

2019 Affordable Care Act Reform Legislation Tracker

Newly Included Legislative and Procedural Updates

Legislative Updates

- March 5: Rep. Michael Burgess (R-TX) introduced the Premium Relief Act of 2019 ([H.R. 1510](#)), which establishes the Patient and State Stability Fund to provide health benefits coverage funding to states from 2020-2022.
- March 26: Rep. Susan Wild (D-PA) introduced the Family Health Care Affordability Act ([H.R. 1870](#)), which bases the ACA's affordability determinations for families on the amount they would pay for family coverage rather than self-only coverage.
- March 26: Rep. Frank Pallone (D-NJ) introduced the Protecting Pre-Existing Conditions and Making Health Care More Affordable Act of 2019 ([H.R. 1884](#)), which includes various health care reform proposals.
- March 27: Rep. Ron Kind (D-WI) introduced the Restoring Access to Medication Act ([H.R. 1922](#)), which allows consumers to use HSAs and FSAs to purchase OTC medications and menstrual care products.
- April 1: Sen. Jeanne Shaheen (D-NH) introduced the Marketplace Certainty Act ([S. 961](#)), which reinstates CSR payments and expands cost-sharing reduction assistance to certain households, among other things.
- April 1: Sen. Jeanne Shaheen (D-NH) introduced the Improving Health Insurance Affordability Act ([S. 964](#)), which expands eligibility for the ACA's premium tax credit, among other things.
- April 1: Sen. Jeanne Shaheen (D-NH) introduced the Reducing Costs for Out-of-Network Services Act ([S. 967](#)), which caps the amount that hospitals/physicians can charge uninsured patients and out-of-network patients, among other things.

Procedural Updates (noted with bill summaries below)

- **March 27: The House Energy and Commerce Subcommittee on Health approved—among others—six ACA-related bills for consideration by the full committee.**
- **April 3: The House Energy and Commerce Committee approved—among others—six ACA-related bills, which will now move to the House floor.**

I. Single-Issue Legislation (116th Congress - 2019) (all legislation has been introduced; no further action has been taken, unless noted)

Cadillac Tax Repeal (and Other ACA Taxes and Fees)

Wellness

Health Savings Accounts

Mandate Reform/Alternatives

Antitrust

Interstate Sales

Stop-Loss
Essential Health Benefits
ACA Market Reforms
Short-Term, Limited-Duration Insurance
Association Health Plans
Multi-Issue Bills
Section 1332 Waivers
Blanket Repeal
Miscellaneous

Cadillac Tax Repeal (and Other ACA Taxes and Fees)

<p align="center"> Jobs and Premium Protection Act S. 80 Sen. John Barrasso (R-WY) </p>	<p>Repeals the ACA’s health insurance tax.</p>
<p align="center"> Health Insurance Tax Relief Act S. 172/H. R. 1398 Sen. Cory Gardner (R-CO)/Rep. Ami Bera (D-CA) </p>	<p>Delays the implementation of the ACA’s health insurance tax until 2022.</p>
<p align="center"> Middle Class Health Benefits Tax Repeal Act of 2019 S. 684/H.R. 748 Sen. Martin Heinrich (D-NM)/Rep. Joe Courtney (D-CT) </p>	<p>Repeals the Cadillac tax.</p>
<p align="center"> First Responder Medical Device Tax Relief Act H.R. 1290 Rep. Michael Turner (R-OH) </p>	<p>Exempts certain emergency medical devices from the medical device tax.</p>
<p align="center"> Protect Medical Innovation Act of 2019 S. 692 Sen. Pat Toomey (R-PA) </p>	<p>Repeals the medical device tax.</p>

