



Health Policy Briefing

October 2, 2017

Price Resigns as HHS Secretary

Tom Price, MD has resigned from his Cabinet position as Secretary of the U.S. Department of Health and Human Services (HHS). The announcement follows reports that Price used military flights and private jets for travel totaling more than \$1 million since May. In his resignation letter, Price expresses regret for creating a distraction from the important objectives of HHS and pledges to continue to support the Administration’s priorities in the future. Prior to being confirmed as Secretary, Price had served in the House of Representatives and authored legislation to repeal the Affordable Care Act (ACA).

Don J. Wright will serve as Acting HHS Secretary. Wright has worked as the Deputy Assistant Secretary for Health and Director of the Office of Disease Prevention and Health Promotion since 2012. He joined HHS in 2007 during the Bush Administration and previously served as the Deputy Assistant for Health Care Quality. During his time at HHS, he has worked on efforts to reduce adverse drug events and to monitor the nation’s leading health indicators. He previously worked on health and safety issues at the Department of Labor as Director of the Office of Occupational Medicine. He is board certified in both family medicine and preventive medicine and holds a master’s degree in public health.

The short-list to replace Price includes several current members of the Administration, including Acting HHS Secretary Don Wright, Administrator for the Centers for Medicare and Medicaid Services (CMS) Seema Verma, Secretary of Veterans Affairs David Shulkin, Commissioner of Food and Drugs Scott Gottlieb, and Housing and Urban Development Secretary Ben Carson. Former Louisiana Gov. Bobby Jindal, former Sen. Rick Santorum (R-Pa.), Florida Governor Rick Scott, and Rep. Marsha Blackburn (R-Tenn.) also appear to be in the running.

The acting head of the Drug Enforcement Administration (DEA) Chuck Rosenberg also stepped down as of October 1. It is not clear who will replace him.

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GOP Scraps Plans to Repeal and Replace This Year

Senate Republicans decided not to hold a vote on the Graham-Cassidy-Heller-Johnson proposal to repeal and replace the Affordable Care Act (ACA) after it became apparent that they lacked the 50 votes needed to successfully pass the legislation. The plan would have eliminated insurance mandates and converted Obamacare funding into block grants for states to set up and regulate their own health insurance markets.

Sen. Susan Collins (R-Maine) provided the decisive third ‘no’ vote from the Republican caucus, following earlier announcements from Sens. Rand Paul (R-Ky.) and John McCain (R-Ariz.). Even under the fast-track budget process known as reconciliation, Republicans could not afford to lose more than two votes and still pass the bill with Vice President Pence serving as the 51st vote.

Sen. Collins had been waiting to see a score from the Congressional Budget Office (CBO) before making a final decision about the proposal. The agency’s preliminary score found that the plan would reduce the number of people with health insurance by millions, while cutting the budget deficit by at least \$133 billion over the next decade. The CBO considered an earlier version of the legislation; bill sponsors had unveiled a revised bill targeting both conservative and centrist holdouts earlier in the day. While leadership ultimately chose not to bring the bill to the floor, Republicans disagreed on whether a vote should be held. Some wanted to go on the record, even if the bill were to fail, while others looked to the 2018 midterm elections and did not want to waste political capital on a failed vote.

While Republicans’ ability to use reconciliation on health care reform expired on Saturday, President Trump and congressional Republicans have pledged that they are not abandoning their promise to repeal and replace Obamacare. The GOP has decided to focus their fiscal year (FY) 2018 budget resolution on tax reform but a repeal effort could resume in FY19. Sen. Graham (R-S.C.) and others have stated that going forward, Republicans will prioritize regular order in order to win the support of those lawmakers upset by the timeline constraints and process used this year.

The President has also indicated that an executive order allowing the sale of health insurance across state lines is forthcoming.

House to Markup CHIP Legislation This Week

Lawmakers allowed funding for the Children’s Health Insurance Program (CHIP) to expire on September 30 without passing legislation to reauthorize the program while noting that most states have carry-over funds to keep their local insurance programs open until the end of the year. CHIP programs in three states and the District of Columbia expend current funding before the end of the year.

