



Health Policy Briefing

February 21, 2017

ACA Repeal/Replace Blueprint Unveiled

Before adjourning for a weeklong President’s Day recess, House leadership sent GOP members home with an Affordable Care Act (ACA) repeal and replace policy blueprint to review. Republican leadership had convened sessions with rank-and-file members last week to discuss plans to repeal the 2010 health care law. The plan includes expanded use of health savings accounts (HSAs) and the financing of high-risk pools. Individuals would be provided with a refundable advanceable tax credit indexed by age to help them obtain health insurance. While Medicaid expansion would be repealed over time, states could choose to keep their programs open to newly eligible people but would no longer receive extra federal funding to cover the cost. The blueprint also calls for overhauling Medicaid to cap federal payments to states. The cuts made to disproportionate share hospital (DSH) payments as a result of the ACA, however, would be reversed. The committees charged with writing the reconciliation legislation are still waiting for the Congressional Budget Office (CBO) to score the legislative text. Speaker Paul Ryan (R-Wis.) has said that legislative text could be marked up as early as February 28. Chairman of the Energy and Commerce Health Subcommittee Michael Burgess (R-Texas), however, said that his panel would be prepared to markup reconciliation instructions in the next several weeks, noting that the week following President’s Day recess might be too ambitious of a timeline. In the Senate, lawmakers had the opportunity to attend a question and answer session with newly confirmed U.S. Department of Health and Human Services (HHS) Secretary Tom Price. Republican senators were encouraged that Price signaled support for collaboration with Congress on ACA repeal and replacement, rather than pushing for a plan from the White House, as the President previously signaled might be the case. But Price offered few other specifics on the administration’s positions according to those in attendance.

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Verma Completes First Confirmation Hearing to Head CMS

Seema Verma's confirmation hearing to be Administrator of the Centers for Medicare and Medicaid Services (CMS) was held before the Senate Finance Committee last week. Her experience reforming the Medicaid program in Indiana was touted by Republicans on the Committee. Verma repeatedly stated her belief that there is much room for improvement in the current Medicaid program through increasing flexibility for states to innovate in the administration of Medicaid. Like Secretary Tom Price did during his confirmation hearings, Verma reiterated support for access to affordable health care coverage while offering few details about how she would reform the Affordable Care Act (ACA) or the Medicare program. She also did not give a definitive response when asked if she supports allowing the federal government to negotiate pharmaceutical prices. While Democrats expressed frustration that she did not provide enough specificity in her responses, the overall tone of the hearing was much more friendly compared to other of President Trump's nominees. Chairman Orrin Hatch (R-Utah) said he plans to move the nomination quickly, and that he expects Verma to be confirmed. A committee vote on her nomination has not yet been scheduled.

Republican Bill to Protect Pre-Existing Conditions Introduced

Energy and Commerce Committee Chairman Greg Walden (R-Ore.) introduced The Pre-Existing Conditions Protection Act of 2017 (H.R. 1121) last week. The bill is aimed at preventing insurers from discriminating against individuals with pre-existing conditions through exempting certain services from their plans, and is intended to ensure that these individuals won't pay more for their insurance due to their health status. But it is unclear how the legislation will prevent people from waiting to purchase insurance until they are already sick – the dilemma that the Affordable Care Act's (ACA) individual mandate aimed to address. The issue of protections for pre-existing conditions was not contained in the recently released reconciliation blueprint because of Senate reconciliation rules – the measure must be moved through as a separate bill through regular order. H.R. 1121 currently has 42 Republican cosponsors.

Lawmakers Consider Medicaid Per-Capita Caps

House Republicans may restructure the Medicaid program through the use of per-capita caps, according to Vice Chairman of the House Energy and Commerce Health Subcommittee Brett Guthrie (R-Ky.). Under this policy, the program's open-ended commitment from the federal government would be changed into a capped per-person payment to states. Per-capita caps would provide more flexibility to states than a block grant, but would still limit federal spending on the Medicaid program. The idea was previously included as a part of Speaker Paul Ryan's (R-Wis.) A Better Way health care plan. The change would be included as a part of the forthcoming reconciliation bill used to repeal the Affordable Care Act (ACA). Several Republican senators, however, have expressed skepticism that an overhaul of the Medicaid program could pass at the same time as ACA repeal.

