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Health Policy and the Tax Cuts and Jobs Act

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Congress passed the Tax Cuts and Jobs Act. What does the Act mean for health policy?

What is changing in health policy?

A lot of different provisions affecting health policy were debated in the last few weeks. Here is what the final bill does:

1. **Effectively repeals the Affordable Care Act's individual mandate.** The Affordable Care Act (ACA) currently imposes a tax penalty for certain individuals who do not have health insurance.[i]Starting in 2019, the Tax Cuts and Jobs Act reduces that penalty to zero, effectively repealing the ACA's individual mandate.[ii] The Congressional Budget Office projected that this provision would lower the number of Americans who are insured and increase premiums.[iii]
2. **Caps state and local tax deductions.** Currently, taxpayers can claim federal deductions for the state and local taxes they pay.[iv] The Tax Cuts and Jobs Act caps these deductions at $10,000 ($5,000 for a married individual

filing separately) for 2018 through 2025.[v] Capping state and local tax deductions could increase pressure to lower taxes in some states, which could reduce state revenues available to pay for state health and human service programs.

3. **Expands the medical expense tax deduction.** Currently, taxpayers can take a deduction for medical expenses above 10% of their adjusted gross income.[vi] The Tax Cuts and Jobs Act expands the medical expense deduction for two years by making it available to taxpayers whose medical expenses exceed 7.5% of their adjusted gross income.[vii] This will provide benefit to individuals with high health care costs during the next two years.

What could change in health policy?

The tax bill could have some health policy effects that become clear later:

1. **Health care stabilization bills.** Senator Mitch McConnell offered the opportunity for the Senate to vote in the future on two health care stabilization bills (Alexander-Murray and Collins-Nelson) as part of a deal in return for Senator Susan Collins' support of the Senate tax bill. Alexander-Murray includes appropriations of funds for cost-sharing reduction (CSR) payments to insurers through 2019. This could bring down premiums that increased as a result of the cancelation of CSR payments earlier this year. Alexander-Murray would also relax requirements for State Innovation Waivers. The second bill, Collins-Nelson, provides federal funding to insurers to partially offset premium increases that are projected to result from repeal of the individual mandate.
2. **Automatic spending cuts to Medicare and other programs.** The deficit increases in this bill could trigger automatic spending cuts to Medicare and other programs under the pay-as-you go, or PAYGO, requirements. Programs affected include Medicare, HHS risk adjustment, Prevention and Public Health Fund, Meals on Wheels. Congress may or may not waive PAYGO requirements.
3. **Future effects on health and human service programs.** Increases to the federal deficit, coupled with pressure on Congress to continue middle class tax cuts that expire after 2025, could lead to future cuts to health and human service programs.

What is not changing in health policy?

Some proposed provisions that were in prior versions of the tax bill did not make it into the final bill:

1. **Repeal of the medical expense deduction.** A prior version of the tax bill, passed by the House of Representatives in November, included a repeal of the medical expense deduction. This provision would have effectively made out of pocket health care and long-term services and supports (LTSS) costs more expensive for people with high levels of need.[viii]
2. **Repeal of the tax exemption for graduate students.** The November House bill also would have treated the value of tuition waivers as taxable income, meaning that students would have paid more in taxes. This could have adversely affected medical research and medical education.

[i] *26 USC 5000A.*

[ii] *Section 11081 of the engrossed Senate Amendment (December 20, 2017).*

[iii] *United States Congressional Budget Office. Repealing the Individual Health Insurance Mandate: An Updated Estimate (November 2017). Also see Standard and Poor's. U.S. Tax Reform: Repeal Of The Health Insurance Mandate Will Save Less Than Expected, And Will Not Support The Current Insurance Market (November 16, 2017).*

[iv] *26 USC 164.*

[v] *Section 11042 of the engrossed Senate Amendment (December 20, 2017).*

[vi] *26 USC 213.*

[vii] *Section 11027 of the engrossed Senate Amendment (December 20, 2017).*

[viii] *For people whose Medicaid eligibility status includes spending down their assets (e.g. seniors), repealing the medical expense deduction could have resulted in diminished assets and earlier Medicaid eligibility. This could have result in increased Medicaid spending, because individual receiving LTSS could be eligible for Medicaid sooner.*