HANYS Healthcare Association of New York State

Republican Policy Concepts to Replace the Affordable Care Act (ACA)

A Better Way White Paper	House Republicans' Fiscal Year 2017 Budget Resolution—A Balanced Budget for a Stronger America	Empowering Patients First Act of 2015 (H.R. 2300/S.2519)
Product of the U.S. House Republican Health Care Reform Task Force; put forward by U.S. House Republican Leadership, led by Speaker Paul Ryan (R-WI).	*Concurrent Budget Resolution sponsored by Representative Tom Price (R-GA); failed to collect support necessary to pass in the House.*	*Legislation Sponsored by Representative Tom Price in the House; introduced in the Senate by U.S. Senator John McCain (R-AZ).*
Concept paper without legislation.	Budget Resolution Report containing proposals intended to guide future action on spending and revenue.	Legislation with detailed ACA replacement plan.
Overview		
• Repeal coverage provisions of ACA. • Replace with refundable tax credits for those without job-based coverage, Medicare or Medicaid. • Repeal Medicaid expansion. • Implement Medicaid block grants and per capita allotments. • Long-term transition to Medicare premium supports competing with traditional Medicare. • Calls for "a realistic, modest transition period" with implementation proceeding as quickly as possible.	• Repeal coverage provisions of ACA. • Provides general principles for replacement, calling for a competitive system offering more choices. • Repeal Medicaid expansion. • Implement Medicaid block grants and per capita allotments. • Long-term transition to Medicare premium supports competing with traditional Medicare. • Projects savings from repeal to begin in first year of the Budget with no discussion of a transition period.	• Repeal ACA in its entirety. • Replace ACA coverage provisions with refundable tax credits for those purchasing insurance in the individual market. • Repeal Medicaid expansion. • No provisions to restructure Medicare or Medicaid. • No transition period.

ACA Repeal		
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Repeals major provisions of ACA including exchange subsidies and Medicaid expansion. Calls for repeal of the Independent Payment Advisory Board (IPAB) and Center for Medicare and Medicaid Innovation (CMMI), physician self-referral limitations, and nationwide budget neutrality for the rural floor.	Calls for repeal of ACA exchange subsidies, Medicaid expansion, individual and employer mandates, taxes, and IPAB.	Repeals the ACA in its entirety and specifies that all provisions of law amended or repealed by ACA are restored or revived as if ACA had not been enacted.

Repeal using the budget reconciliation process could follow the model used last year in the 2017 budget legislation vetoed by President Obama. H.R. 3762, the Restoring Americans' Healthcare Freedom Reconciliation Act would have:

- repealed premium tax credits, cost sharing subsidies, and small business tax credits;
- eliminated the individual mandate and the employer mandate;
- eliminated ACA taxes including the "Cadillac" tax and the medical device tax;
- ended Medicaid expanded coverage for adults;
- ended the enhanced federal match for the expansion population;
- eliminated Medicaid presumptive eligibility periods for adults;
- eliminated state maintenance of effort requirements for children;
- eliminated scheduled Medicaid Disproportionate Share Hospital (DSH) reductions;
- eliminated federal payments for basic health plans;
- ended the Medicaid state plan option for health home programs; and
- ended the Medicaid state plan option for home- and community-based attendant services.

H.R. 3762 was passed by Congress and sent to the President on January 7, 2016. Most of the provisions would have been effective December 31, 2017, providing a transition period of approximately two years.

H.R. 3762 did NOT repeal Medicare rate cuts, Medicare quality adjustments, or Medicare alternate payment models. The Ryan Paper and the House Republican Budget Resolution do not explicitly address these provisions but it is assumed that they would also continue the ACA Medicare rate cuts, quality adjustments, and alternate payment models.

ACA Replacement		
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Coverage Provisions		
• Offers advanceable, refundable tax credits to those who do not have access to job-based coverage, Medicare or Medicaid. o Credit would be adjusted for age and indexed o Does not provide details of the credit levels o Prohibits anyone who is not in the country lawfully from receiving a credit o Credit in excess of actual cost of an insurance plan would be deposited in individual's HSA o Credit could not pay for abortion coverage or services • Provides protections against coverage denials for preexisting conditions and ensured guaranteed renewal. • Extends "continuous coverage" protections to the individual market to ensure individuals with preexisting conditions that remain continuously insured do not face premium increases when switching insurance. • Establishes a one-time open enrollment period for individuals to	The Budget Resolution Report calls for replacement of ACA coverage provisions with "patient-centered reform" and provides principles for reform but no detail, leaving it to the relevant committees to develop proposals. It states that: • Policies should be designed to encourage increased competition and transparency while protecting the ability of all Americans to afford health coverage. • Policies should be designed to ensure Americans have more choices in types of coverage options that are available. • Calls for reforms that provide protections for patients with pre-existing conditions and reward those who maintain health coverage.	• Offers advanceable, refundable tax credits for those who purchase insurance through the individual market. o Credit would be adjusted for age and for inflation. o Provides credits from $900 to $3,000 annually based on age. o Excludes anyone who is not a citizen or permanent resident. o Defines qualified plans as any insurance that constitutes medical care (i.e., major medical, qualified coverage in state of purchase) but does not solely include excepted benefits as defined in the Internal Revenue Service code such as wrap around, vision-only, or disease-specific plans. o Credit in excess of actual cost of an insurance plan would be deposited in individual's health savings account (HSA). o Credit could not pay for abortion coverage or services. • Prohibits plans from denying coverage