Wellness

Health Savings Accounts

<p>Health Savings Act of 2019 S. 12 Sen. Marco Rubio (R-FL)</p>	<p><i>On-Site Clinics</i> – Creates a special rule for individuals eligible for on-site medical clinic coverage (eligibility to receive health care benefits from an on-site medical clinic of an employer does not qualify as coverage under a health plan if such health care benefits are not significant benefits). Examples of such benefits include:</p> <ul style="list-style-type: none"> • Physicals and immunizations • Injecting antigens provided by employees • Medications available without a prescription (pain relievers, antihistamines, etc.) • Treatment for injuries occurring at the employer’s place of employment or otherwise in the course of employment • Tests for infectious diseases and conditions • Monitoring of chronic conditions • Drug testing • Hearing or vision screenings and related services • Other services and treatments of a similar nature <p><i>OTC Medications</i> – Includes an amount paid for any prescription or OTC medicine or drug within the definition of a “qualified medical expense;” includes within the definition of “preventive care” prescription and OTC drugs.</p> <p><i>Contribution Amount</i> – Increases maximum contribution limit.</p> <p><i>Medicare Enrollment</i> – Allows Medicare beneficiaries enrolled only in Part A to continue to contribute to HSAs after turning 65 if otherwise eligible.</p> <p><i>Other</i> – Renames HDHP as “HSA-qualified health plan;” allows both spouses to make catch up contributions to the same HSA account; simplifies limitations on FSA and HSA rollovers; eliminates tax for failure to maintain HDHP coverage.</p>
<p>Health Savings Account Expansion Act H.R. 603 Rep. Mike Gallagher (R-WI)</p>	<p><i>OTC Medications</i> – Repeals the restriction on using HSAs for OTC medications.</p> <p><i>Contribution Amount</i> – Increases maximum contribution limit.</p> <p><i>Other</i> – Permits the use of HSAs to pay health insurance premiums and direct primary care expenses; eliminates the requirement that a participant in an HSA be enrolled in an HDHP; decreases the additional tax for HSA distributions not used for qualified medical expenses.</p>
<p>Health Savings Account Act H.R. 457 Rep. Jeff Fortenberry (R-NE)</p>	<p><i>Contribution Amount</i> – Increases maximum contribution limit.</p> <p><i>Other</i> – Allows HSAs to be used for fitness center memberships; allows individuals who receive direct primary care services in exchange for a fixed periodic fee or payment to participate in an HSA, among other things.</p>

Personal Health Investment Today Act of 2019 S. 680 Sen. John Thune (R-SD)	<i>Other</i> – Allows taxpayers to use HSAs or other pre-tax health accounts to pay for sports equipment and other fitness expenses.
Restoring Access to Medication Act H.R. 1922 Rep. Ron Kind (D-WI)	<i>OTC Medications</i> – Allows HSAs and FSAs to purchase OTC medications and menstrual care products.

Mandate Reform/Alternatives

Family Health Care Affordability Act H.R. 1870 Rep. Susan Wild (D-PA)	Amends the ACA’s affordability determinations to allow individuals with employer-sponsored health plans to receive ACA subsidies based on the affordability of family coverage, rather than self-only coverage, among other things.
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Antitrust

Competitive Health Insurance Reform Act of 2019 S. 350/H.R. 1418 Sen. Steve Daines (R-MT)/Rep. Peter DeFazio (D-OR)	Amends McCarran-Ferguson to clarify that it does not modify or supersede any antitrust laws with respect to health insurance.
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Interstate Sales

Stop-Loss

Essential Health Benefits

ACA Market Reforms

<p>Continuing Coverage for Preexisting Conditions Act H.R. 383 Rep. David Joyce (R-OH)</p>	<p>Ensures that the ACA’s prohibition against preexisting condition exclusions is protected if the ACA is found to be unconstitutional or otherwise invalid.</p>
<p>Preexisting Conditions Protection Act H.R. 692 Rep. Greg Walden (R-OR)</p>	<p>Maintains the ACA’s consumer protections (e.g., preexisting condition coverage, non-discrimination requirements, genetic information collection prohibitions, wellness provisions), if the ACA is repealed.</p>

