

Congress Moves Forward on Short Term CR



Health Policy Briefing

November 21, 2016

Following a meeting between Vice President-Elect Mike Pence and House Republicans last week to discuss the lame duck agenda, the GOP decided that they will pursue a measure that would fund the federal government through March 31, 2017, instead of negotiating a fiscal year (FY) 2017 omnibus spending bill. Lawmakers will begin work on the continuing resolution (CR) the week after Thanksgiving. Appropriations leaders in the House had been waiting for President-Elect Donald Trump to indicate whether a bipartisan spending deal should be passed before the end of the year, or whether lawmakers should instead pass another CR that would expire in the first half of 2017. The current CR funds the government through December 9. Conservative Republicans were most supportive of the stopgap-spending bill in order to allow budget decisions to be made when Republicans control both the White House and Congress. But Majority Leader Kevin McCarthy (R-Calif.), as well as leadership on the Appropriations committees, appeared to be more supportive of finishing FY 2017 spending decisions this year in order to allow the new administration to start with a clean slate. Democratic appropriators have expressed opposition to a CR, but it is still unclear whether they will vote against the stopgap spending measure. Several Senate Republicans have also expressed opposition to the plan. Lindsey Graham (R-S.C.), chairman of the Senate Appropriations State-Foreign Operations Subcommittee, has said that he would vote against a CR. According to House Appropriations Committee Chairman Hal Rogers (R-Ky.) and Labor, HHS, and Education Subcommittee Chairman Tom Cole (R-Ok.), there will be many anomalies and additions to address in the CR.

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Leadership Election Results

Republicans in the House and Senate and Senate Democrats elected their leadership teams for the 115th Congress last week. Speaker of the House Paul Ryan (R-Wis.) was unanimously re-nominated to serve in the position for the next two years. Ryan ran unopposed for the top leadership spot. While Ryan's relationship with President-Elect Donald Trump was uneven throughout the campaign, Ryan has credited Trump with GOP House and Senate majorities, and Trump's congressional liaison Rep. Chris Collins (R-N.Y.) signaled Trump's support for the Speaker by seconding his nomination. Individual members of the conservative Freedom Caucus and the more centrist Tuesday Group also supported the nomination in a display of party unity. Majority Leader Kevin McCarthy (R-Calif.), Majority Whip Steve Scalise (R-La.), GOP Conference Chair Cathy McMorris Rodgers (R-Wash.), and Policy Chairman Luke Messer (R-Ind.) were also all unanimously re-elected to their leadership posts. There were only two contested races in the GOP leadership decision. Rep. Steve Stivers (R-Ohio) defeated Rep. Roger Williams (R-Texas) for the position of National Republican Congressional Committee chairman by a vote of 143-96. And Rep. Doug Collins (R-Ga.) beat out Rep. Bill Flores (R-Texas) in the race for GOP Conference Vice Chairman. Rep. Jason Smith (R-Mo.) will serve as GOP Conference Secretary. The House will formally vote to elect the Speaker in January.

House Democrats were scheduled to vote on leadership last week, but Minority Leader Nancy Pelosi (D-Calif.) decided to delay the elections until November 30 at the request of more than 30 House Democrats. The Republican sweep of the elections has left some members in support of a change of party leadership and messaging. The additional time will allow members the opportunity to challenge Pelosi for the Minority Leader position. Rep. Tim Ryan (D-Ohio) is currently the only member to have thrown his name into the ring. Some House Democrats tried to recruit Joseph Crowley of New York for the position, but he has said that he will instead challenge for the position of Democratic Caucus Chairman. Pelosi, however, is still favored to beat any challenge given the relatively broad support from her caucus. In her official letter announcing her bid for the top House Democrat position, she cited the backing of 2/3 of the caucus.

In the Senate, Chuck Schumer (D-N.Y.) was unanimously chosen to succeed the retiring Harry Reid (D-Nev.) as Senate Minority Leader. Schumer expanded his leadership team to ten members in order to avoid any leadership contests and to be more inclusive to members from all parts of the Democratic Party. Sen. Dick Durbin (D-Ill.) will remain in his post as party whip. Sen. Patty Murray (D-Wash.) was selected as Assistant Leader, and will remain at her post as Ranking Member of the Health, Education, Labor and Pensions (HELP) Committee. Sen. Debbie Stabenow (D-Mich.) will serve as the Chair of the Democratic Policy and Communications Committee and Sen. Joe Manchin, III (D-W.V.) will serve as Vice-Chair. Sen. Elizabeth Warren (D-Mass.) and Sen. Mark Warner (D-Va.) will both serve as Vice-Chairs of the Conference. The job of Chairman of the Steering and Outreach Committee will be split between current Chairman Amy Klobuchar (D-Minn.), who will serve as Chair of Steering, and Sen. Bernie Sanders (I-Vt.), who was named Democratic Chairman of Outreach. As such, Sanders will continue to caucus with Democrats, but will remain an Independent. Sen. Tammy Baldwin (D-Wis.) will fill the job of Secretary of the Conference, and newly elected Sen. Chris Van Hollen (D-Md.) will serve as Chairman of the Democratic Senatorial Campaign Committee. It was also decided that Sen. Patrick Leahy (D-Vt.) will succeed the retiring Sen. Barbara Mikulski (D-Md.) as the Ranking Member of the Senate Appropriations Committee. Dianne Feinstein (D-Calif.) will replace Leahy as the ranking member of the Senate Judiciary Committee – putting her as the lead Democrat in preparation for Supreme Court confirmation hearings under the new administration.

