



Health Policy Briefing

January 11, 2016

Reconciliation Passed by Congress, Vetoed by President

The House began the second session of the 114th Congress by sending reconciliation legislation to the President’s desk. On Wednesday, House Republicans passed the Restoring Americans’ Healthcare Freedom Reconciliation Act (H.R. 3762), which would repeal most of the Affordable Care Act (ACA). The Senate had expanded upon the original House-passed version of the bill before passing it in December. The House approved the legislation by a vote of 240-181. Pro-life Representative Collin Peterson (D-Minn.) was the only Democrat to vote in favor of the measure. Reps. Bob Dold (R-Ill.), Richard Hanna (R-N.Y.) and John Katko (R-N.Y.) were the only Republicans to vote against it. It is the first time such a measure has reached the President since health care reform became law in 2010. President Obama vetoed the legislation on Friday. This was the eighth veto of Obama’s presidency and the sixth since Republicans gained the majority in Congress last year. While Republicans lack the two-thirds majority necessary to override the veto, Speaker of the House Paul Ryan (R-Wis.) has promised to hold such a vote, which is expected later this month. The legislation was passed through the fast-track budget tool known as reconciliation, which allowed the bill to pass the Senate with a simple majority rather than the 60-vote threshold normally required to overcome a filibuster. It would have eliminated federal funding for Planned Parenthood for one year and boosted funding for community health centers. While it did not repeal all of the 2010 health care law as a result of reconciliation rules, it would have undone Medicaid expansion and eliminated federal subsidies to help purchase health insurance. These repeals would have been delayed until 2018, which Republicans have said would allow them time to implement a health care reform replacement plan. H.R. 3762 would also eliminate the individual and employer mandates, and delayed many of the law’s taxes, including the medical device tax and the “Cadillac Tax.” The Congressional Budget Office (CBO) estimates that the bill would have reduced the deficit by a total of \$516 billion over the next decade.

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Obama to Deliver Final State of The Union Address on Tuesday

President Obama will deliver his seventh and final State of the Union address this Tuesday. While no details of the speech have been released, it is likely that the address will focus more on broader themes beyond 2016 rather than specific policy proposals. The President is likely to tout the state of the economy and health exchange enrollment figures as emblematic of his achievements as President. In addition, he is expected to speak about climate change, foreign policy, and social progress and equality. The White House will be offering line-by-line commentary through the online platform **Genius** shortly after the delivery of the President's remarks. South Carolina Governor Nikki Haley will deliver the Republican response to the address. Following his State of the Union, the President will travel across the country to highlight the progress he has made during his presidency.

Republicans Gather for Annual Retreat

Congressional Republicans will gather in Baltimore from Wednesday to Friday of this week for their annual retreat to build a policy agenda for the coming year. According to Speaker of the House Paul Ryan's (R-Wis.) office, a replacement plan for the Affordable Care Act (ACA) is likely to be a big focus of the agenda, but Ryan has not offered any details or timeline regarding a replacement plan. The GOP Doctors Caucus is expected to work on a replacement plan in the coming weeks, focusing on previous proposals from Rep. Tom Price (the Empowering Patients First Act) and the Republican Study Committee (the American Health Care Reform Act). Both Republican lawmakers and aides have said that votes on many of their party's agenda items will be unlikely, both due to the legislative calendar – lawmakers will be in session for only about half the year to allow time for 2016 election campaigns – and the reality of gaining President Obama's support. Speaker Ryan hopes to release his agenda by March or April. The Democratic retreat will be held in Philadelphia from January 27-29.

Democratic Veteran Members to Retire

Rep. Jim McDermott (D-Wash.) announced his plans to retire and not seek another term in office last week. McDermott is a 14-term Congressman and the top Democrat on the House Ways and Means Health Subcommittee. He is a former psychiatrist and Foreign Service medical officer. During his 26 years in the House, he has championed a single payer health care system and an overhaul of how Medicare pays providers. Rep. Steve Israel (D-N.Y.) also announced his plans to retire last week. Israel has been a member of the House for 15 years, and has also served as the chairman of the Democratic Congressional Campaign Committee.

CDC Appoints Painkiller Work Group

The board of scientific counselors to the Centers for Disease Control and Prevention's (CDC) National Center for Injury Prevention and Control has voted to establish a 10-person work group to review the CDC's draft guideline on opioid prescriptions. The work group is in part a response to criticisms about the lack of transparency in the drafting of the guidelines and the limited public input received, especially from patients. The work group will be comprised of one chronic pain patient advocate and a range of academic and clinical experts. It also includes two members of the board of scientific counselors. The agency has received nearly 2,000 comments on the draft opioid prescribing guideline, which was published last month.