Short-Term, Limited-Duration Insurance

<p>H.R. 1010 Rep. Kathy Castor (D-FL)</p>	<p>Prevents the Departments of Health and Human Services, Treasury, and Labor from implementing, enforcing, or giving effect to the Administration’s final rule on STLDI plans and from promulgating any substantially similar rule.</p> <p><i>February 13 – A hearing was held on the legislation.</i></p> <p><i>March 27 – Approved by the Energy and Commerce Subcommittee on Health by a vote of 19-13.</i></p> <p><i>April 3 – Approved by the Energy and Commerce Committee by a vote of 30-22.</i></p>
<p>Educating Consumers on the Risks of Short-Term Plans Act of 2019 H.R. 1143 Rep. Anna Eshoo (D-CA)</p>	<p>Preempts state laws governing STLDI plans; requires health insurance issuers offering STLDI plans to disclose certain information to consumers (e.g., such plans may not cover preexisting conditions or the cost of medical services, coverage may be rescinded if the consumer seeks treatment for a preexisting condition, etc.); prevents a health insurance issuer from enrolling any individual in an STLDI plan during any ACA-qualifying open enrollment period, among other things.</p> <p><i>February 13 – A hearing was held on the legislation.</i></p>
<p>Affordable Limited Health Coverage Act H.R. 458 Rep. Jeff Fortenberry (R-NE)</p>	<p>Prohibits the Departments of Health and Human Services, Treasury, and Labor from implementing the Obama Administration’s final rule on the definition of STLDI; requires the Departments to use the definition of STLDI in use immediately prior to publication of the rule.</p>

Association Health Plans

Multi-Issue Bills

<p>Keeping Health Insurance Affordable Act of 2019 S. 3 Sen. Ben Cardin (D-MD)</p>	<p>Appropriates \$2 billion to HHS for the purposes of establishing a public health insurance option that offers bronze, silver, and gold ACA-compliant plans on the exchanges alongside private health plans; establishes a permanent Individual Market Reinsurance program; and permanently appropriates funds for cost-sharing reductions, among other things.</p>
<p>Fair Care Act of 2019 H.R. 1332 Rep. Bruce Westerman (R-AR)</p>	<p>Implements several private-sector health insurance reforms, including, among other things:</p> <ul style="list-style-type: none"> • Appropriates \$200 billion over 10 years to establish an invisible high risk pool reinsurance program; • Increases the baseline age band rating ratio from 3:1 to 5:1; • Repeals the employer mandate; • Requires employers with 100+ employees to provide certain information to those beneficiaries annually; • Amends 1332 waiver requirements to streamline the application process, facilitate expedited determinations, increase the waiver’s duration etc.; • Codifies existing regulations related to STLDI plans (i.e., setting a maximum duration of 12 months, guaranteed renewability, etc.); • Appropriates \$10 million to fund research/pilot programs focused on promoting interstate health insurance sales; • Amends McCarran-Ferguson to clarify that it does not exempt the business of health insurance from federal antitrust laws; • Reinstates CSR payments and authorizes HHS to approve 1332 waivers to provide funds equivalent in amount to those that would be distributed; through CSRs for the sole purpose of redistributing them to HSAs of individuals/families with incomes below 250% of the federal poverty line; • Permits <u>all</u> policyholders (i.e., even those without HDHPs) to contribute to/qualify for HSAs; • Codifies existing regulations related to AHPs; and • Repeals certain ACA taxes (e.g., Cadillac tax, health insurance tax, medical device tax, etc.).
<p>Protecting Pre-Existing Conditions and Making Health Care More Affordable Act of 2019 H.R. 1884 Rep. Frank Pallone (D-NJ)</p>	<p>Implements several private-sector health insurance reforms, including, among other things:</p> <ul style="list-style-type: none"> • Expands eligibility for premium tax credits beyond 400% of the federal poverty line/eliminates the income cap and increases the tax credit for all income brackets; • Bases affordability determinations for families on the amount they would pay for family coverage, rather than self-only coverage; • Reverses the Administration’s expansion of AHPs and STLDI plans and prevents issuance of any “substantially similar rule”; • Stalls the Administration’s efforts to allow substitution of benefits across benefit categories (along with other EHB reforms) in the 2019 Benefit and Payment Parameters proposed rule and requires HHS to—by rule—establish standard benefit plans for each level of coverage; • Along with imposing other requirements on navigators (e.g., requiring them to maintain a physical presence in the state in which the contract is awarded), requires HHS to implement a navigator program for the federally-facilitated exchange and funds it at \$100 million/year; • Appropriates \$100 million for ACA-related education and outreach efforts on the federally-facilitated exchange <u>and</u> prohibits the funds from being used to promote non-ACA compliant health insurance plans (e.g., AHPs and STLDI plans);

