

1 Minutes of the Centerville City Council meeting held Tuesday, March 7, 2017 at 7:00 p.m. at
2 Centerville City Hall, 250 North Main Street, Centerville, Utah.

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4 **MEMBERS PRESENT**

5
6 Council Members Tamilyn Fillmore, Mayor Pro Tem
7 William Ince (arrived at 7:09 p.m.)
8 Stephanie Ivie
9 George McEwan
10 Robyn Mecham

11
12 **MEMBER ABSENT** Paul A. Cutler, Mayor

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14 **STAFF PRESENT** Steve Thacker, City Manager
15 Lisa Romney, City Attorney
16 Cory Snyder, Community Development Director
17 Jacob Smith, Assistant to the City Manager
18 Katie Rust, Recording Secretary

19
20 **STAFF ABSENT** Blaine Lutz, Finance Director/Assistant City Manager

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22 **VISITORS** Interested citizens (see attached sign-in sheet)

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24 **PLEDGE OF ALLEGIANCE** Led by Russell Stringham

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26 **PRAYER OR THOUGHT** Councilwoman Mecham

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28 **OPEN SESSION**

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30 No one wished to comment.

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32 **MINUTES REVIEW AND ACCEPTANCE**

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34 The minutes of the January 31, 2017 work session (tabled from February 21, 2017
35 meeting), and the February 21, 2017 Council meeting were reviewed. Councilman McEwan
36 made a motion to table approval of the January 31, 2017 work session minutes, and requested
37 an audio recording of the work session. Councilwoman Ivie seconded the motion, which passed
38 by unanimous vote (4-0). Council members Ivie and Mecham also requested a copy of the
39 audio recording [the recording was made available online the next day]. Councilwoman Fillmore
40 made a motion to approve the February 21, 2017 Council meeting minutes. Councilwoman
41 Mecham seconded the motion, which passed by unanimous vote (4-0). Councilman Ince
42 arrived shortly after approval of the minutes.

43
44 **PUBLIC HEARING – ZONING CODE AMENDMENTS – ACCESSORY BUILDING**
45 **SETBACKS**

46
47 In 2016, the City Council directed the Planning Commission and staff to review and
48 consider increasing accessory building setbacks. Cory Snyder, Community Development
49 Director, presented the recommendation approved by the Planning Commission on February 8,
50 2017. He explained that the Planning Commission considered a complex ratio scenario as
51 requested, but did not feel it would have the desired outcome.

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Setback Standards – Rear Yard	R-L	R-M	R-H
Accessory building (one-story) – Less than 200 square feet ⁴	3 feet	3 feet	3 feet
Accessory building (one-story) – 200 square feet or greater ⁴	5 feet	5 feet	5 feet
Accessory building (two-story or greater than 10 feet in height) – All Sizes ⁴	8 feet	8 feet	8 feet

⁴Setback is measured from any interior and/or rear lot line

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Mr. Snyder explained that the proposed setbacks do not include changes to the Agricultural Low Zone (A-L), due to expectations regarding agriculture uses, such as barns, silos, arenas, etc. Mayor Pro Tem Fillmore suggested the Council may want to consider adding a maximum height of 20 feet for accessory buildings. Mr. Snyder discouraged a 20-foot height limit, stating that many fifth wheels require ceiling heights of 18 or 19 feet.

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Mayor Pro Tem Fillmore opened a public hearing at 7:24 p.m., and closed the public hearing seeing that no one wished to comment. Councilman McEwan said the recommendation seems very straight forward, and made a **motion** to approve Ordinance No. 2017-04 amending the Centerville Zoning Code 12.32.300 regarding rear yard setback requirements for accessory buildings in residential zones based on the findings and recommendations of the Planning Commission. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

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Findings:

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- a. The Council finds that in Section 12-420, Residential Development, the main or prominent theme of this section of the General Plan is the suburban residential lifestyle of Centerville City. Low-Density, single-family, development is the preferred lifestyle for much of the planned residential areas.
- b. The Council finds that the General Plan is focused on preserving the quality of single-family development.
- c. The Council finds that allowing for accessory uses and buildings is consistent with this desire.
- d. The Council finds that the allowance of accessory buildings is subject to the preferred or acceptable bulk and area standards (e.g. setbacks, heights, etc.) that are adopted by a legislative body.
- e. Therefore, the Council finds that the proposed amendments can be deemed acceptable and/or consistent with review factors of Section 12.21.080(e) of Centerville City's Zoning Ordinance.