President Announces Executive Actions on Gun Violence

This week, the President announced executive actions aimed at curbing gun violence in the United States. He stated his intentions to tighten rules on background checks, proposed a more detailed definition of which gun sellers must apply for a federal dealers license, and new requirements for reporting guns lost or stolen in transit. The announcement also included a request to Congress for an additional \$500 million in federal funds to go toward the treatment of mental illness. Additionally, the administration released a final rule that will allow health care providers to share certain mental health information with the Federal Bureau of Investigation's (FBI) gun background check system. Federal law prohibits gun ownership by individuals who have been involuntarily committed or found incompetent to stand trial or deemed by a court to be a danger to themselves. But such information sharing was previously limited under the Health Insurance Portability and Accountability Act's (HIPAA) privacy rule without patient consent. This rule will allow the disclosure of such information for the purposes of background checks. The President has called gun deaths one of the biggest public health threats facing the country.

Mental Health on the Hill

Congress plans to make progress on a number of mental health initiatives during the coming month. The House Energy and Commerce Committee plans to hold a full committee markup of Rep. Tim Murphy's (R-Pa.) bill, the Helping Families in Mental Health Crisis Act (H.R. 2646). The bill faces opposition from Democrats on the Health Subcommittee, but has dozens of Democratic cosponsors in the full chamber. The Senate Health, Education, Labor and Pensions (HELP) Committee is planning on discussing Sens. Chris Murphy (D-Conn.) and Bill Cassidy's (R-La.) mental health reform bill on January 20, though an official markup has yet to be scheduled. The Senate Judiciary Committee is expected to schedule a hearing on Sen. John Cornyn's (R-Texas) mental health and criminal justice reform bill as well, which faces Democratic opposition due to the included language on guns. Additionally, Sens. Debbie Stabenow (D-Mich.) and Roy Blunt (R-Mo.) have announced that they will introduce legislation to expand upon the Excellence in Mental Health Act, which would increase funding for community health clinics. The Senators previously championed this bill in 2014. The law currently provides funding for a trial program for states to create community mental health centers that offer services such as 24-hour crisis and psychiatric care. The bill announced last week would expand funding under the law from 8 states to 24 states – estimated at \$1.7 billion in new funding.

CDC Links E-cigarette Advertisements With Use Among Youths

The Centers for Disease Control and Prevention (CDC) has released new data linking advertising exposure to the rise in e-cigarette use by middle and high school students. Nearly seven out of 10 students were exposed to such advertising in 2014, when e-cigarette manufacturers spent an estimated \$115 million on marketing, up from \$6.4 million in 2011. The number of high school students who report recent use of e-cigarettes increased from 1.5 percent in 2011 to 13.4 percent in 2014, the same year e-cigarettes became the most commonly used tobacco product among middle and high school students. Students are most likely to be exposed to e-cigarette advertisements in retail stores, followed by the Internet and newspaper/magazine ads.

Exchanges Reach Administration's Enrollment Projections

More than 11.3 million people have signed up for health insurance through the federal and state exchanges for 2016, reaching the lower threshold of the administration's internal target with almost a month remaining to sign up. This year's enrollment is on track to exceed the 11.7 million sign-ups in 2015. Over 41 percent of new customers are under the age of 35, and more than half of returning customers returned to actively shop for a new plan rather than be automatically re-enrolled. Consumers continue to overwhelmingly select silver-level plans, with 68 percent of enrollees choosing the silver benefit tier. The penalty for lacking health insurance has increased significantly, to the greater of \$695 or 2.5 percent of income. The higher-than-expected enrollment figures will likely be highlighted in the President's State of the Union address this week. The U.S. Department of Health and Human Services (HHS) has estimated that between 11 million and 14.1 million people would sign up for health care coverage for 2016. The enrollment period closes on January 31, and there is expected to be a surge of sign-ups immediately before the deadline.

Mark Your Calendars

The Senate Health, Education, Labor and Pensions (HELP) Committee will vote on Dr. Robert Califf's nomination for administrator of the Food and Drug Administration (FDA) on **January 12** during an executive session. Califf has been endorsed by both Committee Chairman Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.). Once the committee favorably reports out the nomination, the next step will be approval by the U.S. Senate.

The White House is expected to release its budget for fiscal year 2017 on **February 9**, just under a week past the statutory deadline for sending the proposal to Congress. The rollout date was announced by the Office of Management and Budget (OMB) last week.

Upcoming Congressional Meetings and Hearings

Senate Health, Education, Labor and Pensions Committee: markup to vote on the nomination of Robert Califf to be the Commissioner of the Food and Drug Administration; 10:00 a.m., 430 Dirksen Bldg.; January 12

Health Legislation Recently Introduced

H.R. 4315 (introduced by Rep. Jackson Lee): A bill to authorize funding to increase access to mental health care treatment to reduce gun violence; to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, and 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; January 5

H.R. 4334 (introduced by Rep. Ted Lieu of California): A bill to authorize the Secretary of Veterans Affairs to carry out certain major medical facility projects for which appropriations are being made for fiscal year 2016; to the Committee on Veterans' Affairs; January 6

H.R. 4349 (introduced by Rep. Tonko): A bill to require the Secretary of Health and Human Services to establish an institution for mental diseases bed registry program; to the Committee on Energy and Commerce; January 7

H.R. 4352 (introduced by Rep. Moulton): A bill to direct the Secretary of Veterans Affairs to carry out a pilot program establishing a patient self-scheduling appointment system, and for other purposes; to the Committee on Veterans' Affairs; January 8