	<ul style="list-style-type: none"> • Appropriates \$10 billion in annual funding to be allocated to states for one of two purposes: (1) establish a reinsurance program; or (2) provide financial assistance to reduce out-of-pocket costs for participants enrolled in QHPs offered on the individual market through an exchange; • Renders ineffective the Administration’s guidance related to 1332 waivers and prevents issuance of any “substantially similar guidance or rule;” • Appropriates \$100 million in Consumer Assistance Program grants to support educational activities regarding health insurance; • Establishes a grant program to enable states to explore innovative solutions to promote greater enrollment in the individual and small group markets <u>and</u> appropriates \$200 million for such grants; • Appropriates \$200 million to award grants to states that are currently participating on the federally-facilitated exchanges that want to transition to a state-based marketplace; and • Requires HHS to report to Congress on how it is spending the funds raised from user fees levied on “participating issuers.”
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Section 1332 Waivers

<p>Protecting Americans with Preexisting Conditions Act S. 466/H.R. 986 Sen. Mark Warner (D-VA)/Rep. Ann Kuster (D-NH)</p>	<p>Prohibits HHS and Treasury from implementing, enforcing, or giving effect to the agencies’ 2018 “State Relief and Empowerment Waivers” guidance; prevents the agencies from promulgating any similar guidance or rule.</p> <p><i>March 27 – H.R. 986 approved by the Energy and Commerce Subcommittee on Health by a vote of 19-13.</i></p> <p><i>April 3 – H.R. 986 approved by the Energy and Commerce Committee by voice vote.</i></p>
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Blanket Repeal

<p>Responsible Path to Full Obamacare Repeal Act H.R. 83 Rep. Andy Biggs (R-AZ)</p>	<p>Repeals the ACA in its entirety.</p>
<p>ObamaCare Repeal Act H.R. 185 Rep. Steve King (R-IA)</p>	<p>Repeals the ACA in its entirety.</p>

Miscellaneous

<p>Transparency and Accountability of Failed Exchanges Act H.R. 59 Rep. Rick Allen (R-GA)</p>	<p>In the event a state-awarded exchange fails/is terminated, requires the state to (1) provide audits of the use of grant funds and (2) return unused funds to the federal government.</p>
<p>Protection from Obamacare Mandates and Congressional Equity Act H.R. 90 Rep. Andy Biggs (R-AZ)</p>	<p>Provides an exemption to the ACA’s individual mandate for individuals residing in counties with fewer than two health insurance issuers offering plans on an exchange; expands the requirement that members of Congress and certain congressional staff purchase coverage on the exchange to include committee staffers, political appointees, the President and Vice President, and others.</p>
<p>Care for All Act H.R. 456 Rep. Jeff Fortenberry (R-NE)</p>	<p>Allows catastrophic health plans to be offered as QHPs to any individual in the individual or group market.</p>
<p>Holding Health Insurers Harmless Act H.R. 352 Rep. Ted Yoho (R-FL)</p>	<p>Provides a safe harbor from the ACA’s penalties to health insurers that offer plans that are not ACA-compliant.</p>
<p>H.R. 518 Rep. Steve King (R-IA)</p>	<p>Bans the Supreme Court from citing certain ACA-related cases (e.g., <i>NFIB v. Sebelius</i>, <i>King v. Burwell</i>, and <i>Burwell v. Hobby Lobby</i>) in future decisions.</p>
<p>Marketing and Outreach Restoration to Empower (MORE) Health Education Act of 2019 S. 455/H.R. 987 Sen. Jeanne Shaheen (D-NH)/Rep. Lisa Blunt Rochester (D-DE)</p>	<p>Appropriates \$100 million in annual funding for ACA-related education, marketing, and outreach efforts; prohibits the funds from being used for non-ACA compliant health insurance plans (e.g., AHPs and STLDI plans).</p> <p><i>March 27 – H.R. 987 approved by the Energy and Commerce Subcommittee on Health by voice vote.</i></p> <p><i>April 3 – H.R. 987 approved by the Energy and Commerce Committee—as amended—by a vote of 30-22.</i></p>
<p>Responsible Additions and Increases to Sustain Employee (RAISE) Health Benefits Act of 2019 S. 503/H.R. 1366 Sen. Roy Blunt (R-MO)/Rep. Steve Stivers (R-OH)</p>	<p>Increases the annual cap for contributions to FSAs and allows participants to rollover any unused balance in perpetuity.</p>

