

# Health Care in Motion

Timely, Substantive Updates on Policy Shifts · Actionable Advocacy to Protect Health Care

November 17, 2017 6:30PM EST

## Sneaky Repeal: Senate Adds Individual Mandate Repeal to Tax Bill During Busy Week in Health Policy

This week has seen several important developments in federal health policy. The Republican controlled Congress has continued to advance tax reform proposals. In a surprise move, Senate Republicans [announced](#) that they would be adding in a provision repealing the Affordable Care Act (ACA) [individual insurance mandate](#). While the full Senate is yet to vote, and the provision is not in the version of the tax package that the House of Representatives [passed](#) this week, this is a concerning development. Meanwhile, the 2018 plan year Open Enrollment has continued, and early data reports show stronger than expected enrollment numbers. Also this week, President Trump announced Alex Azar, a former HHS official and pharmaceutical industry executive, as the new nominee for the Secretary of the Department of Health and Human Services (HHS).

In light of these developments, advocates should:

- **Call the Senate:** [Tell your elected officials](#) to oppose any bill that harms health coverage or safety net programs.
- **Organize and attend events:** Work with your networks across the country to organize and attend events at District offices. Organizations like [Indivisible](#) can be helpful for finding events already happening in specific locations.
- **Use social media:** Urge your networks to reach out to members of Congress on social media. [Tweet at your Senators](#) and interact on their Facebook pages.
- **Advocate for Open Enrollment:** Continue your efforts to promote Open Enrollment and help people sign up for coverage.
- **Monitor the Secretary of HHS nomination:** watch for more analysis about the new HHS nominee and upcoming confirmation hearings.

# Health Care in Motion

## Senate Attempts to Repeal the Individual Mandate through Tax Reform

Senate Republicans have yet again revived the debate around the ACA by opting to include a repeal of the individual mandate as part of the [tax reform package](#) they are considering. The announcement came as a surprise on Tuesday following a closed-door Republican meeting. The bill now includes a repeal of the ACA's Individual Share Responsibility Provision, otherwise known as the [Individual Mandate](#). It is still unclear, however, whether proponents of the repeal will be successful in maintaining this provision. The House recently [passed](#) its own version of the tax reform bill which, among many other differences with the Senate proposal, does not include the mandate provision. In the Senate, the proposal has [been passed through the Senate Finance Committee](#) but has not yet been taken up by the full Senate.

As advocates know, the Individual Mandate requires all United States citizens to obtain health insurance if an affordable plan is available. The Individual Mandate is a core component of the ACA because it ensures that everyone has health insurance, regardless of whether they think they will need medical care or not. This reduces uncompensated emergency care in hospitals (which ultimately gets translated into [higher premiums](#) for people who are insured) and helps stabilize insurance risk pools. By requiring everyone to obtain insurance, healthier, younger people—who might otherwise forgo insurance—join insurance risk pools and share the overall risk of caring for all enrollees. This lowers the monthly cost of plans for people with chronic conditions and keeps premiums for everyone more stable.

Repealing the Individual Mandate would result in fewer insured people. The [Congressional Budget Office \(CBO\)](#) [estimated](#) that if the Individual Mandate were repealed, 13 million fewer Americans would have access to affordable health care. While repealing the Mandate would save approximately \$338 billion over a decade, the effect of repeal would mean an additional 10% increase in premiums each year, which could make insurance unaffordable for millions of families.

Repeal of the Individual Mandate would harm the success and legacy of the ACA. It would cause millions of people to lose health insurance and increase premiums to unaffordable levels for many Americans. While the bill has already passed through committee, consumers and advocates will have an opportunity to fight the provision on the floor. Moderate Republican Senators who previously [voted](#) against “skinny repeal”, including Senators [Susan Collins \(R-ME\)](#), [Lisa Murkowski \(R-AK\)](#), and [John McCain \(R-AZ\)](#), have not publically announced a stance on the bill. Advocates should urge their networks to [call their senators NOW](#) and urge them to reject any bill that harms health coverage.

## Continued Good News in Open Enrollment

Despite the Trump administration's repeated efforts to set [barriers to Open Enrollment this year](#), including massive funding cuts to media outreach and consumer assistance programs, sign-ups for health coverage during the first two weeks of Open Enrollment have been high.

The [Centers for Medicare and Medicaid Services \(CMS\)](#) released [new enrollment numbers for Week 2](#) of Open Enrollment for the thirty-nine states that use Healthcare.gov. In the first two weeks of Open Enrollment, 1,478,250 individuals selected a health plan, of which 345,719 did not have insurance through the Marketplace in 2017. These numbers are higher than numbers seen in the past two Open Enrollments ([1,077,876 plan selections](#) in 2015 and [1,008,218 plan selections](#) in 2016). While initial enrollment is booming, analysts caution against assigning a reason to the early sign ups. The [wide media](#)

# Health Care in Motion

[coverage](#) of the Administration's attempts to sabotage the marketplaces may have actually served to raise awareness about this year's Open Enrollment.

Given the [shortened](#) Open Enrollment period this year, advocates need to stay vigilant and connect potential consumers with enrollment assistance. Help [promote Open Enrollment](#) and get family and friends insured.

## Nominee Announced for Head of the Department of Health and Human Services

Also this week, President Trump [announced](#) Alex Azar as his nominee to be the next Secretary of the Department of Health and Human Services (HHS), replacing former Secretary Tom Price who resigned following a scandal regarding costly private air travel. Azar served in HHS under President George W. Bush and then spent many years as a senior executive at pharmaceutical manufacturer Eli Lilly and Co.. Having previously spent six years in HHS, Azar is generally perceived as having a strong understanding of the inner workings of HHS and respect for career staff. A lawyer by training, Azar clerked for Supreme Court Justice Antonin Scalia. He is [seen as](#) conservative, but not an ideologue, and is reported to be a textualist with a deep understanding of and commitment to the Administrative Procedures Act.

In general, reaction to Azar's nomination has been fairly muted. He has drawn criticism from [some Democrats](#) for his ties to the pharmaceutical industry and for a track record of [drug price increases](#) during his tenure at Eli Lilly and Co.. Other Democrats, including Andy Slavitt, the former acting Administrator of CMS, have been [cautiously optimistic](#) about Azar's reported pragmatism.

The Senate Health, Labor, and Pensions (HELP) Committee is scheduled to begin [hearings](#) on Azar's nomination on November 29<sup>th</sup>. The Senate Finance Committee will also need to confirm Azar in committee before his nomination can move to the floor. While they are yet to schedule hearings, Republican Senators on the Committee says they plan to confirm him by the end of the year. Azar's nomination hearings will give advocates an opportunity to press for answers on how the Trump administration will address high drug prices as well as what HHS will do with respect to numerous ACA related regulations that the Administration has threatened to roll back.

*Health Care in Motion is written by:*

*Robert Greenwald, Faculty Director at the Center for Health Law and Policy Innovation;  
Caitlin McCormick-Brault, Associate Director at the Center for Health Law and Policy Innovation;  
Phil Waters, Clinical Fellow at the Center for Health Law and Policy Innovation;  
Maryanne Tomazic, Clinical Fellow at the Center for Health Law and Policy Innovation;  
Alice Dartevelle, student in the Health Law and Policy Clinic; and  
Cathy Ren, student in the Health Law and Policy Clinic.*

*For further questions or inquiries please contact Caitlin McCormick-Brault, [cmccormickbrault@law.harvard.edu](mailto:cmccormickbrault@law.harvard.edu).*

**Subscribe to all Health Care in Motion Updates**