



Health Policy Briefing

February 13, 2017

GOP at Odds on ACA Repeal Timeline

The President stated last week that it could take until next year for an Affordable Care Act (ACA) replacement plan to be ready. This is a slower timeline than that put forth by congressional Republicans, who responded to the President’s comments by reiterating that their goal is to complete work on ACA repeal by this spring. House Ways and Means Committee Chairman Kevin Brady (R-Texas) and House Energy and Commerce Health Subcommittee Chairman Michael Burgess (R-Texas) both confirmed that they will complete a reconciliation measure within 30 days. The Senate’s number two Republican John Cornyn (R-Texas) also attested that work will be done on a faster timetable. Speaker of the House Paul Ryan (R-Wis.) clarified that the President was referring to the amount of time it would take to implement a replacement plan, and made assurances that repeal and replacement will be completed this year. Republicans hope to pass a reconciliation bill that will repeal the law and contain some elements of a replacement by March. A series of smaller replacement bills could follow at a later point. This is an ambitious timeline given the number of Republicans who have expressed support for simultaneous repeal and replace, and the fact that there is still not agreement on what a replacement plan should look like. Lawmakers are currently working with the Congressional Budget Office (CBO) on which parts of a replacement plan could be included in the reconciliation repeal bill.

Tom Price Confirmed as Secretary of Health and Human Services

The Senate confirmed Representative Tom Price, MD (R-Ga.) as Secretary of the U.S. Department of Health and Human Services (HHS) in the early hours of February 10. The 52-47 vote fell along party lines. Price, an orthopaedic surgeon, is the first doctor to head the agency since Louis Sullivan, HHS Secretary from 1989-1993, and only the third physician to hold the position in the agency’s 60-year history. While in Congress, Price was one of

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the top opponents of the Affordable Care Act (ACA). During his confirmation hearings he agreed with Republican calls to stabilize the insurance market in the short-term, and to move forward with repeal and replacement at a moderate pace. He reiterated that the administration's ACA replacement plan would ensure patient access to affordable health insurance coverage. During his nomination process Price also went on the record about the need for more transparency around drug pricing, as well as the importance of giving states more flexibility to administer their Medicaid programs. He also expressed support for an eight-year extension of the Children's Health Insurance Program (CHIP).

Verma to Begin Confirmation Process

The Senate Finance Committee will hold a hearing on the nomination of Seema Verma to be administrator of the Centers for Medicare and Medicaid Services (CMS) on Thursday. The Office of Government Ethics posted an agreement on potential conflicts of interest with the nominee last week, which will allow her confirmation process to move forward. This agreement is a routine step for vetting presidential nominees. Verma has worked with a number of states as a Medicaid consultant, and listed Arkansas, South Carolina, Virginia, Maine, Nebraska, Iowa, Idaho, Ohio and Kentucky as her clients. Ms. Verma will likely be questioned by Democrats about her role in reshaping the Medicaid program, particularly in the state of Indiana. The Healthy Indiana program uses accounts similar to health savings accounts (HSAs) to help Medicaid beneficiaries manage their own care. Verma is known for favoring increased flexibility for states to administer their Medicaid program.

Grassley to Examine Orphan Drug Program

Sen. Chuck Grassley (R-Iowa) announced plans to examine whether the orphan drug program is being inappropriately used by pharmaceutical manufacturers to increase the price of drugs. His decision was announced a day after the Food and Drug Administration (FDA) approved Emflaza, a treatment for Duchenne muscular dystrophy, for which insurers could pay as much as \$89,000 for a year of treatment. Because Emflaza is used to treat a rare condition with few other treatment options, it was awarded an orphan drug designation by the FDA. This designation permits a longer period of exclusivity before a generic can enter the market. Sen. Grassley said he is interested in learning about the unanticipated effects of the designation, whether it contributes to unnecessarily high drug prices, and what the extent of the problem is.

Lawmakers Continue Work on Medicaid Reform

Last week, a group of Republican senators met to discuss the future of the Medicaid program amidst work being done to repeal and replace the Affordable Care Act (ACA). All of the Senators came from states that expanded their programs as a result of the 2010 health care law. Medicaid expansion provided coverage for an additional 11 million people across the 31 states that decided to expand program eligibility. While Republicans are collectively supportive of repealing and replacing the law, some governors and members of congress are concerned about constituents who could lose coverage as a result. While no decisions were made at the meeting, Sen. Rob Portman (R-Ohio) said that there was agreement about the need for more state flexibility. Senators also agreed that savings from repeal should be put toward maintaining health insurance coverage during the transition away from the ACA. Additionally, the House Energy and Commerce Health Subcommittee advanced two Medicaid bills last week. Both target beneficiaries who lawmakers believe may earn too much to qualify for the program. H.R. 829 would alter Medicaid eligibility for recipients of large lump-sum payments, such as lottery winners. It was advanced by a vote of 20-11, with Rep. Kurt Schrader (D-Ore.) being the only Democratic member to vote for the legislation. H.R. 181 would count income from annuities in determining Medicaid eligibility for those in long-term care. The bill was advanced by a party-line vote of 19-13. While Republicans support the bills as commonsense approaches to ensure Medicaid expenditures are available to those who most need assistance, Democrats argued that the legislation would only serve to curb benefits, and pointed to the lack of evidence that these policies will save money for the program. The Government Accountability Office (GAO) also released a new report that underscores the need for improved oversight of the Medicaid program. GAO finds that Medicaid made an estimated \$36 billion in payment errors last year. The agency reports that program administrators rely on state submitted data to inform their oversight activities, but there are continuing concerns about the completeness, accuracy and timeliness of this data. GAO recommends expedited efforts to assess and ensure the quality of new Medicaid data.