Freedom Caucus Positions Themselves on ACA Repeal/Replace

Last week, members of the House Freedom Caucus voted to oppose any Affordable Care Act (ACA) repeal measure that does not go as far as the version passed by Congress in 2015. The 2015 measure, however, repealed Medicaid expansion, which would be particularly difficult to pass the Senate given today's political environment. Republican members from states that expanded their programs have expressed reservations about repeal due to concerns about constituents losing insurance coverage, especially in the absence of a firm replacement measure. The conservative Freedom Caucus has 40 members, which is enough to stop a vote if Democrats are also united in opposition. Last week, the Freedom Caucus also endorsed replacement legislation introduced by Sen. Rand Paul (R-Ky.) and caucus member Rep. Mark Sanford (R-S.C.). The Obamacare Replacement Act includes a continuous coverage provision for those with pre-existing conditions, provides a tax deduction for expanded use of health savings accounts (HSAs), and would allow the sale of insurance policies across state lines.

FY 2017 Appropriations Work Begins

Republican appropriators have resumed bicameral, bipartisan negotiations on the remaining 11 appropriations bills for fiscal year (FY) 2017. It is still unclear whether lawmakers will attempt to pass the bills individually or in small groups. An omnibus package of all 11 bills is also still a possibility. Federal agencies are currently operating under a continuing resolution (CR) that expires April 28.

Recently Introduced Health Legislation

S.348 (introduced by Sen. Al Franken): A bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate lower covered part D drug prices on behalf of Medicare beneficiaries; Finance

H.R.1011 (introduced by Rep. Michael C. Burgess): To make clear that an agency outside of the Department of Health and Human Services may not designate, appoint, or employ special consultants, fellows, or other employees under subsection (f) or (g) of section 207 of the Public Health Service Act; Energy and Commerce

H.R.1017 (introduced by Rep. Charles W. Dent): To amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening; Energy and Commerce, Ways and Means

H.R.1020 (introduced by Rep. Morgan H. Griffith): To allow the manufacture, importation, distribution, and sale of investigational drugs and devices intended for use by terminally ill patients who execute an informed consent document, and for other purposes; Energy and Commerce

H.R.1027 (introduced by Rep. John P. Sarbanes): To amend title XXI of the Social Security Act to improve access to, and the delivery of, children's health services through school-based health centers, and for other purposes; Energy and Commerce

S.353 (introduced by Sen. Susan M. Collins): A bill to amend title XVIII of the Social Security Act to extend the rural add-on payment in the Medicare home health benefit, and for other purposes; Finance

S.356 (introduced by Sen. Debbie Stabenow): A bill to amend title XXI of the Social Security Act to improve access to, and the delivery of, children's health services through school-based health centers, and for other purposes; Finance

H.R.1038 (introduced by Rep. Morgan H. Griffith): To amend title XVIII of the Social Security Act to prohibit prescription drug plan sponsors and MA-PD organizations under the Medicare program from retroactively reducing payment on clean claims submitted by pharmacies; Energy and Commerce, Ways and Means

H.R.1051 (introduced by Rep. Martha McSally): To amend the Internal Revenue Code of 1986 to repeal the increase in the income threshold used in determining the deduction for medical care; Ways and Means

H.R.1058 (introduced by Rep. Brad Wenstrup): To amend title 38, United States Code, to clarify the role of podiatrists in the Department of Veterans Affairs; Veterans' Affairs

H.R.1082 (introduced by Rep. Brett Guthrie): To amend title XIX of the Social Security Act to eliminate the State option to reduce the home equity exemption amount for purposes of eligibility for long-term care assistance under Medicaid, and for other purposes; Energy and Commerce

H.R.1072 (introduced by Rep. Mark Sanford): To repeal provisions of the Patient Protection and Affordable Care Act and provide private health insurance reform, and for other purposes; Energy and Commerce, Ways and Means, Education and the Workforce, Judiciary

H.Res.130 (introduced by Rep. Peter A. DeFazio): Supporting efforts to increase competition and accountability in the health insurance marketplace, and to extend accessible, quality, affordable health care coverage to every American through the choice of a public insurance plan; Energy and Commerce