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PUBLIC HEARING – GENERAL PLAN AMENDMENTS – SOUTHEAST NEIGHBORHOOD

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Near the end of 2016, the Council directed planning staff and the Planning Commission to review and update the Southeast Neighborhood section of the General Plan. Specifically, the Council wanted to address the pressure or trend to rezone properties for high-density residential development, and to also address the long-standing goal of redeveloping Pages Lane Commercial Area. To accomplish this task, planning staff recommended the City consider first

1 the residential density component of the neighborhood plan. On February 22, 2017, the
2 Planning Commission reviewed and recommended approval of proposed General Plan
3 Amendments regarding residential density allowances in the Southeast Neighborhood.
4

5 Mr. Snyder said the Planning Commission recognized that some of the existing single-
6 family neighborhoods in the Southeast Neighborhood have closer to five units per acre rather
7 than four units per acre, equivalent to a low-end Residential-Medium (R-M) single-family use.
8 The City does not have a designation for that level of density at this time. The proposed
9 amendments refer to "low to medium density, single-family residential housing" to recognize the
10 single-family neighborhoods that are closer to five units per acre.
11

12 Mr. Snyder explained that the proposed amendments do not alter the R-M buffer around
13 Centerville Elementary and City Hall, based on direction from the City Council in the past.
14 The proposed amendments state that new residential development within the Centerville Junior
15 High Area is to be single-family development. Mr. Snyder explained that Commissioner Daly
16 pointed out that the foothills are part of the Southeast Neighborhood and should be recognized
17 in the Plan. The proposed amendments include reference to the Hillside Parcel Area as
18 governed by the adopted Foothills Management Plan and any subsequent future planning
19 strategies adopted by the City. Residential-High (R-H) development is prohibited in all areas
20 throughout the text.
21

22 Councilman McEwan asked if medium density single-family residential was added
23 simply because the City does not have the needed granularity in R-L to achieve the desired
24 effect. Mr. Snyder responded affirmatively. Councilwoman Fillmore said she does not have a
25 problem with including the term "medium", since it is combined with the "single-family residential
26 development" restriction. She commented that smaller lot sizes are the trend in new
27 development. Councilwoman Ivie pointed out that Taylor Elementary is in the Southeast
28 Neighborhood, but is not called-out in the document. Mr. Snyder responded that Taylor
29 Elementary is included in the Pages Lane Commercial Area. He said Taylor Elementary could
30 be removed from the Pages Lane Commercial Area and moved to the Southeast Neighborhood
31 Plan when the Pages Lane Commercial Area is revised. Councilwoman Ivie commented that
32 schools tend to be growing in size, and she does not think it would be a big stretch for the
33 school district to build a larger junior high or elementary school, or combine the schools and sell
34 off the other property. She said she is concerned about how the property would transition within
35 the Code. Mr. Snyder responded that Taylor Elementary would fall back in with the R-L and R-
36 M if it is eliminated from the Pages Lane Commercial Area.
37

38 At 7:40 p.m. Mayor Pro Tem Fillmore opened a public hearing.
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40 Dean Williams – Mr. Williams expressed concern with high-density development,
41 especially in the old Dick's Market area. He said he is tired of all the high-density in the south
42 end of Centerville. Mr. Williams described his experience as a West Valley Firefighter, watching
43 the density of West Valley increase, and the big impact on emergency responders. He said the
44 south end needs to stay single-family residential development, just like west of the Junior High.
45 Councilman Ince asked Mr. Williams what he considers high-density. Mr. Williams responded
46 he considers the Brighton Homes development to be high-density. He said he feels density
47 should stay four units per acre. Mr. Williams emphasized that high-density development has an
48 impact on the volume of emergency calls.
49

50 Mayor Pro Tem Fillmore stated that the concern expressed by Mr. Williams is exactly the
51 reason the Council directed the Planning Commission to revisit the Southeast Neighborhood
52 General Plan. She closed the public hearing at 7:45 p.m. Councilwoman Mecham said she
53 would like to have more tools for density. Mr. Snyder responded that the beauty of zoning is the