<p>Expand Navigators’ Resources for Outreach, Learning, and Longevity (ENROLL) Act H.R. 1386 Rep. Kathy Castor (D-FL)</p>	<p>Requires Navigators to meet certain additional requirements to receive state funding (e.g., Navigators must demonstrate how they will provide individuals with information on STLDI plans and AHPs); requires Navigators to maintain a physical presence in the state in which the contract is awarded; and restores funding for the Navigator program and for consumer outreach/advertising to ACA-mandated levels.</p> <p><i>March 6 – A hearing was held on the legislation.</i></p> <p><i>March 27 – Approved by the Energy and Commerce Subcommittee on Health by voice vote.</i></p> <p><i>April 3 – Approved by the Energy and Commerce Committee—as amended—by a vote of 30-22.</i></p>
<p>State Allowance for a Variety of Exchanges (SAVE) Act H.R. 1385 Rep. Andy Kim (D-NJ)</p>	<p>Appropriates \$200 million to award grants to states that are currently participating on the federally-facilitated exchanges that want to transition to a state-based marketplace.</p> <p><i>March 6 – A hearing was held on the legislation.</i></p> <p><i>March 27 – Approved by the Energy and Commerce Subcommittee on Health by voice vote.</i></p> <p><i>April 3 – Approved by the Energy and Commerce Committee—as amended—by a vote of 29-22.</i></p>
<p>State Health Care Premium Reduction Act H.R. 1425 Rep. Angie Craig (D-MN)</p>	<p>Appropriates \$10 billion in annual funding to be allocated to states for one of two purposes: (1) establish a reinsurance program; or (2) provide financial assistance to reduce out-of-pocket costs for participants enrolled in QHPs offered on the individual market through an exchange.</p> <p><i>March 6 – A hearing was held on the legislation.</i></p> <p><i>March 27 – Approved by the Energy and Commerce Subcommittee on Health—as amended—by a vote of 18-13.</i></p> <p><i>April 3 – Approved by the Energy and Commerce Committee—as amended—by a vote of 30-22.</i></p>
<p>Ensuring Lasting Smiles Act S. 560/H.R. 1379 Sen. Tammy Baldwin (D-WI)/Rep. Collin Peterson (D-MN)</p>	<p>Requires group and individual health plans to provide coverage for medically necessary treatment of a congenital anomaly or birth defect.</p>

<p>Premium Relief Act of 2019 H.R. 1510 Rep. Michael Burgess (R-TX)</p>	<p>Establishes the Patient and State Stability Fund to provide states health benefits coverage funding (e.g., providing financial assistance for high-risk individuals, incentives for certain entities to work with states to stabilize premiums, etc.); requires states to submit applications for the funds; appropriates \$2.5 billion annually from 2020-2022 for such funding, among other things.</p>
<p>Marketplace Certainty Act S. 961 Sen. Jeanne Shaheen (D-NH)</p>	<p>Permanently appropriates funding to restore CSR payments; expands cost-sharing reduction assistance to certain households, among other things.</p>
<p>Improving Health Insurance Affordability Act S. 964 Sen. Jeanne Shaheen (D-NH)</p>	<p>Expands eligibility for the ACA’s premium tax credit to households that are 800% of the federal poverty level (previously capped at 400%), among other things.</p>
<p>Reducing Costs for Out-of-Network Services Act S. 967 Sen. Jeanne Shaheen (D-NH)</p>	<p>Caps the amount that hospitals/physicians can charge out-of-network patients who have coverage in the individual market and uninsured patients; authorizes HHS to award grants to states to study potential ways to limit charges on health care services, among other things.</p>