The House Energy and Commerce Committee has announced plans to markup legislation this week that would provide funding for both CHIP and community health centers – 70 percent of total grant dollars for these health centers also faced a September 30th funding cliff. The bill will include provisions on other health programs as well, such as the Special Diabetes Programs, the National Health Service Corps (NHSC), and Teaching Health Center Graduate Medical Education. Details on the legislation, including the length of funding extensions and potential offsets, have yet to be released.

Bipartisan legislation to extend CHIP funding has already been introduced in the Senate, and Finance Committee Chairman Orrin Hatch (R-Utah) has made clear his wishes to pass stand-alone CHIP legislation. The Senate bill would extend CHIP funding for five-years, but it is still unknown how the Senate bill would be paid for and the Senate Finance Committee has yet to schedule a markup of the legislation.

Bipartisan Talks on ACA Fix Resume

Following the collapse of Republican's latest attempt to repeal and replace the Affordable Care Act (ACA), the Senate Health, Education, Labor, and Pensions (HELP) Committee leadership resumed bipartisan negotiations focused on stabilizing the individual health insurance market and lowering health insurance premiums. Committee Chairman Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.) have both stated that they are close to reaching an agreement that will focus on market changes over the next two years. The deal would likely legislate funding for cost-sharing reduction (CSR) payments and allow for the sale of low-cost health care plans. Insurers have already made decisions about participation and rates for the 2018 plan year, but successful legislation could still have an impact in 2019.

The House Problem Solvers Caucus -- a group of 43 bipartisan lawmakers led by Reps. Josh Gottheimer (D-N.J.) and Tom Reed (R-N.Y.) -- have written to congressional leadership supporting work on a bipartisan health reform plan. They request mandatory funding for CSR payments, the creation of a stability fund for states to help reduce premiums and limit losses in providing insurance coverage, repeal of the medical device tax, and steps to reduce the impact of the employer mandate on small employers. While the talks are strongly supported by Democratic leadership, it is unclear whether a deal would have enough Republican support to pass the full Senate or the House of Representatives.

Opioid Epidemic News Roundup

Commissioner of Food and Drugs Scott Gottlieb announced in a blog post last week that his agency will begin requiring more opioid makers to provide prescriber training as a means to stem the opioid abuse epidemic. The Food and Drug Administration (FDA) notified 74 manufacturers of the most widely prescribed, immediate-release opioids that their products will be subject to the requirements. Prescribers will not be required to take part in the training. This requirement has already been in place since 2012 for long-acting opioids that release their doses over 12 hours or more. This action followed closely on the heels of the FDA notifying hundreds of "rogue" websites about the illegal sale of opioids and other prescription drugs.

The FDA has also established a docket to receive public comments and recommendations for the agency's newly established Opioid Policy Steering Committee. The FDA is specifically seeking information related to ensuring opioid-related regulatory decisions are made with the right information, promoting appropriate prescribing and distribution practices, and whether the agency should require mandatory education for health care professionals who prescribe opioids. Comments are due by December 28.

The Centers for Disease Control and Prevention (CDC) launched a new awareness campaign last week to combat the crisis. The web portal [Rx Awareness](#) features testimonials from individuals recovering from opioid addiction or friends and family members who lost someone to opioid abuse. Rx Awareness also includes the latest data on the epidemic, treatment resources, and methods to prevent overdoses. It will include targeted ads in Ohio, Kentucky, Massachusetts, and New Mexico.

Finally, the U.S. Department of Health and Human Services' (HHS) Office of Minority Health (OMH) announced the provision of new cooperative agreement awards to six organizations for the purpose of helping minority and disadvantaged communities disproportionately effected by the opioid epidemic.

Senate Passes CHRONIC Care Act

The Senate unanimously passed S. 870, the Creating High-Quality Results and Outcomes Necessary to Improve Chronic (CHRONIC) Care Act of 2017. The bill would extend the Independence at Home (IAH) program and includes provisions to expand the use of telehealth among patients receiving dialysis or those who may be having a stroke. It would also provide flexibility to Medicare Advantage (MA) and Accountable Care Organizations (ACOs) to improve their ability to serve those with chronic illness. The bill was the product of a bipartisan chronic care working group in the Senate Finance Committee led by Sens. Mark Warner (D-Va.) and Johnny Isakson (R-Ga.). Chairman Orrin Hatch (R-Utah) and Ranking Member Ron Wyden (D-Ore.) are strongly encouraging the House of Representatives to pass the measure.