1 ability to reclassify categories to reflect expectations. Subcategories could be added for specific
2 neighborhoods. Councilman McEwan said he feels using the term "low to medium" signals that
3 the City is open to the full range. He said he would prefer to leave it as it has been with "low",
4 and ask the Planning Commission for a granularity range that indicates the City is looking for
5 low. Responding to a question from Councilman Ince, Mr. Snyder said the new development on
6 Lund Lane is between four and five units per acre. Centerville Commons is between five and
7 six units per acre, and the Pineae Gardens single-family homes are between six and seven
8 units per acre. Mayor Pro Tem Fillmore said she is not sure she would want to change the
9 intent of the Planning Commission's recommendation, knowing that subdivisions like Pineae
10 Gardens – single-family homes with smaller lots – are considered desirable by many citizens.
11 Councilman McEwan said he is still troubled by using the word "medium", when the intent of the
12 Council to maintain low density in that area has been clear. Mayor Pro Tem Fillmore said
13 another possible solution is to change the definitions of low, medium, and high. Mr. Snyder
14 pointed out that the purpose of the Zoning Ordinance is to reflect the General Plan.

15
16 Councilman McEwan said he feels the City should be clear with the terms used, and
17 repeated that he likes the idea of adding granularity. Councilwoman Fillmore said she
18 appreciates the clarification of "medium" with "single-family residential", because it
19 acknowledges the desire to respect existing single-family home neighborhoods, and respect the
20 market. Councilman Ince asked how the proposed amendments would be implemented. Mr.
21 Snyder responded that, right now, the implementation is a gross density of four units per acre.
22 This does not necessarily involve quarter-acre lots, because roads and other elements of a
23 subdivision are subtracted out. After the calculations, subdivisions often approach five units per
24 acre net. Responding to Councilwoman Fillmore's comment, Councilman McEwan questioned
25 whether a developer, a property owner, or market forces have a right to dramatically change the
26 character of Centerville. He said he feels turning into "anywhere U.S.A." would involve loss of
27 character. Councilman McEwan said he feels single-family development is key to defining the
28 Centerville community. Mayor Pro Tem Fillmore agreed that single-family is the key, and said
29 she feels that citizens would not necessarily say a five or six unit per acre single-family
30 neighborhood would change the character of the community.

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32 Councilman Ince stated that, with a certain amount of aging in the community, many
33 citizens are looking for considerably smaller yards. He asked how the City can accommodate
34 both desires. Mr. Snyder responded that, if the single-family character is specifically what the
35 City is looking for, there will be less concern about specific lot sizes. Councilman Ince asked
36 how hard it would be to create a fourth density. Mr. Snyder responded that creating it would be
37 easy; the Council would decide when and where it would apply.

38
39 Councilwoman Fillmore suggested adding the phrase "except on Main Street Corridor" to
40 Old Townsite Section 1(a)(3) after "medium or high density non-single family residential
41 development is prohibited for any future new or redevelopment in this area", to avoid confusion
42 with the Main Street Corridor Plan. Lisa Romney, City Attorney, suggested adding "excluding
43 areas located in the Main Street Overlay District" to the boundary definition in the first sentence
44 of Section 1(a) instead. The Council appeared to agree with Ms. Romney's suggestion.

45
46 Councilwoman Fillmore suggested adding the phrase "non-single-family development
47 not allowed" to the Section regarding Centerville Elementary Area, and asked what makes that
48 area different from any other area in the Southeast Neighborhood. Council members Ivie and
49 Mecham indicated they do not agree, stating that the R-M is a buffer for City Hall.
50 Councilwoman Mecham said she would be willing to look at it, but she would like to have more
51 densities to use. Councilwoman Fillmore pointed out that the focus of the whole discussion has
52 been that it is more about the type of building than the numbers. She said she would like to
53 respect that the desire is to keep the R-M for a buffer, but recognize that the City wants to

1 respect the flavor of single-family development in the whole Southeast Neighborhood.
2 Councilwoman Mecham responded she feels removing R-M from that area would need to be
3 put to a public hearing first. Councilwoman Mecham repeated that she would like more zoning
4 options. Councilman Ince pointed out there are a number of duplexes on Parrish Lane, and
5 asked if a property owner could currently tear one duplex down and build the same thing again.
6 Mr. Snyder responded that would be allowed. Councilman McEwan repeated he feels
7 granularity is needed. Centerville is not a symmetrical town. Councilman McEwan said he is
8 fine leaving the document as it is, with the exception of removing the word "medium" anywhere
9 "low to medium density" is mentioned in the proposed blue-lined text. The Council indicated
10 approval of Ms. Romney's suggested language regarding the Old Townsite Area and the Main
11 Street Overlay District.

