



Health Policy Briefing

October 12, 2015

Congress in Recess; House Postpones Speaker Elections

The House of Representatives has adjourned for a week-long recess without a timeline for electing a new Speaker of the House. Majority Leader Kevin McCarthy (R-Calif.) unexpectedly dropped out of the race for Speaker on Thursday. He explained that he did not believe he would be able to unite the divided Republican conference as leader of the party. McCarthy was the favorite to succeed outgoing Speaker of the House John Boehner (R-Ohio). While McCarthy would have had the 124 votes necessary to be nominated for Speaker during the closed-door internal GOP conference election, it is unclear whether he would have the simple majority of 218 votes necessary to win during the formal vote on the House floor. Prior to McCarthy's announcement, Boehner postponed elections for majority leader and whip, which were also scheduled to take place on Thursday, in response to conservatives who argued that McCarthy might lose the Speaker's race and keep his position as majority leader. McCarthy will retain the majority leader post through 2016, and Rep. Steve Scalise (R-La.) will stay in his current position as House majority whip. Boehner, who had announced that he would be resigning on October 30, has confirmed that he will remain as Speaker of the House until a successor is elected. He had previously scheduled the formal vote for Speaker on the House floor for October 29. A new date for the Speaker elections has not been scheduled, and a later date could complicate work on a number of pressing policy priorities, including addressing the debt limit in early November and negotiating a fiscal 2016 spending package to fund the federal government by December 11. McCarthy was challenged for the Speaker position by Chairman of the Oversight and Government Reform Committee Jason Chaffetz (R-Utah) and Rep. Daniel Webster (R-Fla.). Chaffetz has spoken out against Senate Majority Leader Mitch McConnell's (R-Ky.) promise that there will be no more government shutdowns during his time in office. Some Republican members are now looking toward Ways and Means Committee Chairman Paul Ryan (R-Wis.) to unite the Republican party, but Ryan has seemed reluctant to

continued on page 2

Inside

- Republicans Push to Change House GOP Conference Rules.....2
- Senate Renews Action on Fiscal 2016 Spending Bills.....2
- Agreement In Principle Reached on Biologic Drug Patents.....2
- Federal Deficit Shrinksto \$435 Billion.....2
- Commonwealth Fund Report Examines U.S. Health Care Spending, Outcomes.....3
- Reconciliation Advanced by House Budget Committee.....3
- Meaningful Use Final Rules Released.....3
- Brown Introduces Medicare Advantage Network Legislation.....4
- Upcoming Congressional Meetings and Hearings.....4
- Health Legislation Recently Introduced.....4

continued from page 1

express interest in the position of Speaker. Others have floated the idea of an interim speaker to preside until the November 2016 elections.

Republicans Push to Change House GOP Conference Rules

In the wake of Majority Leader Kevin McCarthy's (R-Calif.) withdrawal from the race for Speaker of the House, a number of rank-and-file Republicans are pushing for a series of changes that would revise how leaders are elected and would give them a greater say in setting the legislative agenda. Rep. Mark Meadows (R-N.C.) has called for a rule change that would give more authority to House committee chairmen to aid in getting bills to the House floor. Rep. Jim Renacci (R-Ohio) has proposed that if a lawmaker can get a certain number of cosponsors on a bill, that bill should be guaranteed a committee hearing. Rep. David Jolly (R-Fla.) has suggested a schedule change that would require the House to be in session for full 40-hour weeks, in order to create more time for legislative activity. Rep. Lynn Westmoreland (R-Ga.) has proposed that all leadership candidates must resign from their current post in order to run for a promotion. Conference Chairman Cathy McMorris Rodgers (R-Wash.) and GOP Policy Chairman Luke Messer (R-In.) have also announced the formation of a working group to examine the rules and procedures of the House.

Senate Renews Action on Fiscal 2016 Spending Bills

Congress must act by December 11 to pass individual spending bills, extend the current continuing resolution (CR) funding the federal government, or negotiate a bipartisan budget agreement. While negotiations on a budget agreement continue, Senate Majority Leader Mitch McConnell (R-Ky.) has taken action to begin grouping individual spending bills together into packages for votes on the Senate floor. Eleven of the twelve fiscal year 2016 spending bills have been put into four groups, known as "minibuses." While all have been approved by Senate appropriators in committee, Democrats have already blocked floor votes on the individual spending bills in opposition to sequestration level spending caps. The Labor/Health and Human Services spending bill is grouped with the Interior-Environment and Financial Services spending measures, making it one of the more contentious packages.