Senate Budget Resolution Includes Rules Change

The Senate released its budget resolution on Friday. The resolution would eliminate a rule that has been in place since 2015 that requires a 28-hour waiting period between the release of a Congressional Budget Office (CBO) score and voting on a bill. The rule has only applied to committee-passed legislation and not bills sent directly to the Senate floor. The fiscal year (FY) 2018 budget resolution keeps intact the requirement for a CBO score prior to a floor vote. The draft resolution will be voted on by committee this week, with a floor vote planned for later in the month.

Corker to Retire in 2018

Sen. Bob Corker (R-Tenn.) announced that he will not be running for reelection in 2018. Corker is the chairman of the Foreign Relations Committee and is currently in his second term. He is the first senator to announce his retirement plans this Congress. Rep. Marsha Blackburn (R-Tenn.) has stated that she is considering a run for Corker's seat.

Upcoming Congressional Hearings and Meetings

House Energy and Commerce Health Subcommittee hearing on "Examining Patient Access to Investigational Drugs;" 10:15 a.m., 2322 Rayburn Bldg.; October 3

House Oversight and Government Reform Information Technology Subcommittee hearing on "Cybersecurity of the Internet of Things;" 2:00 p.m., 2247 Rayburn Bldg.; October 3

House Energy and Commerce Committee markup of bill to extend federal funding for the Children's Health Insurance Program and important public health programs; time and place TBD; October 4

Senate Health, Education, Labor, and Pensions Committee hearing on The Federal Response to the Opioid Crisis; 10:00 a.m., 430 Dirksen Bldg.; October 5

Recently Introduced Health Legislation

H.R.3826 (introduced by Rep. Lois Frankel): To amend title XXVIII of the Public Health Service Act to establish a National Advisory Committee on Seniors and Disasters; Energy and Commerce

H.R.3820 (introduced by Rep. Patrick Meehan): To permit occupational therapists to conduct the initial assessment visit and complete the comprehensive assessment under a Medicare home health plan of care for certain rehabilitation cases; Ways and Means, Energy and Commerce

H.Res.533 (introduced by Rep. Michael C. Burgess): Providing for consideration of the bill (H.R. 2824) to amend title V of the Social Security Act to extend the Maternal, Infant, and Early Childhood Home Visiting Program; providing for consideration of the bill (H.R. 2792) to amend the Social Security Act to make certain revisions to provisions limiting payment of benefits to fugitive felons under titles II, VIII, and XVI of the Social Security Act; and for other purposes; Rules

S.1850 (introduced by Sen. Joe Manchin, III (D-WV): A bill to amend the Public Health Service Act to protect the confidentiality of substance use disorder patient records; Health, Education, Labor, and Pensions

H.R.3842 (introduced by Rep. Tim Ryan): To amend the Public Health Service Act to reauthorize the Healthy Start for Infants Program; Energy and Commerce

H.R.3832 (introduced by Rep. Neal P. Dunn): To direct the Secretary of Veterans Affairs to enter into a memorandum of understanding with the executive director of a national network of State-based prescription monitoring programs under which Department of Veterans Affairs health care providers shall query such network, and for other purposes; Veterans' Affairs

H.Res.539 (introduced by Rep. Barbara Lee): Calling for sickle-cell trait research, surveillance, and public education and awareness; Energy and Commerce

H.Con.Res.80 (introduced by Rep. Brad R. Wenstrup): Expressing the sense of the Congress that assisted suicide (sometimes referred to as death with dignity, end-of-life options, aid-in-dying, or similar phrases) puts everyone, including those most vulnerable, at risk of deadly harm and undermines the integrity of the health care system; Energy and Commerce

S.1859 (introduced by Sen. Cory Gardner): A bill to extend the moratorium on the annual fee on health insurance providers; Finance

H.Res.542 (introduced by Rep. Eliot L. Engel): Expressing support for designation of the week of October 1 through 7, 2017, as "Latex Allergy Awareness Week"; Oversight and Government Reform

S.1871 (introduced by Sen. Bill Cassidy): 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; Veterans' Affairs