Senate Majority Leader Mitch McConnell (R-Ky.) was unanimously re-elected. Sen. John Cornyn (R-Texas) will remain the Majority Whip. Sen. John Thune (R-S.D.) stays on as Conference Chairman with Sen. Roy Blunt (R-Mo.) as the Vice-Chair, and Sen. John Barrasso (R-Wyo.) will be Chair of the Republican Policy Committee. Sen. Cory Gardner (R-Colo.) is the only new member of Senate Republican leadership. He will head the National Republican Senatorial Committee.

ACA Repeal Talks Continue

House Majority Leader Kevin McCarthy (R-Calif.) has said that Congress will work to repeal and replace the Affordable Care Act (ACA) in the least disruptive manner possible. While some members of the Freedom Caucus support a faster timeline in repealing the health care law, it is estimated that 22 million people would be left without coverage if repeal is passed without a replacement plan. Republicans are exploring the use of reconciliation to repeal and replace the law. Reconciliation requires only 51 votes, rather than the usual 60, to pass the Senate. Budget Committee Chairman Tom Price (R-Ga.) has indicated that the same tactic that would be used to repeal the ACA could also be used to overhaul the Medicare program in 2017. Medicare reform has been a longstanding goal of Speaker of House Paul Ryan (R-Wis.). A revised fiscal year (FY) 2017 budget resolution passed early next year could make way for ACA repeal, while a new FY 2018 budget resolution could include reconciliation instructions to accomplish these other objectives. Ways and Means Committee Chairman Kevin Brady (R-Texas) has said that he and his staff are already drafting legislation to address changes to the Medicare program next Congress.

Shimkus Runs on Platform to Rein in Agency Authority

Rep. John Shimkus (R-Ill.) has promised to address the power of federal agencies should he become the next chairman of the House Energy and Commerce Committee. In a letter sent to his colleagues, Shimkus said that he will build a case against the Chevron Deference – legal doctrine granting power to federal agencies to interpret statute. Shimkus has served on the Energy and Commerce Committee for 20 years, and is currently chairman of the Subcommittee on Environment and the Economy. He is running against Rep. Greg Walden (R-Ore.), Communications and Technology Subcommittee Chairman, for the top spot on the full Committee for the 115th Congress. Rep. Joe Barton has also said that he is seeking the position. Because he has previously served as Committee Chairman, Barton would need a waiver from GOP leadership in order to lead the panel again.

Federal Drug Spending Database Updated

Spending on prescription drugs in the Medicare program was driven by a treatment for hepatitis and a form of insulin in 2015, according to an update of the federal database that tracks which drugs the government spends the most money on overall and per person, and which drugs experience the largest price increases. Medicare spent a total of \$137.4 billion on drugs last year, a 13 percent increase over 2015, while Medicaid expenditures totaled \$57.3 billion. Harvoni and the insulin injection Lantus cost a total of \$11 billion to the Medicare program last year. Eleven drugs included in the database doubled in price. It should be noted that these numbers do not include the impact of rebates, which on average cover 17.5 percent of the price of medicines in the Part D drug benefit. In 2014, rebates amounted to \$16 billion for the Medicare program. This year's data indicates steady price hikes over time, a trend that is also being seen in some generic medications.

Report on Addiction Released

U.S. Surgeon General Vivek Murthy has released the country's first comprehensive **report** on addiction. "Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs and Health" covers the issue of substance abuse broadly – looking at alcohol and drugs, legal and illegal. The report includes key findings and statistics on alcohol and drug misuse, as well as opportunities for increased access to effective prevention and treatment services. Murthy has made the issue of opioid abuse and addiction one of his top priorities.

House Passes Four Public Health Bills

Last week, the House of Representatives passed four public health bills under suspension of the rules. H.R. 1192 would create a National Clinical Care Commission to make recommendations to improve care for patients with diabetes, metabolic and autoimmune diseases. H.R. 1209 would identify areas of the country with a shortage of maternity health care providers and assign them health professionals from the National Health Service Corps. H.R. 2713 would reauthorize and expand nursing education and workforce development programs through 2021. H.R. 4365 would authorize emergency medical services personnel to administer controlled substances pursuant to standing or verbal orders under certain conditions. It is unknown whether the Senate will act on the legislation before adjourning for the year.

