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## The unknown future of the Affordable Care Act

Donald Trump's victory to become the next president of the United States, and the Republican Party's continued control of the United States Senate and House, will likely have a significant impact on the future of the Affordable Care Act (ACA). President-elect Trump (Trump) has vowed to immediately dismantle the ACA. To date, Trump has provided only a broad outline of what exactly he plans to replace the law with, such as the following:

- Eliminating ACA requirements which generally require (1) individuals to maintain health insurance, and (2) employers with more than 50 full time employees to offer affordable major medical plan coverage or run the risk of paying penalties;
- Eliminating tax subsidies that eligible individuals can use to purchase coverage and/or offset costs under health insurance exchanges;
- Expanding the use of health savings accounts to pay deductibles, copayments, etc.;
- Establishing tax breaks to allow taxpayers to deduct premiums they pay for individual health insurance policies;
- Allowing health insurance across state lines;
- Allowing states to manage Medicaid funds;
- Modifying or eliminating the ACA's "essential health benefits" requirements;
- Expanding age rating bands (increasing the range of premiums that will be allowed); and
- "Modernizing" Medicare.

Despite his general opposition to the ACA, Trump has expressed support for ACA rules which prohibit insurers and employer plans from excluding coverage for expenses related to preexisting conditions. However, those prohibitions force insurance companies and employer plans to bear significant costs. The ACA's employer and individual coverage mandates were intended to make the pre-existing condition exclusions more palatable to payers by forcing healthy individuals into the applicable insurance pools. Consequently, it is unclear how Trump would preserve the pre-existing condition exclusions yet eliminate the employer and individual mandates.

In addition, the ACA contains hundreds of provisions affecting hospitals, corporations, Medicare, health care quality and integrity, the health care workforce, biosimilars, health care prevention and other issues unrelated to what most people think of as "Obamacare." To date, Trump appears not to have taken any public position on these provisions.

Godfrey & Kahn's Health Care and Employee Benefits Practice Groups are committed to closely monitoring the uncertainty and legal issues that surround the ACA.

If you have questions regarding the future of the ACA, please contact:

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*The information in this article is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.*

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