



Washington Legislative Update

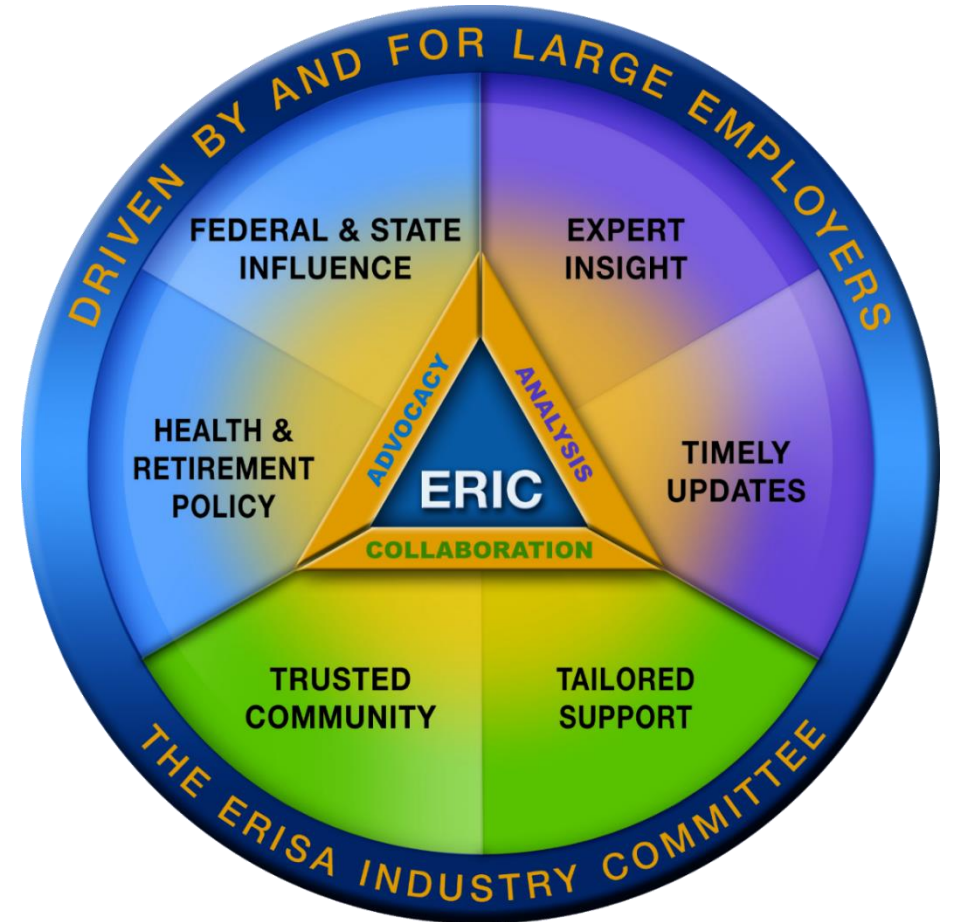
Legislative Activity Impacting
Employer-Sponsored Health Insurance

James Gelfand, SVP Health Policy, The ERISA Industry Committee

About ERIC

The ERISA Industry Committee (ERIC) is the **only national association** that advocates **exclusively for large employers** on employee benefit public policies at the **federal, state, and local levels**

- Plan Sponsor perspective
- Organizations with 10,000+ employees
- Members from all industries
- Benefits, legal, and government relations pros



ERIC's Health Care Cost Roadmap



ERIC's Top Three Priorities for the 116th:

- 1) ACA Taxes – Cadillac Tax, HIT
- 2) Prescription Drug Costs
- 3) “Surprise” Medical Billing

Other Health Care Cost Priorities for Bipartisan Cooperation in the 116th:

- HSA and HDHP Relief
- Leverage Data with an APCD
- Provide Clarity for Wellness Programs
- Prevent Abuse by “Big Dialysis”
- Value-Driven Reforms for Medicare
- ACA Stabilization and Relief
- Empower States to Regulate Air Ambulances

H.R.748 - Middle Class Health Benefits Tax Repeal Act of 2019

116th Congress (2019-2020) | [Get alerts](#)

BILL Hide Overview ✕

Sponsor: [Rep. Courtney, Joe \[D-CT-2\]](#) (Introduced 01/24/2019)

Committees: House - Ways and Means

Latest Action: House - 01/24/2019 Referred to the House Committee on Ways and Means. ([All Actions](#))

Tracker:

Introduced

Passed House

Passed Senate

To President

Became Law

More on This Bill

[Constitutional Authority Statement](#)