Progress Continues on 21st Century Cures, Mental Health Reform

The revised 21st Century Cures package will not contain provisions targeting drug pricing, according to the bill's main sponsor Rep. Fred Upton (R-Mich.). There had been a recent push by some organizations urging Democrats to seek the addition of drug pricing language in the bill. The final legislative text is expected to be released after the Thanksgiving break, following review by the Congressional Budget Office (CBO). Sen. Chris Murphy (D-Conn.) has said that there has been some interest in attaching his mental health reform legislation to 21st Century Cures. The idea has been echoed by Senate Majority Whip John Cornyn (R-Texas). Movement on the Senate bill has stalled over disagreements on funding. While Upton has acknowledged that work is being done on both bills, he declined to say whether 21st Century Cures could serve as a vehicle for mental health reform. Speaker of the House Paul Ryan (R-Wis.) listed both issues as priorities for the lame-duck session. Votes are not expected to be taken up until after the Thanksgiving break.

Trump Administration Staff Announcements

President-Elect Donald Trump named three more members of his Administration last week. Sen. Jeff Sessions (R-Ala.) was asked to serve as Trump's Attorney General. Sen. Sessions began his legal career as a practicing attorney in Russellville, Alabama, and then in Mobile. Following a two-year stint as Assistant United States Attorney for the Southern District of Alabama, Sessions was nominated by President Reagan in 1981 and confirmed by the Senate to serve as the United States Attorney for Alabama's Southern District, a position he held for 12 years. Sessions was elected Alabama Attorney General in 1995, serving as the state's chief legal officer until 1997, when he entered the United States Senate. Sessions currently sits on the Senate Committee on the Judiciary, the Committee on Armed Services, the Committee on the Budget, and the Committee on Environment and Public Works. Michael Flynn was chosen as Trump's National Security Advisor. Flynn is a retired U.S. Army lieutenant general who last served as 18th Director of the Defense Intelligence Agency, from July 22, 2012 to August 7, 2014. Rep. Mike Pompeo (R-Ks.) has been tapped as the next Director of the Central Intelligence Agency (CIA). He has been the U.S. Representative for Kansas's 4th congressional district since 2011. Rep. Pompeo currently serves on the Energy and Commerce Committee. Senate confirmation is necessary for the positions of Attorney General and CIA Director, but not for the position of National Security Advisor.

Upcoming Congressional Meetings and Hearings

Senate Judiciary Committee hearing to explore potential Mylan-Justice Department Settlement Over EpiPens; 10:00 a.m., November 30

Recently Introduced Health Legislation

H.R.6300 (introduced by Rep. Luke Messer): To amend the Internal Revenue Code of 1986 to exempt certain individuals from the individual health insurance mandate; House Committee on Ways and Means.

H.Con.Res.172 (introduced by Rep. Robert J. Wittman): Expressing the sense of Congress that public health professionals should be commended for their dedication and continued service to the United States on “Public Health Thank You Day”, November 21, 2016; to the House Committee on Energy and Commerce.

H.R.6333 (introduced by Rep. Mike Kelly): To amend title XVIII of the Social Security Act with respect to the accreditation of osteopathic residency training programs for purposes of graduate medical education payments under the Medicare program; to House Energy and Commerce.

H.Res.926 (introduced by Rep. Robin L. Kelly): Expressing the sense of the House of Representatives that the President should award the Presidential Medal of Freedom, posthumously, to Mrs. Henrietta Lacks, in recognition of her invaluable contribution to modern science in the form of her own immortal cells-HeLa cells-without which life-saving medicines and procedures would not have been developed at critical moments in our Nation’s history; to House Oversight and Government Reform.

H.R.6339 (introduced by Rep. H. Morgan Griffith): To limit the use of the Judgement Fund to settle any lawsuit arising under section 1342 of the Patient Protection and Affordable Care Act, and for other purposes; to the Committee on the Judiciary.

H.R.6347 (introduced by Rep. Alan Grayson): To extend for one year the program for priority review to encourage treatments for rare pediatric diseases; to the House Committee on Energy and Commerce.

H.R.6348 (introduced by Rep. Alan Grayson): To extend for one year the program for priority review to encourage treatments for rare pediatric diseases; to the House Committee on Energy and Commerce.

H.Res.930 (introduced by Rep. Scott H. Peters): Expressing support for designation of the month of June 2016 as “National Post-Traumatic Stress Injury Awareness Month” and June 27, 2016, as “National Post-Traumatic Stress Injury Awareness Day”; to House Veterans’ Affairs.

S.4 (introduced by Sen. Daniel Coates): A bill to amend title XVIII of the Social Security Act in order to strengthen rules in case of competition for diabetic testing strips, and for other purposes; to the Committee on Finance.

S.3477: A bill to amend title XVIII of the Social Security Act to provide information regarding vaccines for seniors as part of the Medicare & You handbook and to ensure that the treatment of cost sharing for vaccines under Medicare part D is consistent with the treatment of vaccines under Medicare part B, and for other purposes; to the Committee on Finance.

S.3481: A bill to address payment for claims relating to certain provisions of the Patient Protection and Affordable Care Act; to the Committee on the Judiciary.