join the healthcare market if they are uninsured. • Allows dependents to stay on their parents' plan up to the age of 26. • Sets the default age-rating ratio at 5:1, permitting states to narrow or expand.		for pre-existing conditions if the individual has at least 18 months of continuous coverage. • If an individual fails to maintain coverage, they could be charged up to 150% of the standard premiums for two years when they enroll. • Provides for open enrollment periods and open enrollment for specified qualifying events. • Allows individuals to opt out of Medicare, Medicaid, TRICARE/VA, or employer group plans and receive a credit instead.
Other Insurance Market Provisions		
• Allows for cross-state purchasing of health insurance coverage and makes it easier for states to enter into interstate compacts for pooling arrangements. • Provides $25 billion over ten years for state high-risk pools. • Allows small businesses and voluntary organizations to offer association health plans (AHPs). • Allows individuals to purchase healthcare coverage through individual health pools (IHPs). • Lifts ACA restrictions on HSAs and seeks to expand the use of HSAs, private exchanges and health reimbursement accounts. • Protects self-insurance and stop-loss insurance plans, by preserving the		• Allows for cross-state purchasing of health insurance coverage. • Provides $3 billion over three years in grants for state high-risk pools, reinsurance pools, or other mechanisms to subsidize purchase of individual coverage. • Provides process for small businesses to band together across state lines in AHPs to purchase coverage. • Establishes IHPs allowing individuals to pool together to purchase coverage. • Provides a one-time $1,000 tax credit for HSA contributions, increases HSA limits, and includes other provisions expanding and encouraging HSA use • Provides an exemption from federal antitrust laws to allow non-economically aligned physicians to

definition of stop-loss insurance and maintaining its distinct difference from "group health insurance." • Offers state innovation grants for states to implement reforms that address affordability and access.		negotiate together. • Establishes requirements for states that establish Health Plan and Provider Portal Websites to provide cost, quality, and other information for plans available in the state and prohibits use of the portals to assist in direct enrollment.
Employer-Sponsored Insurance		
• Caps the tax exclusion for employer-sponsored insurance at an unspecified level.		• Caps the tax exclusion for employer-sponsored insurance at $20,000 for a family and $8,000 for an individual. • Allows employers to provide a pre-tax defined contribution for employees to purchase insurance in the individual market and provides a grant up to $1,500 to small businesses that institute defined contribution.
Medicaid Reform		
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The reductions to the Medicaid program are unspecified in *A Better Way*. However, most recent House Budget Resolutions have directed legislators to make major cuts to the Medicaid (and CHIP) programs via block grants that incorporate ACA repeal. For example, the 2016 House Budget Resolution would have directed lawmakers to cut $937 billion from the programs over the 10-year budget period and the House 2017 Budget Resolution proposed to cut over $1 trillion from the programs." References: http://budget.house.gov/uploadedfiles/fy16budget.pdf http://budget.house.gov/uploadedfiles/fy2017_a_balanced_budget_for_a_stronger_america.pdf		

Transitions the financing of the program starting in 2019 to a per capita allotment with a state option to accept a block grant. The federal per capita allotment would be the product of the state's per capita allotment for the four major beneficiary categories—aged, blind and disabled, children, and adults—and the number of enrollees in each of those four categories. • The per capita allotments would be determined by each state's average medical assistance and non-benefit expenditures per full-year-equivalent enrollee during the base year (2016), adjusted for inflation. • Certain payment categories would be excluded and would be reimbursed through a separate funding stream, such as federal payments to states for DSH, Graduate Medical Education. • States that have expanded Medicaid would be held harmless for 2019 but the enhanced Federal Medicaid Assistance Percentage (FMAP) for the Medicaid expansion population would be phased down over time. States could opt out of the per capita allotment elect a federal block grant. • The calculation of the funds would assume that individuals enrolled in Medicaid expansion are transitioned into other sources of coverage.	Convert the federal share of Medicaid spending into allotments and allow states to choose either a per capita allotment or a lump sum block grant. The federal per capita allotment would be the product of the per capita amount for the four major beneficiary categories—aged, blind and disabled, children, and adults—and the number of enrollees in each of those four categories. • Per-person payment amounts would be established to account for the average cost of care per enrollee in each of the categories and would be indexed to a predetermined growth rate. The base year for the per capita amounts is not defined. The block grant would provide a single lump sum that could then be distributed by the state. • States would have sole discretion over eligibility requirements, benefits, and provider reimbursement rates for both federal and state funds.	Repeals all provisions of ACA including Medicaid expansion. No provisions for Medicaid restructuring.