12
13 Councilman McEwan made a **motion** to approve Ordinance No. 2017-05 amending
14 Section 12-480-2 of the Centerville General Plan regarding residential density allowances in the
15 Southeast Neighborhood (Neighborhood 1), with the addition of "excluding areas located in the
16 Main Street Overlay District" to the end of the first sentence in Section 1(a), and changing all
17 new references of "low to medium density" to "low density". Councilman Ince seconded the
18 motion. Councilwoman Fillmore stated she thinks they are all basically on the same page, but
19 she will vote against the motion because she feels uncomfortable approving General Plan
20 based on language that does not yet exist in the Code. She said she would feel more
21 comfortable approving language thoroughly thought out by the Planning Commission, and she
22 also stated she feels uncomfortable with the inconsistency of the Centerville Elementary
23 Neighborhood not being included in the single-family home only language. Councilman
24 McEwan said he feels they are signaling very clearly that the intent is to remain low density.
25 The motion passed by unanimous vote (4-1), with Councilwoman Fillmore dissenting.

26
27 **EDUCATIONAL BRIEFING REGARDING EMPLOYEE HEALTH INSURANCE**
28 **OPTIONS**
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30 Councilman Ince introduced Colleen Mellor of Smart Benefits Solution, who was invited
31 to brief the Council regarding options available. Ms. Miller stated she believes HSAs are the
32 future of health care. She provided the Council with an information packet (attached). Having
33 examined the City's existing health plan, she suggested the City eliminate the Select Care Plus
34 network of Select Health, since the Tanner Clinic is now included in the Select Med network.
35 She recommended adding the smaller Select Value network. She explained benefits and
36 requirements of the SHARE Network available through Select Health. Ms. Mellor stated the key
37 to implementing HSAs is education, including spouses of employees (particularly wives). She
38 recommended the City consider all carriers, and that they remember the Affordable Care Act is
39 the law of the land until further notice. Ms. Mellor commented that benefit structure and
40 employer contribution to the employees' HSA accounts are the best way to incentivize
41 participation in an HSA plan. The Council thanked Ms. Mellor for sharing her expertise.

42
43 **ANNUAL CRACK SEAL/SLURRY SEAL STREETS CONTRACT**
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45 Mr. Thacker proposed funding sources for the annual Crack Seal/Slurry Seal Streets
46 Contract, and answered questions from the Council. Funding sources include the
47 Transportation Projects Fund, RAP Tax (parks asphalt surfaces), Woods Park developer and
48 the property owners association that includes MTC, Chick-Fil-A and performing arts center (i.e.
49 CenterPoint Theatre). In response to a question from Councilman McEwan, staff explained
50 there are cross-access and cross-parking easements in the property owners association
51 documents for the benefit of the performing arts center; therefore, it is in the City's interest to
52 include these asphalt surfaces in the City's contract. Councilman Ince made a **motion** to award
53 bid to Intermountain Slurry Seal in the amount of \$376,754.82 for the Crack Seal and Slurry

1 Seal Project 2017. Councilwoman Ivie seconded the motion, which passed by unanimous vote
2 (5-0).
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4 The Council took a break at 8:45 p.m., returning at 8:52 p.m.
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6 **CENTERVILLE MUNICIPAL CODE – COMPREHENSIVE AMENDMENTS**
7

8 At the February 21, 2017 meeting, the Council decided to spread review of the
9 comprehensive amendments to the Centerville Municipal Code over several meetings. City
10 Attorney Romney explained the following substantive changes to Titles 1-5:
11

12 **Title 1**

- 13 • Section 1.06.130 – Request for administrative hearing shall be filed with the City
14 Recorder within 20 days from the date of service of the civil citation.
15

16 **Title 2**

- 17 • Utah Code now requires campaign finance disclosure prior to a municipal primary
18 election, a requirement already included in Centerville Code. With the change to the
19 Utah Code, Section 2.03.070 now states: "Any candidate for municipal office shall
20 comply with the campaign finance disclosure requirements set forth in Utah Code
21 §10-3-208".
22

23 **Title 3**

- 24 • Section 3.03.020 – Any board or committee created by ordinance will follow the Utah
25 Open and Public Meetings Act.
26 • Section 3.03.030 – Specific references to governmental immunity and volunteers.
27 • Section 3.03.070 – "on an annual basis" has been removed from the review of a
28 long-range plan by the Whitaker Museum Board.
29 • Section 3.05.060 – Additions referencing State law regarding appeals for
30 government records.
31

