Cures Act](#) (Act) was signed into law, which allows small employers that do not maintain group health plans to establish stand-alone HRAs, effective for plan years beginning on or after Jan. 1, 2017.



This new type of HRA is called a “qualified small employer HRA” (or QSEHRA). Like all HRAs, a QSEHRA must be funded solely by the employer. Employees cannot make their own contributions to an HRA, either directly or indirectly through salary reduction contributions. Specific requirements apply, including a maximum benefit limit and a notice requirement.

Who is eligible? To be eligible to offer a QSEHRA, an employer must meet the following two requirements:

1. The employer is not an applicable large employer (ALE) that is subject to the ACA’s employer shared responsibility rules.
2. The employer does not maintain a group health plan for any of its employees.

What is the maximum benefit limit? The maximum benefit available under the QSEHRA for any year cannot exceed \$4,950 (or \$10,000 for QSEHRAs that also reimburse medical expenses of the employee’s family members). These dollar amounts are subject to adjustment for inflation for years beginning after 2016. Additionally, the maximum dollar limits must be prorated for individuals who are not covered by the QSEHRA for the entire year.

What is the notice requirement? An employer funding a QSEHRA for any year must provide a written notice to each eligible employee. This notice must be provided within 90 days of the beginning of the year. For employees who become eligible to participate in the QSEHRA during the year, the notice must be provided by the date on which the employee becomes eligible to participate.

Transition Relief Extension: The Act also extends the transition relief under [IRS Notice 2015-17](#), so that it applies with respect to plan years beginning on or before Dec. 31, 2016.

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