Agreement In Principle Reached on Biologic Drug Patents

Last week, a compromise was reached on patent protections for makers of biologic drugs in the 12-country Pacific-rim trade agreement. While the final language of the deal has not yet been released, the Trans-Pacific Partnership (TPP) negotiators settled on five years of data protection for biologics before other companies could start producing biosimilars. The compromise was mainly brokered between the United States and Australia. The pharmaceutical industry had pushed for 12 years of protection for biologic medicines, as exists under current domestic law. This time period would help support medical innovation and the development of new cures and treatments. Australia and other countries, however, expressed concerns about the effect that a delay in biosimilar introduction could have on rising health care costs. Some lawmakers have indicated that it will be difficult for them to support a deal without the 12 years of protection for biologics. Congress is expected to receive the agreement next year.

Federal Deficit Shrinks to \$435 Billion

According to Congressional Budget Office (CBO) estimates, the federal government ran a \$435 billion budget deficit in fiscal year (FY) 2015, which ended on September 30. This is \$48 billion less than the deficit in 2014 and the smallest the deficit has been since 2007. The agency predicts that the deficit will continue to lessen through 2016, but begin growing again in 2017 through 2025. CBO estimates that the government brought in \$3.25 trillion in revenue in FY 2015, up eight percent from the previous year. The actual deficit will be reported by the Treasury Department later this month.

Commonwealth Fund Report Examines U.S. Health Care Spending, Outcomes

The United States spends more per person on health care than other wealthy countries, but often has worse health outcomes, according to a new **report** from the Commonwealth Fund. The United States spent \$9,086 per person on health care in 2013. Among a comparison group of 12 other wealthy countries, the next closest to the U.S. in health spending was Switzerland, which spends \$6,325 per person. Despite ranking above the other 12 countries in spending, the life expectancy in the U.S. is 78.8 years, the lowest in the comparison group. Switzerland has a life expectancy of 82.9 years. The U.S. also has the highest percentage of people age 65 or older with two or more chronic conditions.

Affordable Care Act Update

Reconciliation Advanced by House Budget Committee

On Friday, the House Budget Committee approved a reconciliation bill by a 21-11 party line vote. The bill would reduce the deficit by \$78.9 billion over the next decade, but add at least \$5 billion to the deficit in each of the four decades following 2025. It would partially repeal the Affordable Care Act (ACA) and would redirect funds for Planned Parenthood to community health centers for a year. The reconciliation bill would repeal the individual and employer mandates, defund the Prevention and Public Health Fund, and repeal a future requirement for large employers to automatically enroll their employees in health insurance plans. While several elements of the bill have bipartisan support – such as repeal of the medical device tax, the Cadillac Tax, and the Independent Payment Advisory Board (IPAB) – reconciliation will likely face strong opposition by Democrats. Additionally, the Senate’s “Byrd rule” permits a point of order against a reconciliation provision that would increase the deficit during the years following the budget window or is considered “extraneous matter” not impacting the budget. While it only requires a simple majority to pass a bill under reconciliation, it takes 60 votes to overcome a point of order raised against a violation of the Byrd rule. The reconciliation bill is expected to pass the House in its current form, and any changes necessary to comply with the Byrd rule would be handled by the Senate. If it is cleared by Congress, the President is expected to veto the bill. The bill could be considered on the floor soon after the House returns from its week-long recess.