Other Medicaid Proposals		
• Repeal fiscal year 2018 and 2019 Medicare DSH cuts and the fiscal year 2018 through 2020 Medicaid DSH cuts; create a combined national pool of uncompensated care funds, and distribute funds based on the S-10 worksheet using data defined as charity care only. • Allow states to adopt reasonable premiums. • Allow states to adopt work requirements.	• Combine Medicare and Medicaid DSH payments into a single fund to support uncompensated care and distribute in a targeted manner that recognizes all providers serving low-income populations. • Reduce the cap on provider taxes from 6% to 5.5% immediately and begin phasing out completely. • Establish a work requirement for Medicaid enrollment. • Prohibits coverage of otherwise qualified immigrants until they have provided evidence of their immigration status. • Count lottery winnings and parts of income-generating annuities toward eligibility. • Make Medicaid coverage effective the first day of the month after application.	
Medicaid Waivers		
• Medicaid demonstration waivers would be required to be budget-neutral to the federal government and limit the ability to provide federal funds for "costs not otherwise matchable." • Grandfather existing managed care waivers if they were renewed twice. • Moving forward states would not be required to obtain a waiver to enroll some populations in managed care.	• Require that waivers be budget-neutral in actual costs and ensure that any new spending does not duplicate other Federal programs. • Allow states to adopt approved waivers without having to go through the approval process again.	

Medicare Reform		
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Outlines a multi-step process to reform Medicare, ultimately calling for the adoption of a premium support model.	Provides framework for transition to a premium support plan with traditional Medicare and private plans competing for enrollees.	Repeals all provisions of ACA including Medicare cuts, Medicare quality adjustments, and Medicare alternate payment models. Proposes changes relating to physician payments.
Short-Term Medicare Changes		
• Repeal fiscal year 2018 and 2019 Medicare DSH cuts and the fiscal year 2018 through 2020 Medicaid DSH cuts; create a combined national pool of uncompensated care funds, and distribute funds based on the S-10 worksheet using data defined as charity care only. • Value-based insurance design for Medicare Advantage. • Limit Medigap coverage beginning in fiscal year 2020. • Combine Medicare Parts A and B with a unified deductible in fiscal year 2020. • Allow beneficiaries and healthcare professionals to voluntarily enter into an arrangement for items and services outside of the Medicare system. • Prompt traditional fee-for-service Medicare and Medicare Advantage to compete on quality through a Medicare Compare site. • Prohibit weighting on patient	• Combine Medicare and Medicaid DSH payments into a single fund to support uncompensated care and distribute in a targeted manner that recognizes all providers serving low-income populations. • "Streamline" Graduate Medical Education by combining all federal support into a single payment providing flexibility to encourage teaching institutions and states to develop innovative approaches to medical education. • Establish equal payments for services despite the site of care. • Encourage coordination of post-acute care through an episodic payment. • Unify Part A and Part B; and establish a single, annual deductible and a catastrophic cap on annual out-of-pocket expenses. • Modify the Medicare Advantage benefit to improve care management for	• Allow beneficiaries to voluntarily enter into a contract with participating and non-participating healthcare professionals without penalty. • Allow physicians to claim a bad debt tax deduction for care required under EMTALA. • Prevent states from imposing a limiting charge for physician Medicare services. • Prohibits CMS from using comparative effectiveness research to deny claims. • Requires CMS to develop physician performance-based quality measures in concert with physician organizations.

experience of care measures rather than outcome and clinical process of care measures for quality reporting and value-based purchasing programs. • Require rulemaking to provide for risk adjustment for socio-economic status. • Gradually increase the Medicare retirement age to correspond with that of Social Security.	hospice and end-stage renal disease patients. • Additional means testing of premiums in Medicare Parts B and D including full responsibility of premium costs for individuals with annual income exceeding $1 million. • Gradually increase the Medicare retirement age to correspond with that of Social Security.	
Long-Term Medicare Redesign		
The Ryan White Paper and the House Republicans' Fiscal Year 2017 Budget provide identical plans for implementing a Medicare premium support system beginning in 2024. • Private plans would compete with traditional Medicare to enroll beneficiaries. • The government would pay a defined contribution directly to the plan to help offset the cost of coverage. • The contribution would be adjusted so the sick would receive more assistance and lower-income seniors would receive additional support—there is no indication of contribution levels. • Traditional Medicare would be maintained as an option for beneficiaries. • Private plans would provide the same level of health coverage as traditional Medicare Health plans and would agree to offer insurance to all Medicare beneficiaries.		No provisions for Medicare restructuring.
Liability Reform		
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• Establishes caps on non-economic damages and limitations on attorney's fees.	• Indicates support for medical liability insurance reforms to curb abuses and frivolous lawsuits but provides no	• CMS would contract with a physician organization to develop clinical guidelines that could be used as an

• Provides incentives to states to adopt innovative reform. • Allow safe harbors under federal healthcare programs and higher standards of evidence for medical professionals following clinical practice guidelines developed by national and state professional medical societies.	specific proposals.	affirmative defense in a lawsuit. • Provides grants to states for administrative healthcare tribunals granted authority by the state to make binding rulings. • Establishes a gross negligence standard, proportional damages, limits on contingent fees, and periodic payment of future damages.