S.1873 (introduced by Sen. Richard Blumenthal): A bill to require the Secretary of Veterans Affairs to carry out a program to establish peer specialists in patient aligned care teams at medical centers of the Department of Veterans Affairs, and for other purposes; Veterans' Affairs

S.1879 (introduced by Sen. John Barrasso): A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes; Finance

S.Res.269 (introduced by Sen. Robert Menendez): A resolution designating September 2017 as "National Prostate Cancer Awareness Month"; submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent

H.R.3862 (introduced by Rep. G.K. Butterfield): To amend the Public Health Service Act to extend funding for the National Health Service Corps program; Energy and Commerce

H.R.3867 (Introduced by Rep. Markwayne Mullin): To amend title XVIII of the Social Security Act to create care management demonstration programs for chronic kidney disease under the Medicare program, and for other purposes; Energy and Commerce, Ways and Means

H.R.3874 (introduced by Rep. Derek Kilmer): To direct the Secretary of Veterans Affairs to carry out a pilot program on physical security at Department of Veterans Affairs medical facilities, to direct the Secretary to make certain improvements relating to inspections of Department of Veterans Affairs medical facilities and improving care for women, to direct the Secretary to evaluate the organizational structure of the Veterans Health Administration, and for other purposes; Veterans' Affairs

H.R.3877 (introduced by Rep. Michelle Lujan Grisham): To amend title XVIII of the Social Security Act to protect health care consumers from surprise billing practices, and for other purposes; Energy and Commerce, Ways and Means

H.R.3880 (introduced by Rep. Frank Pallone, Jr.): To amend the Public Health Service Act to authorize and support the creation and dissemination of cardiomyopathy education, awareness, and risk assessment materials and resources to identify more at-risk families, to authorize research and surveillance activities relating to cardiomyopathy, and for other purposes; Energy and Commerce

H.R.3883 (introduced by Rep. Tom Reed): To provide for enhanced penalties for certain offenses relating to controlled substances containing fentanyl, and for other purposes; Judiciary, Energy and Commerce

H.R.3885 (introduced by Rep. Bradley Schneider): To direct the Attorney General to establish guidelines for a model elder abuse registry and to provide grants to States for establishing and operating such a registry, and for other purposes; Judiciary

H.R.3888 (introduced by Rep. Lloyd Smucker): To amend the Public Health Service Act to provide grants for additional residency slots in children's hospitals graduate medical education programs; Energy and Commerce

H.R.3891 (introduced by Rep. Tim Walberg): To amend title XIX of the Social Security Act to clarify the authority of State Medicaid fraud and abuse control units to investigate and prosecute cases of Medicaid patient abuse and neglect in any setting, and for other purposes; Energy and Commerce

S.1881 (introduced by Sen. Joni Ernst): A bill to expand eligibility for health care under the Veterans Access, Choice, and Accountability Act of 2014 to include certain veterans seeking mental health care, and for other purposes; Veterans' Affairs

S.1882 (introduced by Sen. Edward J. Markey): A bill to amend the Controlled Substances Act to require the Attorney General to make procurement quotas for opioid analgesics publicly available, and for other purposes; Judiciary

S.1890 (introduced by Sen. Benjamin L. Cardin): A bill to improve the understanding of, and promote access to treatment for, chronic kidney disease, and for other purposes; Finance

S.1898 (introduced by Sen. Steve Daines): A bill to amend the Internal Revenue Code of 1986 to retroactively repeal the individual mandate for health insurance; Finance

S.1899 (introduced by Sen. Roy Blunt): A bill to reauthorize and extend funding for community health centers and the National Health Service Corps; Health, Education, Labor, and Pensions

S.Res.270 (introduced by Sen. Debbie Stabenow): A resolution designating September 2017 as "National Ovarian Cancer Awareness Month"; Judiciary

S.Res.273 (introduced by Sen. Tim Scott): A resolution expressing support for the designation of September 2017 as "Sickle Cell Disease Awareness Month" in order to educate communities across the United States about sickle cell disease and the need for research, early detection methods, effective treatments, and preventative care programs with respect to sickle cell disease, complications from sickle cell disease, and conditions related to sickle cell disease; submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent

S.Res.276 (introduced by Sen. Christopher A. Coons): A resolution designating September 2017 as “Pulmonary Fibrosis Awareness Month”; submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent