



Health Policy Briefing

October 16, 2017

Trump Issues Health Care EO; Announces Plans to Halt CSR Payments

Last week, President Trump issued an **executive order** that will loosen rules and restrictions around the availability of association health plans (AHPs) and low-cost, short-term plans currently curtailed under Obamacare. The order also directs federal agencies to increase tax-free “Health Reimbursement Arrangements (HRA)” – employer-funded accounts to help employees pay for costs associated with their health care. Agencies will now be required to begin the rulemaking process to implement the executive order.

In a separate announcement, the Administration stated plans to immediately discontinue cost-sharing reduction (CSR) payments to insurance companies. The U.S. Department of Health and Human Services (HHS) concluded that it could not lawfully continue the payments without appropriation from Congress.

The President claims that these moves will foster competition among insurers, encourage more people to sign up for coverage, and end the undue profiting and bailout of insurance companies from CSR payments. Opponents of the decisions are concerned that healthier people will be encouraged to purchase cheaper, skimpier plans, which will drive up costs among Obamacare plans offering more comprehensive coverage and ultimately undermine the general risk pool in the exchanges.

Patient and physician groups were quick to criticize the executive order. The American Academy of Family Physicians, American Academy of Pediatrics, American College of Physicians, American Congress of Obstetricians and Gynecologists, American Osteopathic Association and American Psychiatric Association issued a statement warning against the potential market destabilization that could result from the move. A coalition of 18 patient organizations, including the March of Dimes and the American Lung Association, cautioned that the order would put sicker Americans at risk of being priced out of the market.

States quickly announced plans to sue the President over his decision to end the health insurance subsidies. The lawsuit, which includes 18 states and the District of Columbia, is led by the attorneys general in California and New York. They are requesting a court order compelling the Administration to continue

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making the CSR payments, arguing that the payments are mandated under current law.

Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.) have been negotiating a bipartisan package to stabilize Obamacare's individual health insurance markets and now face increased pressure to reach an agreement in light of last week's decisions from the White House. Their effort would likely fund the insurer subsidy payments while increasing flexibility for states to regulate their own insurance markets. It was reported that the plan has received support from the President should Democrats remain supportive of increased state flexibility. Director of the Office of Management and Budget (OMB) Mick Mulvaney, however, has stated that the President will oppose any congressional attempts to restore CSR funding unless he receives something in return – like repeal of the Affordable Care Act (ACA) or money for a border wall. Should the bipartisan stabilization package not succeed, congressional Democrats are also threatening to use must pass legislation to restore the CSR payments – Congress faces a December 8 deadline for passing a year-end omnibus spending bill to keep the federal government running.

Lawmakers Inquire on Status of Opioid National Emergency Declaration

Sens. Elizabeth Warren (D-Mass.) and Lisa Murkowski (R-Alaska) have **written** to the President requesting information on why the Administration has yet to declare the opioid epidemic a national emergency. On August 10, President Trump stated that the Administration was drafting documents to make the declaration official. Since that time, however, Trump has not followed up on his verbal commitment. “Emergency declarations can help combat epidemics by freeing up funds, promoting innovative programs, and making treatments more accessible to vulnerable populations,” the senators explain. They urge the President to implement the preliminary recommendations of the Commission on Combatting Drug Addiction and the Opioid Crisis – which includes the declaration of a national emergency – without delay. During a statement last week on his latest executive order, the President did state that he still plans to formally declare a national emergency related to the opioid epidemic.

NIH Announces New Moonshot Partnership

The National Institutes of Health (NIH) announced a new public-private research collaboration in partnership with 11 biopharmaceutical companies to increase the number of cancer treatments available. The Partnership for Accelerating Cancer Therapies (PACT) will be a five-year, \$215 million initiative. This latest step from the Cancer Moonshot will focus on advancing new immunotherapy treatments and research to understand how these treatments work. PACT also aims to facilitate information sharing and research coordination in order to decrease duplicative work in the field.

Hargan Named Acting HHS Secretary

President Trump announced that Eric Hargan will fill the position of Acting Secretary for the U.S. Department of Health and Human Services (HHS). Hargan was recently confirmed by the Senate as Deputy Secretary of Health and Human Services. He will step in for Don Wright, an HHS official who had been serving in the post since former secretary Tom Price resigned late last month.

In a recent interview, the President stated that he plans to leave many other positions requiring a presidential appointment vacant. He argued that the size of some federal agencies is unnecessarily large, and that the decision to leave some offices understaffed is part of an intentional effort to reduce the size of the federal government. Sources estimate that there are 289 out of 600 key positions in the administration without a presidential nominee.

House Passes National Clinical Care Commission Act

The House of Representatives passed S. 920, the National Clinical Care Commission Act, by voice vote last week. The legislation will establish a national clinical care commission to evaluate and recommend solutions for better care coordination and use of federal programs to improve care for people with metabolic syndromes and related autoimmune disorders.

CHIP Vote Postponed to Continue Pay For Negotiations

Chairman of the House Energy and Commerce Committee Greg Walden (R-Ore.) postponed floor consideration of legislation to extend the Children's Health Insurance Program (CHIP) at the request of House Democrats, who asked for more time to negotiate bipartisan offsets for the bill. If a deal was not reached by Friday, October 13, Walden said that he expected the full House to begin consideration of the legislation immediately following this week's district work period. Democrats oppose the current House Republican proposed offsets that would make cuts to the Prevention and Public Health Fund and increase premiums for high-income Medicare beneficiaries.

Upcoming Congressional Hearings and Meetings

Senate Health, Education, Labor, and Pensions Committee hearing "The Cost of Prescription Drugs: How the Drug Delivery System Affects What Patients Pay, Part II;" 10:00 a.m., 430 Dirksen Bldg.; October 17

Senate Health, Education, Labor, and Pensions Committee hearing "Examining How Healthy Choices Can Improve Health Outcomes and Reduce Costs;" 10:00 a.m., 430 Dirksen Bldg.; October 19

House Veterans' Affairs Committee hearing on draft legislation to establish a permanent Veterans Choice Program; draft legislation to modify VA's authority to enter into agreements with State homes to provide nursing home care to veterans, to direct the Secretary to carry out a program to increase the number of graduate medical education residency positions, and for other purposes; the Department of Veterans Affairs' (VA's) legislative proposal, the Veteran Coordinated Access and Rewarding Experiences (CARE) Act; H.R. 1133; H.R. 2123; H.R. 2601; and, H.R. 3642; 10:00 a.m., 334 Cannon Bldg.; October 24

Recently Introduced Health Legislation

H.R.3991 (introduced by Rep. Michelle Lujan Grisham): To amend section 303(g)(2) of the Controlled Substances Act to allow certain pharmacists to dispense narcotic drugs for maintenance or detoxification treatment pursuant to the same waiver provisions as apply with respect to nurse practitioners and physician assistants; Energy and Commerce, Judiciary

H.R.3992 (introduced by Rep. Kristi L. Noem): To amend title XVIII of the Social Security Act to delay application of, transition to, and limit savings for the home health groupings model under the Medicare home health prospective payment system, and for other purposes; Ways and Means, Energy and Commerce

H.R.4004 (introduced by Rep. Bill Posey): To amend the Patient Protection and Affordable Care Act to require employees of the White House to enroll in Obamacare, and for other purposes; Oversight and Government Reform, Energy and Commerce

H.R.4005 (introduced by Rep. Paul Tonko): To amend title XIX of the Social Security Act to allow for medical assistance under Medicaid for inmates during the 30-day period preceding release from a public institution; Energy and Commerce

H.R.4006 (introduced by Rep. Linda T. Sanchez): To establish a Community-Based Institutional Special Needs Plan demonstration program to target home and community-based care to eligible Medicare beneficiaries, and for other purposes; Ways and Means, Energy and Commerce

H.Res.567 (introduced by Rep. Karen Bass): Expressing support for the physician assistant (PA) profession and the designation of the week of October 6 through 12, 2017, as “National PA Week”; Energy and Commerce

H.R.4059 (introduced by Rep. Cathy McMorris Rodgers): To amend title 38, United States Code, to ensure that physicians of the Department of Veterans Affairs fulfill the ethical duty to report to State licensing authorities impaired, incompetent, and unethical health care activities; Veterans’ Affairs