32 **Title 4**

- 33 • Section 4.02.040 – Changes to mirror language of Utah Code regarding jurisdiction.
34 • Section 4.02.050 – Addition stating the Court shall provide notice to the public that
35 the proceedings are being recorded.
36

37 **Title 5**

- 38 • Section 5.03 – Ms. Romney said she and Mr. Thacker would like to look more closely
39 at when a public hearing must be held for a tentative budget. Changes have been
40 made based on her reading of the State Statute, but she will review more closely.
41 Mr. Thacker said he will get clarification from the State. Chapters in Title 5 have
42 been rearranged for consistency and clarity.
43

44 **CITY MANAGER'S REPORT**
45

- 46 • Mr. Thacker proposed a schedule for the FY 2018 Budget process, and Council
47 members provided input regarding their availability.
48 • Wasatch Front Regional Council will present scenarios pertaining to long-term
49 growth and transportation at North Salt Lake City Hall on March 16th at 4:00 p.m.
50 Cory Snyder will represent City staff. All Council members and Planning
51 Commissioners are invited to attend.



The Future Of Health Care?

What Have We Seen Already?

First Executive Order

Nominee To Supreme Court

What Might We Expect In The Future?

Trump And H.S.A's

Possible Policy Changes

“Fixes” More Likely OR Repeal/Replace?

How Are Employers Structuring Their Benefit Packages?

Defined Contribution

Employee Choice

Networks

Incentivize Good Employee Choices

Premium Contribution Strategies

Q & A

AFFORDABLE CARE ACT

FIRST EXECUTIVE ORDER

To minimize the economic burden of the ACA

1094/1095 Reporting

Look Back Periods

Pay or Play Mandate

Required Forms (SBC, Exchange Notice)

PRESIDENT TRUMP AND H.S.A's

Potential Expansion

H.S.A's are the future of health care

POSSIBLE POLICY CHANGES

Gail Wilensky, PhD

Refundable Tax Credits Instead of Subsidies

Continuous Coverage Protects Pre-Ex

Medicare Type Penalties For Non-Coverage

Young Adults Needed In System, Likely Will Not Happen



EMPLOYERS RESTRUCTURING BENEFITS

Defined Contribution/Employee Choice

Tighter Network Offerings

Care +/Med +/Value

Med + now includes Tanner Clinic



Share Network – 4% Renewals

Requires H.S.A Offering/Contribution

Requires Wellness Program Participation

Requires Primary Care Provider Designation

WE CAN PROBABLY EXPECT...

Lots of Discussion

Lots of Changes/Revisions

Lots of Protests

And Remember That Change Is Slow



THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

January 20, 2017

EXECUTIVE ORDER

MINIMIZING THE ECONOMIC BURDEN OF THE PATIENT PROTECTION AND
AFFORDABLE CARE ACT PENDING REPEAL

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. It is the policy of my Administration to seek the prompt repeal of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended (the "Act"). In the meantime, pending such repeal, it is imperative for the executive branch to ensure that the law is being efficiently implemented, take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market.

Sec. 2. To the maximum extent permitted by law, the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.

Sec. 3. To the maximum extent permitted by law, the Secretary and the heads of all other executive departments and agencies with authorities and responsibilities under the Act, shall exercise all authority and discretion available to them to provide greater flexibility to States and cooperate with them in implementing healthcare programs.

Sec. 4. To the maximum extent permitted by law, the head of each department or agency with responsibilities relating to healthcare or health insurance shall encourage the development of a free and open market in interstate commerce for the offering of

healthcare services and health insurance, with the goal of achieving and preserving maximum options for patients and consumers.

Sec. 5. To the extent that carrying out the directives in this order would require revision of regulations issued through notice-and-comment rulemaking, the heads of agencies shall comply with the Administrative Procedure Act and other

2

applicable statutes in considering or promulgating such regulatory revisions.

Sec. 6. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,

January 20, 2017.

###

Unsubscribe

The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

How would Trump expand HSAs?

Popular proposal could see traction in 2017

Expanding Health Savings Accounts is a popular conservative health policy likely to see traction under President Donald Trump next year.

But what does expansion mean for the tax-advantaged savings accounts? Many employees already have HSAs, which allow consumers to contribute funds tax-free and use them for qualified medical expenses.



Expanding HSAs

According to “**A Better Way**,” a healthcare policy proposal published this year by House Speaker Paul Ryan, HSAs help patients understand the true cost of care. The accounts allow consumers “to decide how much to spend” and provide them “with the freedom to seek treatment at a place of their choosing.”

While it is true that consumers do own their own HSAs and can spend the funds as they see fit, HSAs don’t have any bearing on provider networks, which are the true drivers of where patients can receive care. Networks are built through contracts between insurers and providers, and if you visit an out-of-network provider, you could be on the hook for most or all of the bill. You could use your HSA funds to pay for it, but most patients would still benefit from visiting in-network providers and incurring smaller bills.

Here’s how “A Better Way” would expand HSAs:

- Allow spouses to make catch up contributions to the same HSA
- Allow qualified medical expenses incurred before HSA coverage begins to be reimbursed from HSA
- Set the maximum contribution to an HSA at the maximum combined and allowed deductible and out-of-pocket expense limits
- Expand HSAs to groups like Indian Health Service and TriCare

Other proposals come from the **Health Savings Act of 2016**. This proposal shares some of the same elements as Ryan’s plan, but a few others as well:

- Double contribution limits
- Lift restrictions on over the counter purchases and withdrawal penalties
- Allow the use of HSAs to pay premiums

▼ President Trump and the ACA

- ▼ **ACA Repeal & Replace...with what?**
- ▼ **Indications are that repeal is “almost certain;” however, the question is what will replace it?**
- ▼ **Post-election indications are that prohibition on pre-existing condition exclusions and “young adult” coverage will remain.**
- ▼ **Legislative process is slow.**
- ▼ **Judicial process (Justice Scalia’s replacement).**
- ▼ **Short-term: We may see a policy of non-enforcement.**

▼ **President Trump and the ACA**

- ▼ **For now, employers should stay the course with their ACA compliance strategies**
- ▼ **Employer Mandate still in effect**
 - ▼ **Maintain measurement periods and recordkeeping**
- ▼ **Complete ACA Reporting**
- ▼ **Comply with group health plan requirements**
- ▼ **Be mindful of potential ACA retaliation claims**

COMPLIANCE

» 03/07/17

House Republicans Release ACA Repeal and Replace Legislation

Yesterday the House released two ACA related bills drafted by the House Ways and Means Committee and the House Energy and Commerce Committee. Committee debate on the bills will begin tomorrow, with the intent to move to a full vote before the spring recess scheduled for April 7. Together the two bills seem very similar to the draft proposal previously leaked to the press and summarized in our previous [Alert](#). Of significant note for employers, the new bills **do not tax employer provided coverage**, as proposed in the previously leaked draft bill. This provision was being called the new Cadillac Tax and received significant opposition from industry groups and stakeholders, and does not appear to have made the cut. It was the only revenue generator included in the draft bill and was generally considered insufficient to fund the GOP plan. The bills released yesterday include a new phase out of subsidies to purchase health coverage on the individual market at a certain income threshold. This phase out of subsidies for higher wage earners is apparently intended to replace the elimination of the tax on employer coverage as the bills' funding mechanism. Note, however, that the Congressional Budget Office (CBO) has not yet reviewed the bills for projected costs and loss of coverage implications. Below are additional details:

What's Out

- **Individual and Employer Shared Responsibility Penalties:** The bills eliminate ACA penalties for both the individual and employer mandate for any penalties payable for the 2015 calendar year and beyond.
- **ACA Taxes:** The bills eliminate ACA taxes including but not limited to the increased penalty on HSA non-medical distributions (returns the penalty to 10%), the Medicare tax increase, the tanning tax, the net investment tax, the medical device excise tax, the insurers tax etc.
- **Health FSAs:** The bills repeal the Health FSA salary reduction election limit imposed by the ACA. They also remove the ACA requirement that over-the-counter medications be prescribed for tax favored reimbursement from account based plans.
- **Cost Sharing Reductions in Exchange:** The bills would repeal ACA cost sharing reductions available to individuals with incomes between 100% and 250% of the Federal Poverty Level by 2019. This was one of the ACA's two possible "subsidies" for lower wage earners purchasing coverage in the individual market.
- **Exchange Income-based Subsidies:** Eliminated effective December 31, 2019.
- **Medicaid:** The bills end the ACA's optional state Medicaid expansion. Instead they establish a per-capita approach to funding state Medicaid programs beginning in 2019. They also provide additional funding that states could use for high risk pools, reinsurance programs, programs to subsidize providers for direct provision of care or to reduce cost sharing, or programs to promote access to preventive services.