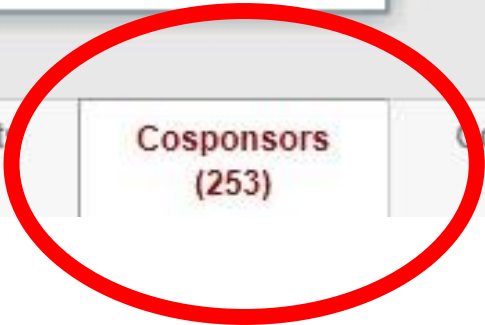
[CBO Cost Estimates \[0\]](#)

Subject — Policy Area:

Taxation

[View subjects »](#)

| | | | | | | | |
|----------------|-------------|----------------|---------------|------------------|---------------------|-------------------|----------------------|
| Summary (1) | Text (1) | Actions (2) | Titles (2) | Amendment (0) | Cosponsors (253) | Committees (1) | Related Bills (1) |
|----------------|-------------|----------------|---------------|------------------|---------------------|-------------------|----------------------|



The “HIT” – Health Insurance Tax

- Traditionally, all ACA taxes dealt with together
- HIT is sympathetic because it applies to small business, individuals, retirees
- However, many in Congress believe HIT has been successfully implemented and absorbed



Bottom line – heavy lift.

High Prescription Drug Costs – ERIC’s Legislative Focus

- Importation to drive competition, address shortages, and spread R&D costs to international “free-riders”: S.61, S. 844
- End “Pay-for-Delay” shenanigans: S. 64 / H.R. 1499
- PBM transparency: S. 476
- Price increase “name and shame”: S. 474
- Speed up US recognition of internationally approved drugs: S. 658
- End patient safety sample withholding shenanigans: S. 340 / H.R. 965
- End patent trolling / parking shenanigans: H.R. 938
- Improve FDA info clarity: H.R. 1503, H.R. 1520
- Transparency for providers and patient groups that receive gifts from pharma: H.R. 2604
- Transparency for average drug sales price paid by CMS: ***

Surprise Medical Billing



Employers' Top Priorities for Surprise Billing:

- 1) In-network facility, OON provider
- 2) Emergency care
- 3) Shenanigans
 - 1) Ambulance exclusivity
 - 2) Emergency room staffing firms

Employers' Top Threats to Avoid:

- 1) Forced to pay billed charges
- 2) Locked into binding arbitration
- 3) Subject to state whims

Other employer health care priorities for the
116th that **might** have a shot...

High-Deductible Health Plans and Health Savings Accounts

Employers' Top Priorities for HSA/HDHP:

- 1) Allow 1st-dollar coverage for chronic conditions
- 2) Onsite/Near-site clinics
- 3) Fixing quirks – Spousal FSA, Adult Children
- 4) Telehealth
- 5) Conversions
- 6) PHIT
- 7) Eligibility – Veterans, Seniors, Native Americans

NOT DOUBLING CONTRIBUTION LIMITS!



All-Payers Claims Database



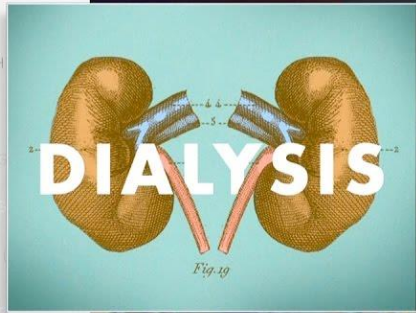
- States want claims data, cannot get ERISA plans' data
- Employers could also use this data, but not 50 different state databases, standards, etc.
- Federal government may have authority – Congress interested in clarifying
- Help with forecasting, finding trends, negotiating, you name it

Wellness Programs

- AARP lawsuit: No there are NO RULES
- Senate invoked new “nuclear option” – move nominees?
- Possibility of legislative fix – trade-off is, apply limits to “participatory programs”
- Increase flexibility with biometrics, eliminate required link to smoking cessation?



Kidney Dialysis, End-Stage Renal Disease (ESRD)



- Fake charity scam – Dialysis provider pays patient's premiums, steers patient AWAY from Medicaid/Medicare, INTO employer plan, exchange plan
- Attempt to extend “coordinating period” beyond current 30 months
- Wildly higher payments demanded from employer plans – attempt to level out

Value-Driven Reforms for Medicare

- Never Events – align Medicare policy with private sector policies
- Centers of Excellence – Medicare can now pay for travel, telehealth... time for a demo!



ACA Stabilization and Relief



- Congress is still considering shoring up ACA marketplaces – employers need to pay attention!
- **Threat** – 1332 waiver fast-track, loss of ability to weigh in, prevent assessments
- **Opportunity** – Clarify that states cannot impose employer mandate on ERISA plans, modify it, strike penalties
- **Threat** – TRP? Employers forced to pay for reinsurance?

Empower States to Regulate Air Ambulances

- Current policy – Federally regulated (hardly) via Airline Deregulation Act
- Proposal – Treat AA like every other health service provider, and allow states to regulate standards of care, billing, arrangements
- **Opportunity** – Employer representation on FAA advisory committee



Questions or comments?

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