



Health Policy Briefing

January 15, 2018

Lawmakers Near Deal on CHIP Extension

New research from Georgetown University indicates that the latest short-term patch for the Children’s Health Insurance Program (CHIP) could expire earlier than expected. Their data indicates that 11 states will exhaust program funds in February and be forced to rely on a reserve of federal funds – nearly a month earlier than lawmakers had predicted when they passed a \$2.8 billion CHIP patch in December. The funding was intended to keep CHIP up and running into mid-March. The Centers for Medicare and Medicaid Services (CMS) has stated that no states will experience an interruption in coverage prior to January 19 but does not have a more exact estimate of when the remainder of funding will be exhausted.

Meanwhile, the Congressional Budget Office (CBO) has provided an estimate to lawmakers indicating that a 10-year extension of CHIP would actually save \$6 billion over the next decade. The change in cost is a result of the repeal of the individual mandate, which will raise premiums in the individual health insurance market and result in more families choosing CHIP instead of private coverage, therefore lowering spending for marketplace subsidies. Members of Congress were initially negotiating a five-year extension of CHIP, estimated to cost \$800 million, but are now considering a longer extension of the program.

Many Republicans, especially GOP lawmakers in the House, are hesitant to fund CHIP for a decade without examining broader changes to the program and instead favor six years of funding, which is estimated to have no cost. Senate Finance Chairman Orrin Hatch (R-Utah) and Ranking Member Ron Wyden (D-Ore.), however, are considering a 10-year extension. Rep. Greg Walden (R-Ore.) has announced that he intends to bring a six-year CHIP bill to the floor this week. Senate Finance Committee Chairman Orrin Hatch (R-Utah) has pledged that the Senate will pass some form of CHIP extension before the current continuing resolution (CR) expires on January 19. Whether a CHIP bill is tied to the next short-term government funding bill or moved independently will depend on broader leadership negotiations.

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Committee Changes for the Second Session of the 115th Congress

Chairman Kevin Brady (R-Texas) has announced the new chairmanships and subcommittee assignments for the House Ways and Means Committee for the remainder of the 115th Congress. Rep. Peter Roskam (R-Ill.) will replace Rep. Pat Tiberi (R-Ohio) as Health Subcommittee chairman. Rep. Lynn Jenkins (R-Kan.) will replace Rep. Vern Buchanan (R-Fla.) as chairman of the Oversight Subcommittee, and Buchanan will replace Roskam as chairman of the Tax Policy Subcommittee. Additionally, the House Steering Committee has recommended Rep. Darin LaHood (R-Ill.) to join the Ways and Means Committee as a new member. The appointment will be confirmed by the full House Republican Conference in the coming days. Chairman Brady released a statement welcoming Rep. LaHood to the committee. A fully updated list of Ways and Means Committee membership can be found in Hart Health Strategies' [Guide to the 115th Congress](#).

On the Senate side, due to recent retirements, Sens. Doug Jones (D-Ala.) and Tina Smith (D-Minn.) have joined the Health, Education, Labor, and Pensions (HELP) Committee. Sen. Smith will take her predecessor Al Franken's seat on the Committee. In related news, Sen. Sheldon Whitehouse (D-R.I.) has joined the Senate Finance Committee which opened the HELP Committee spot for Sen. Jones.

E&C Releases Report on 340B

The House Energy and Commerce Committee has released a report detailing the flaws of the 340B Medicare drug discount program. "[Review of the 340B Drug Pricing Program](#)" finds that 340B has grown beyond the original intent of the law - to help indigent patients with drug costs. According to the analysis, the Health Resources and Services Administration (HRSA) lacks the regulatory authority to oversee the program and has yet to issue and enforce the regulatory requirements that are within its authority. The report also indicates that the 340B audit process is in need of improvement and points to the lack of data on how program savings are used. The report makes recommendations for how 340B can be improved, and Committee Chairman Greg Walden (R-Ore.) has stated that a legislative fix is forthcoming. Among the report's twelve recommendations, the Committee proposes ensuring that covered entities and stakeholders have access to ceiling prices, requiring covered entities to disclose information about their annual 340B program savings or revenue, and establishing a mechanism to monitor the level of charity care provided by covered entities.

In related news, three hospital groups have formally notified the court of their intent to appeal the December 29 decision to dismiss a lawsuit over cuts to the 340B program. The American Hospital Association (AHA), the Association of American Medical Colleges (AAMC), and America's Essential Hospitals had initially sued the Administration over a final rule that will result in \$1.6 billion in cuts to hospitals participating in 340B. The lower reimbursement rate took effect on January 1, but the case was previously dismissed because it was filed before the rule took effect.

WH Resubmits Nominations for HHS Posts

President Trump has officially resubmitted his nomination of Alex Azar for Secretary of the U.S. Department of Health and Human Services (HHS). The nomination expired at the end of 2017, and had to be re-submitted as lawmakers enter the second session of the 115th Congress. Brett Giroir for Assistant Secretary for Health and Stephen Parente for Assistant Secretary of Planning and Evaluation have also been re-nominated. The next step for Alex Azar, given the nomination hearing last week in the Senate Finance Committee, is a vote in the committee on the nomination.