Medicare and Medicaid News

Meaningful Use Final Rules Released

Last week, the Centers for Medicare and Medicaid Services (CMS) released the final rule for the Meaningful Use Electronic health records (EHR) program. The rule makes a number of changes to the program, such as allowing providers to apply for hardship exemptions. The final rule does not, however, delay the implementation of Stage 3, the final stage of Meaningful Use. Chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee Lamar Alexander (R-Tenn.) was angered by the release of the final rule. He has pushed for a delay to the EHR incentive program until no earlier than January 1, 2017. Alexander has asserted that Congress will review the rule, and consider fixing it through legislation or overturning it through the Congressional Review Act. The administration “missed a golden opportunity to develop bipartisan support in Congress and throughout the country for an electronic health records system that would genuinely help patients,” Alexander said. “Instead, they’ve rushed ahead with a rule against the advice of some of the nation’s leading medical institutions and physicians.” The final rule allows for a 90-day period for additional comment.

Brown Introduces Medicare Advantage Network Legislation

Sen. Sherrod Brown (D-Ohio) has announced plans to reintroduce legislation with Sen. Richard Blumenthal (D-Conn.) that would keep Medicare Advantage networks intact for a full year following the open enrollment period. The bill would only allow Medicare Advantage plans to drop providers from their networks under extraordinary situations, such as criminal behavior on the part of the provider or an inability to provide care to patients. Additionally, plans would have to determine their provider networks at least 60 days before the open-enrollment period. Rep. Rosa DeLauro (D-Conn.) is expected to introduce the companion bill in the House.

Upcoming Congressional Meetings and Hearings

Senate Finance Health Care Subcommittee: field hearing titled “*Opiate Abuse*,” 2:15 p.m., Allegheny General Hospital, McGovern Auditorium, 320 E. North Ave., Pittsburgh, Pa.; Oct. 15

House Veterans’ Affairs Health Subcommittee: hearing titled “*Evaluating VA Primary Care Delivery, Workload, and Cost*,” 10:00 a.m., 334 Cannon Bldg., Oct. 22

Health Legislation Recently Introduced

H.R. 3691 (introduced by Rep. Ben Ray Luján of New Mexico): A bill to amend the Public Health Service Act to reauthorize the residential treatment programs for pregnant and postpartum women and to establish a pilot program to provide grants to State substance abuse agencies to promote innovative service delivery models for such women; to the Committee on Energy and Commerce; October 6

H. Res. 463 (introduced by Rep. Brendan F. Boyle of Pennsylvania): A resolution recognizing October 7th as National Trigeminal Neuralgia Awareness Day; to the Committee on Energy and Commerce; October 6

S. 2141 (introduced by Sen. Cassidy): A bill to amend the Public Health Service Act with respect to health information technology; to the Committee on Health, Education, Labor, and Pensions; October 6

H.R. 3696 (introduced by Rep. Titus): A bill to amend title XVIII of the Social Security Act to prevent Medicare part B premium and deductible increases for 2016; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 6

S. 2148 (introduced by Sen. Wyden): A bill to amend title XVIII of the Social Security Act to prevent an increase in the Medicare part B premium and deductible in 2016; to the Committee on Finance; October 6

S. 2151 (introduced by Sen. Thune for himself and Sen. Casey): A bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act; to the Committee on Health, Education, Labor, and Pensions; October 6

S. 2153 (introduced by Sen. Grassley): A bill to amend title XI of the Social Security Act to require applicable manufacturers to include information regarding payments made to physician assistants, nurse practitioners, and other advance practice nurses in transparency reports submitted under section 1128G of such Act; to the Committee on Finance; October 6

S. 2159 (introduced by Sen. Vitter): A bill to amend title XIX of the Social Security Act to allow for greater State flexibility with respect to excluding providers who are involved in abortions; to the Committee on Finance; October 6

Health Legislation Recently Introduced cont.

H.R. 3696 (introduced by Rep. Titus): A bill to amend title XVIII of the Social Security Act to prevent Medicare part B premium and deductible increases for 2016; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 7

S. 2148 (introduced by Sen. Wyden): A bill to amend title XVIII of the Social Security Act to prevent an increase in the Medicare part B premium and deductible in 2016; to the Committee on Finance; October 7

S. 2151 (introduced by Sen. Thune for himself and Sen. Casey): A bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act; to the Committee on Health, Education, Labor, and Pensions; October 7

S. 2153 (introduced by Sen. Grassley): A bill to amend title XI of the Social Security Act to require applicable manufacturers to include information regarding payments made to physician assistants, nurse practitioners, and other advance practice nurses in transparency reports submitted under section 1128G of such Act; to the Committee on Finance; October 7

