House Committee on Ways and Means

Section-by-Section of the Provisions Considered by the Ways and Means Committee Sections of the Republican Health Care bill

Subtitle: Remuneration from Certain Insurers

Section 1: Repeal of Prohibition on Windfalls for Insurance Company Executives

The provision repeals a protection that the Affordable Care Act (ACA) put in place that prevented windfalls for insurance company executives. The ACA limits the deduction for compensation paid by health insurance providers to employees and service providers during a tax year to $500,000. This provision would repeal the ACA executive compensation limits. *The Joint Committee on Taxation (JCT) estimates this provision would cost $400 million over 10 years.*

Subtitle: Repeal of Tanning Tax

Section 1: Repeal of the tax on indoor-tanning bed services

The provision repeals the 10 percent tax on indoor tanning services that the ACA put in place. *JCT estimates this provision would cost $600 million over 10 years.*

Subtitle: Repeal of Certain Consumer Taxes

Section 1: Repeal of Pharmaceutical Company Fee

The provision repeals the fee on brand name prescription drugs that the pharmaceutical company agreed to in the ACA. This annual flat fee is industry-wide based on market share, excluding small companies. This Republican provision is a giveaway to pharmaceutical corporations. *JCT estimates this provision would cost $24.8 billion over 10 years.*

Section 2: Repeal of the Health Insurance Company Fee

The provision repeals the annual flat fee on the health insurance sector according to market share, that the ACA put in place (the fee holds harmless small companies). The Republican proposal makes no effort to have health care stakeholders, including insurance companies, shoulder the cost of their plan – it is a giveaway to insurance companies. *JCT estimates this provision would cost $144.7 billion over 10 years.*

Subtitle: Repeal of Net Investment Income Tax

Section 1: Repeal of Net Investment Income Tax

The provision provides a tax cut to taxpayers with income over $200,000 ($250,000 for joint filers) on certain net investment income, including the investment income of individuals, estates and trusts. This tax cut would go into effect in 2018. The tax cuts for high-income filers in the proposal would result in an average $7 million tax cut for the nation's 400 wealthiest tax filers. *JCT estimates this provision would cost $157.6 billion over 10 years.*

Subtitle: Repeal and Replace of Health-Related Tax Policy

Section 1: Penalty on middle-class workers for mis-estimating wages

The provision penalizes an individual or family for an unexpected change in wages or family size that would have changed their eligible premium tax credit amount. Currently, individuals and families have to pay back an overpayment if circumstances change and they do not voluntarily adjust their tax credit amount but are protected from a large swing in repayments. This provision would remove those protections and require families to pay back the entire amount of extra payments. This provision hits hard any family who has a death in the family, a child age out of being a dependent, works a few extra shifts during the year or receives a deserved pay raise that was unexpected.

Section 2: Additional Modifications to Premium Tax Credits

The provision makes establishes a two-year "transition" period for ending the ACA premium tax credits. The transition period would allow tax credits to be used for off-Marketplace plans. Tax credits are permitted for off-Marketplace coverages, but are not advanceable for off-Marketplace plans.

The tax credits during the transition period are based on age and income and are as follows:

Income (% of Federal Poverty Level (FPL))	Up to Age 29		Age 30-39		Age 40-49		Age 50-59		Over Age 59	
	Initial	Final	Initial	Final	Initial	Final	Initial	Final	Initial	Final
Up to 133%	2	2	2	2	2	2	2	2	2	2
133%-150%	3	4	3	4	3	4	3	4	3	4
150%-200%	4	4.3	4	5.3	4	6.3	4	7.3	4	8.3
200%-250%	4.3	4.3	5.3	5.9	6.3	8.05	7.3	9	8.3	10
250%-300%	4.3	4.3	5.9	5.9	8.05	8.35	9	10.5	10	11.5
300%-400%	4.3	4.3	5.9	5.9	8.35	8.35	10.5	10.5	11.5	11.5

The provision caps the amount of premium tax credits and cost-sharing reductions to 0.504 the gross domestic product (GDP) for the year.

Section 3: Premium Tax Credit

The provision ends the premium tax credits that over 8 million Americans rely on for comprehensive health coverage today. The premium tax credits under current law are adjusted for income and cost of insurance coverage. (Note: In the package considered by the Committee on Energy and Commerce, the cost-sharing reduction payments, which help with out-of-pocket costs, also are repealed.)

Section 4: Small Business Tax Credit

The provision repeals the small business tax credit that provides incentives for small employers to offer health care coverage.

Section 5: Individual Mandate

The provision repeals the individual shared responsibility provision (often called the individual mandate) that requires individuals who can afford to purchase coverage to do so or pay a penalty. The provision is repealed retroactively from 2016.

Section 6: Employer Mandate

The provision repeals the requirement that employers provide health insurance benefits to their employees. The provision is repealed retroactively from 2016. Employer-based coverage has been a hallmark of the U.S. economy for almost a century and serves as a stabilizing force for the individual market. The provision repeals the requirement for employer responsibility.

Section 7: Repeal of the Tax on Employee Health Insurance Premiums and Health Plan Benefits

The provision further delays the start of the high cost plan excise tax (often called the Cadillac tax) until 2025. The Cadillac tax currently goes into effect in 2020. *JCT estimates this provision to cost $48.7 billion over 10 years.*

Section 8: Repeal of Tax on Over-the-Counter (OTC) Medications

The ACA limited reimbursement from health flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs) to prescribed medications or drugs and insulin. OTC medications or drugs may only be reimbursed by a health FSA and HRA under the ACA if there is prescription for those items.