H.J.Res.81 (introduced by Rep. Betty McCollum): Proposing an amendment to the Constitution of the United States regarding health care; Judiciary

H.R.1101 (introduced by Rep. Sam Johnson): To amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; Education and the Workforce

H.R.1108 (introduced by Rep. Rosa DeLauro): To provide for the mandatory recall of drugs regulated by the Food and Drug Administration; Energy and Commerce

H.R.1121 (introduced by Rep. Greg Walden): To amend the Public Health Service Act to prohibit application of pre-existing condition exclusions and to guarantee availability of health insurance coverage in the individual and group market, contingent on the enactment of legislation repealing the Patient Protection and Affordable Care Act, and for other purposes; Energy and Commerce, Education and the Workforce, Ways and Means

H.R.1122 (introduced by Rep. Tim Murphy): To amend title XVIII of the Social Security Act to provide for clarification and rationalization of Medicare prescription drug plan recovery rules for certain claims; Energy and Commerce, Ways and Means

H.R.1128 (introduced by Rep. Joyce Beatty): To assist survivors of stroke and other debilitating health occurrences in returning to work; Education and the Workforce

H.R.1130 (introduced by Rep. Dianne Black): To amend title XVIII of the Social Security Act to ensure fairness in Medicare hospital payments by establishing a floor for the area wage index applied with respect to certain hospitals; Ways and Means, Energy and Commerce

H.R.1148 (introduced by Rep. Morgan H. Griffith): To amend title XVIII of the Social Security Act to expand access to telehealth-eligible stroke services under the Medicare program; Energy and Commerce, Ways and Means

H.R.1151 (introduced by Rep. Richard Hudson): To amend title XIX of the Social Security Act to encourage the prioritization of the most vulnerable individuals under the Medicaid program; Energy and Commerce

H.R.1155 (introduced by Rep. Lynn Jenkins): To amend title XVIII of the Social Security Act to allow physician assistants, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation programs; Energy and Commerce, Ways and Means

H.R.1156 (introduced by Rep. Sam Johnson): To repeal changes made by health care reform laws to the Medicare exception to the prohibition on certain physician referrals for hospitals, and for other purposes; Energy and Commerce, Ways and Means

H.R.1160 (introduced by Rep. Derek Kilmer): To amend title XVIII of the Social Security Act to improve the way beneficiaries are assigned under the Medicare shared savings program by also basing such assignment on primary care services furnished by nurse practitioners, physician assistants, and clinical nurse specialists; Ways and Means, Energy and Commerce

H.R.1166 (introduced by Rep. Billy Long): To amend title XIX of the Social Security Act to provide greater State flexibility and innovation through Medicaid cost-sharing waivers; Energy and Commerce

H.R.1167 (introduced by Rep. Mia B. Love): To amend title XVIII of the Social Security Act to promote physician training in newly recognized primary medical specialties, and for other purposes; Ways and Means, Energy and Commerce

H.R.1173 (introduced by Rep. Krisit L. Noem): To amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; Energy and Commerce, Ways and Means

H.R.1175 (introduced by Rep. Erik Paulsen): To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; Ways and Means, Judiciary, Energy and Commerce

H.R.1187 (introduced by Rep. James F. Sensenbrenner): To expand the research activities of the National Institutes of Health with respect to functional gastrointestinal and motility disorders, and for other purposes; Energy and Commerce

S. 379 (introduced by Sen. Whitehouse): A bill to amend title II of the Social Security Act to eliminate the five month waiting period for disability insurance benefits under such title for individuals with amyotrophic lateral sclerosis; to the Committee on Finance

S. 382 (introduced by Sen. Menendez): A bill to require the Secretary of Health and Human Services to develop a voluntary registry to collect data on cancer incidence among firefighters; to the Committee on Health, Education, Labor, and Pensions

S. 397 (introduced by Sen. Isakson): A bill to amend title XVIII of the Social Security Act to ensure fairness in Medicare hospital payments by establishing a floor for the area wage index applied with respect to certain hospitals; to the Committee on Finance

S. 403 (introduced by Sen. Hatch): A bill to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; to the Committee on Finance

S. 404 (introduced by Sen. Isakson): A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the process for inspections of device establishments for granting export certifications; to the Committee on Health, Education, Labor, and Pensions