Upcoming Congressional Hearings and Meetings

House Science, Space, and Technology Research and Technology Subcommittee will hold a hearing titled “Strengthening U.S. Cybersecurity Capabilities;” 10:00 a.m., 2318 Rayburn Bldg.; February 14

The Senate Appropriations Labor/HHS Subcommittee will hold a hearing on “Mental Health Care: Examining Treatments and Services;” 10:30 a.m., 138 Dirksen Bldg.; February 15

Senate Finance Committee hearing on the nomination of Seema Verma to be the administrator of the Centers for Medicare and Medicaid Services; 10:00 a.m., 215 Dirksen Bldg.; February 16

Recently Introduced Health Legislation

H.R.849 (introduced by Rep. David P. Roe): To repeal the provisions of the Patient Protection and Affordable Care Act providing for the Independent Payment Advisory Board; Ways and Means, Energy and Commerce, Rules

H.R.860 (introduced by Rep. John J. Duncan, Jr.): To direct the Secretary of Health and Human Services to establish a grant program for States that provide flexibility in licensing for health care providers who offer services on a volunteer basis; Energy and Commerce

H.R.862 (introduced by Rep. Morgan H. Griffith): To amend title XIX of the Social Security Act to transition the Medicaid thresholds applied for determining acceptable provider taxes, and for other purposes; Energy and Commerce

S.Res.45 (introduced by Sen. Mazie Hirono): A resolution designating February 2017 as “American Heart Month” and February 3, 2017, as “National Wear Red Day”; Judiciary

H.R.872 (introduced by Rep. Ted Lieu): To amend the Federal Food, Drug, and Cosmetic Act to enhance medical device communications and ensure device cleanliness; Energy and Commerce

H.R.878 (introduced by Rep. Andy Biggs): To authorize the use of unapproved medical products by patients diagnosed with a terminal illness in accordance with State law, and for other purposes; Energy and Commerce, Judiciary

H.R.880 (introduced by Rep. Michael C. Burgess): To amend the Public Health Service Act to facilitate assignment of military trauma care providers to civilian trauma centers in order to maintain military trauma readiness and to support such centers, and for other purposes; Energy and Commerce

S.308 (introduced by Sen. Chuck Grassley): A bill to amend title XI of the Social Security Act to require applicable manufacturers to include information regarding payments made to physician assistants, nurse practitioners, and other advance practice nurses in transparency reports submitted under section 1128G of such Act; Finance

S.309 (introduced by Sen. Chuck Grassley): A bill to establish a Community-Based Institutional Special Needs Plan demonstration program to target home and community-based care to eligible Medicare beneficiaries; Finance

S.311 (introduced by Sen. Amy Klobuchar): A bill to amend the Public Health Service Act to authorize grants for training and support services for families and caregivers of people living with Alzheimer’s disease or a related dementia; Health, Education, Labor and Pensions

S.Res.49 (introduced by Sen. Susan Collins): A resolution declaring that achieving the primary goal of the National Plan to Address Alzheimer’s Disease of the Department of Health and Human Services to prevent and effectively treat Alzheimer’s disease by 2025 is an urgent national priority; Health, Education, Labor, and Pensions

H.R.908 (introduced by Rep. Mike Kelly): To amend title XVIII of the Social Security Act to eliminate a provision under the Medicare Advantage program that inadvertently penalizes Medicare Advantage plans for providing high quality care to Medicare beneficiaries; Ways and Means, Energy and Commerce

H.R.930 (introduced by Rep. David G. Reichert): To amend title XVIII of the Social Security Act to provide for Medicare coverage of certain lymphedema compression treatment items as items of durable medical equipment; Energy and Commerce, Ways and Means

H.R.931 (introduced by Rep. Chris Collins): To require the Secretary of Health and Human Services to develop a voluntary registry to collect data on cancer incidence among firefighters; Energy and Commerce

H.R.934 (introduced by Rep. Keith Ellison): To reduce prescription drug costs by allowing the importation and reimportation of certain drugs; Energy and Commerce

H.R.938 (introduced by Rep. Michael C. Burgess): To amend title XIX of the Social Security Act to provide clarification with respect to the liability of third party payers for medical assistance paid under the Medicaid program, and for other purposes; Energy and Commerce

H.R.959 (introduced by Rep. David P. Joyce): To amend title VIII of the Public Health Service Act to extend advanced education nursing grants to support clinical nurse specialist programs, and for other purposes; Energy and Commerce

H.R.982 (introduced by Rep. Michael R. Turner): To amend title XIX of the Social Security Act to allow for payments to States for substance abuse services furnished to inmates in public institutions, and for other purposes; Energy and Commerce

H.R.992 (introduced by Rep. Bill Foster): To authorize the Assistant Secretary for Mental Health and Substance Use, acting through the Director of the Center for Substance Abuse Treatment, to award grants to States to expand access to clinically appropriate services for opioid abuse, dependence, or addiction; Energy and Commerce

H.R.993 (introduced by Rep. Bill Foster): To reduce opioid misuse and abuse; Energy and Commerce

H.R.994 (introduced by Rep. Bill Foster): To direct the Comptroller General of the United States to evaluate and report on the in-patient and outpatient treatment capacity, availability, and needs of the United States; Energy and Commerce, Natural Resources