Lawmakers Work to Pass Short-Term CR Ahead of Jan. 19

Lawmakers again face a looming deadline to pass a spending agreement and avoid a government shutdown this week. Congress is likely to pass another short-term continuing resolution (CR) to fund the federal government past the January 19 deadline into late February. Negotiators need additional time to agree upon raising the budget caps for defense and non-defense programs, which will then make it possible to draft an omnibus spending package. The short-term CR is unlikely to include any controversial add-ons, such as individual health insurance market stabilization measures. Chairman of the Senate Health, Education, Labor, and Pensions (HELP) Committee Lamar Alexander (R-Tenn.) says that such provisions are more likely to be considered for inclusion in the omnibus package. Sen. Alexander, along with Ranking Member Patty Murray (D-Wash.), have expressed hopes that the omnibus will also include additional funds to combat the opioid epidemic.

Additionally, Treasury Secretary Steven Mnuchin has asked GOP leadership to raise the government's borrowing authority by the end of February. Mnuchin has expressed a preference for raising the debt limit ahead of when the country faces a potential default, currently estimated to occur in March or early April. It is possible that the debt limit increase could be attached to the long-term government funding bill.

Gottlieb Lists Opioids, Generic Competition as Top Priorities in 2018 Roadmap

FDA Commissioner Scott Gottlieb, MD, **released the agency's Strategic Policy Roadmap for 2018**, which focuses on the opioid crisis, nicotine addiction, generic competition, and aiding consumer healthcare decision-making. The roadmap outlines four priority areas: reducing the nation's burden of addiction (both nicotine and opioid); promoting generic drug competition and other industry innovation; empowering consumers to make better healthcare decisions and expanding opportunities to use nutrition to combat chronic disease, often through digital health technology; and strengthening FDA's scientific workforce and its tools for efficient risk-management.

Upcoming Congressional Hearings and Meetings

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing "Facing 21st Century Public Health Threats: Our Nation's Preparedness and Response Capabilities, Part I;" 10:00 a.m., 430 Dirksen Bldg.; January 17

Senate Homeland Security and Governmental Affairs Committee hearing "Unintended Consequences: Medicaid and the Opioid Epidemic;" 10:00 a.m., 342 Dirksen Bldg.; January 17

House Ways and Means Committee hearing "The Opioid Crisis: The Current Landscape and CMS Actions to Prevent Opioid Misuse;" 10:00 a.m., 1100 Longworth Bldg.; January 17

House Energy and Commerce Health Subcommittee markup of H.R. 1876, the Good Samaritan Health Professionals Act, H.R. 2026, the Pharmaceutical Information Exchange (PIE) Act, and H.R. __, the Over-the-Counter Monograph Safety, Innovation, and Reform Act; 10:00 a.m., 2123 Rayburn Bldg.; January 17

Senate Veterans Affairs Committee hearing "The State of the VA: A Progress Report on Implementing 2017 VA Reform Legislation;" 2:00 p.m., 418 Russell Bldg.; January 17

Senate Judiciary Committee hearing "The Long-Term Care Needs of First Responders Injured in the Line of Duty;" 2:30 p.m., 226 Dirksen Bldg.; January 17

Recently Introduced Health Legislation

S.2287 (introduced by Sen. Edward J. Markey): A bill to repeal the medical device excise tax, and for other purposes; Finance

H.R.4769 (introduced by Rep. Tom Marino): To amend the Public Health Service Act to increase awareness about the treatment referral routing service of the Substance Abuse and Mental Health Services Administration, and for other purposes; Energy and Commerce

H.R.4772 (introduced by Rep. Mike Bishop): To amend title XVIII of the Social Security Act to provide for clarification under the Medicare program about minimal self-adjustment for off-the-shelf orthotics; Energy and Commerce, Ways and Means

H.R.4776 (introduced by Rep. Debbie Dingell): To amend the Public Health Service Act to reauthorize a program of partnerships for State and regional hospital preparedness to improve surge capacity; Energy and Commerce

H.R.4778 (introduced by Rep. Joseph P. Kennedy, III): To strengthen parity in mental health and substance use disorder benefits; Energy and Commerce, Education and the Workforce, Ways and Means

H.R.4783 (introduced by Rep. Jacky Rosen): To amend the Veterans Access, Choice, and Accountability Act of 2014 to improve the scheduling of appointments, the accountability of third party administrators, and payment to providers under such Act, and for other purposes; Veterans' Affairs

H.R.4784 (introduced by Rep. Maxine Waters): To amend the Patient Protection and Affordable Care Act to provide funding for American Health Benefit Exchanges navigator programs and outreach and promotional activities; Energy and Commerce

S.2301 (introduced by Sen. Elizabeth Warren): A bill to strengthen parity in mental health and substance use disorder benefits; Health, Education, Labor, and Pensions

S.2303 (introduced by Sen. Johnny Isakson): A bill to amend title XXVII of the Public Health Service Act to preserve consumer and employer access to licensed independent insurance producers; Health, Education, Labor, and Pensions