S. 2159 (introduced by Sen. Vitter): A bill to amend title XIX of the Social Security Act to allow for greater State flexibility with respect to excluding providers who are involved in abortions; to the Committee on Finance; October 7

H.R. 3709 (introduced by Rep. Poliquin): A bill to make permanent the pilot program administered by the Secretary of Veterans Affairs regarding enhanced contract care authority for the health care needs of veterans located in highly rural areas, and for other purposes; to the Committee on Veterans' Affairs; October 8

H.R. 3712 (introduced by Rep. Lee): A bill to amend title XVIII of the Social Security Act to improve access to mental health services under the Medicare program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 8

H.R. 3716 (introduced by Rep. Bucshon): A bill to amend title XIX of the Social Security Act to require States to provide to the Secretary of Health and Human Services certain information with respect to provider terminations, and for other purposes; to the Committee on Energy and Commerce; October 8

H.R. 3718 (introduced by Rep. Roskam): A bill to amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 8

H.R. 3722 (introduced by Rep. McSally): A bill to strengthen our mental health system and improve public safety; to the Committee on the Judiciary, and in addition to the Committees on Science, Space, and Technology, Veterans' Affairs, Appropriations, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 8

H.R. 3727 (introduced by Rep. Schakowsky): A bill to amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates; to the Committee on Energy and Commerce; October 8

H. Res. 470 (introduced by Rep. Capps): A resolution congratulating the National Institute of Nursing Research on the occasion of its 30th Anniversary; to the Committee on Energy and Commerce; October 8

Health Legislation Recently Introduced cont.

- S. 2170 (introduced by Sen. Ernst): A bill to amend title 38, United States Code, to *improve the ability of health care professionals to treat veterans through the use of telemedicine, and for other purposes; to the Committee on Veterans' Affairs; October 8*
- S. 2172 (introduced by Sen. Feinstein): A bill to amend the Public Health Service Act to *provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates; to the Committee on Health, Education, Labor, and Pensions; October 8*
- S. 2173 (introduced by Sen. Stabenow): A bill to amend title XVIII of the Social Security Act to *improve access to mental health services under the Medicare program; to the Committee on Finance; October 8*
- S. 2175 (introduced by Sen. Tester): A bill to amend title 38, United States Code, to *clarify the role of podiatrists in the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs; October 8*
- S. 2179 (introduced by Sen. Blumenthal): A bill to amend title 38, United States Code, to *allow the Secretary of Veterans Affairs to enter into certain agreements with non-Department of Veterans Affairs health care providers if the Secretary is not feasibly able to provide health care in facilities of the Department or through contracts or sharing agreements, and for other purposes; to the Committee on Veterans' Affairs; October 8*
- H.R. 3731 (introduced by Rep. Vargas): A bill to *establish a Rare Disease Therapeutics Corporation to encourage the development of high-risk, high-return therapies for rare diseases, and for other purposes; to the Committee on Energy and Commerce; October 9*
- H.R. 3739 (introduced by Rep. Woodall): A bill to *provide for qualified physicians to perform a medical certification for an operator of a commercial motor vehicle who is a veteran, and for other purposes; to the Committee on Transportation and Infrastructure; October 9*
- H.R. 3742 (introduced by Rep. Cramer): A bill to *amend the Patient Protection and Affordable Care Act to allow for certain third party payments; to the Committee on Energy and Commerce; October 9*
- H.R. 3745 (introduced by Rep. Rodney Davis of Illinois): A bill to amend title XVIII of the Social Security Act to *allow chiropractors to provide items and services through private contracts under the Medicare program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 9*
- H.R. 3755 (introduced by Rep. Titus): A bill to amend title XVIII of the Social Security Act to *provide for the disregard of certain resident slots that include Department of Veterans Affairs training in determining payments for direct graduate medical education costs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 9*
- H. Res. 474 (introduced by Rep. McCollum): A resolution *recognizing the important contribution and added value of mental health and psychosocial support services and the importance of building such capacity in humanitarian and development contexts; to the Committee on Energy and Commerce, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 9*