Similarly, with respect to health savings accounts (HSAs), only prescribed medications or drugs (including over-the-counter medications and drugs that are prescribed) and insulin (even if purchased without a prescription) will be considered qualified medical expenses and subject to preferred tax treatment.

This provision repeals the exclusion of OTC medications from health FSAs, HRAs and HSAs. *JCT estimates this provision to cost $5.5 billion over 10 years.*

Section 9: Repeal of Penalty on Non-Health Care Use of Health Savings Accounts

The provision lowers the penalties by half for using HSA dollars for things other than health care—for example, a yacht, a vacation home, or a new car. The ACA increased the penalty on HSA withdrawals if not used for qualified medical expenses. This provision will cut that penalty in half from 20 percent to 10 percent. *JCT estimates this provision to cost $100 million over 10 years.*

Section 10: Repeal on FSA Changes

The ACA added a $2,500 annual contribution limit on health FSAs. Prior to the ACA, the amount that an employee could elect under a health FSA was not restricted under the Internal Revenue Code, although most employers capped the amount available for any given year. The provision repeals the FSA limit. *JCT estimates this provision to cost $18.6 billion over 10 years.*

Section 11: Repeal of Medical Device Excise Tax

The provision repeals the 2.3 percent excise tax on the sale of medical devices put in place in the ACA. *JCT estimates this provision to cost $19.6 billion over 10 years.*

Section 12: Repeal of the Prevention of Double Tax Benefits for Employers Providing Retiree Drug Coverage

The provision repeals the elimination of the deduction for the subsidy for employers who maintain prescription drug plans for their Medicare Part D eligible retirees. *JCT estimates this provision to cost $1.7 billion over 10 years.*

Section 13: Repeal of the Increase in Income Threshold for Determining Medical Care Deduction

The provision repeals the increase in the adjusted gross income threshold for claiming the itemized deduction for medical expenses from 7.5 percent to 10 percent. *JCT estimates this provision to cost $34.9 billion over 10 years.*

Section 14: $170 Billion Medicare Cut

The provision robs $170 billion and two years of solvency from the Medicare Trust Fund by repealing the 0.9% Medicare tax increase on high income earners. This provision repeals the increase on the Medicare tax rate by 0.9 percentage points on an individual taxpayer earning over $200,000 ($250,000 for married couples filing jointly). *JCT estimates this provision to cost $117.3 billion over 10 years.*

Section 15: Refundable Tax Credit for Health Insurance Coverage

The provision provides tax credits for purchasing health care that are not pegged to the affordability of coverage. To note, in the Energy and Commerce section, the Republican plan eliminates protections that require insurance companies to provide consumers with a certain value for their money, causing deductibles and out-of-pocket costs to skyrocket, and leaving sick people unable to afford the care that they need.

The tax credit is advanceable and refundable, providing monthly payments to insurance companies in the following amounts:

- 1/12 of $2,000 for people under 30
- 1/12 of $2,500 for people 30 to 39

- 1/12 of $3,000 for people 40 to 49
- 1/12 of $3,500 for people 50 to 59
- 1/12 of $4,000 for people above 60

These tax credits are reduced by $100 for every $1000 in income over $75,000 for an individual or $150,000 for a family. The maximum tax credit for a family is $14,000. The tax credit is limited to the amount of premium.

If a family's health insurance premium is less than the allotted tax credit, the family would not receive the excess if not rolled into an HSA. A taxpayer can roll the excess amount into an HSA. For example, if a family is eligible for $12,000 in tax credits and the premiums cost $10,000, $2,000 can be rolled into an HSA if the taxpayer elects to do so.

As described above, these tax credits are not pegged to affordability of insurance like in the ACA; instead, these tax credits grow by the consumer price index (CPI) plus 1 percent, which generally is lower than the yearly increase in the cost of health care services. Put simply, the growing cost of insurance could easily outstrip the value of the tax credit in short order.

The Republican tax credit is not available to individuals with an offer of other coverage (i.e., employer-sponsored insurance, Medicare or Medicaid). The tax credit, as with current advanced premium tax credits, are paid to insurance companies on behalf of consumers. The penalty for getting a health insurance tax credit in error is set at a higher level than for other erroneous tax credits or underpayments.

Section 16: Increase in Health Savings Accounts

The provision increases the limit on HSA contributions to $6,550 for an individual and $13,100 for a family beginning in 2018. The limit would increase annually based on the out-of-pocket and deductible maximums in high deductible health plans, which for 2017, are $6,550 for an individual and $13,100 for a family. *JCT estimates this provision to cost $18.6 billion over 10 years.*

Low-income families that do not earn enough to have federal income tax liability would receive *zero* benefit from HSAs. At least 90 percent of the uninsured before the ACA were in the 15 percent tax bracket or under, and thus would receive an income tax benefit of no more than 15 cents for every $1 they can deduct — not enough to make coverage affordable.

Section 17: Allow Both Spouses to Make Catch-Up Contributions to the Same Health Savings Account

The provision would allow spouses 55 and older to make additional contributions to the same HSA beginning in 2018. *JCT estimates this provision to cost $400 million over 10 years.*

Section 18: Allowing Payments for Medical Expenses before Establishment of Health Savings Accounts

The section allows HSAs to pay for medical expenses incurred under a high deductible health plan 60 days before the creation of the HSA. This provision begins in 2018. *JCT estimates this provision to cost $200 million over 10 years.*