



Health Policy Briefing

February 22, 2016

Senate Awaits Supreme Court Nomination; McConnell Vows to Block Process

The sudden death of Supreme Court Justice Antonin Scalia has resulted in a political debate over the process to replace him. Senate Majority Leader Mitch McConnell (R-Ky.) has said that the process of nominating Scalia's replacement should be left to the tenure of the next president. But Democrats are pressuring their Republican colleagues to defy the Majority Leader and consider the President's nominee this year, while also urging the Administration to choose a consensus candidate for whom Republicans could not find a legitimate reason to block. Chairman of the Senate Judiciary Committee Chuck Grassley (R-Iowa) has said that he will wait to see whom the President nominates before deciding whether to schedule a hearing on the nomination. While Republican leadership have stated that they intend to complete the full appropriations process this year, for the first time in two decades, the battle over the Supreme Court will likely use up much of the Senate's tight calendar this spring, making their pledge increasingly unlikely. This term, the Supreme Court is scheduled to hear cases on abortion clinic restrictions and the Affordable Care Act's (ACA) birth control mandate as it applies to nonprofits.

House Opts to Use Ebola Funds to Fight Zika

House Appropriations Chairman Harold Rogers (R-Ky.), Labor/Health and Human Services Subcommittee Chairman Tom Cole (R-Okla.), and Foreign Operations Subcommittee Chairman Kay Granger (R-Texas) have written to the Office of Management and Budget (OMB) Director Shaun Donovan directing the administration to use existing unobligated Ebola funds to respond to the emerging Zika virus. In his budget request, the President had asked for \$1.8 billion in emergency funding to help combat the virus. But lawmakers have pointed to the \$1.4 billion in unused money approved by Congress to respond to the 2014 Ebola outbreak at the U.S. Department of Health and Human Services (HHS) and the additional \$1.3 billion in unspent Ebola funds within the U.S. Agency for International Development (USAID) and the Department of State. Congress will now have to pass legislation allowing transfer of the funds. Such a bill will likely be opposed by Democratic lawmakers, who have pushed for additional funding to strengthen public health systems to prevent future crises. The administration has signaled that they are open to shifting any money that has not yet been obligated for important uses, and House appropriators have emphasized that they would be willing to make additional investments to fight Zika if needed.

Inside

ED Use Remains Flat.....	2
FDA Makes Recommendation on Zika and Blood Donation.....	2
Administration Pushes for Puerto Rico Health Funding.....	2
Lawmakers Press CMS on Medicaid Oversight.....	2
Upcoming Congressional Meetings and Hearings.....	3

ED Use Remains Flat

The number of adults who visited the emergency department (ED) in 2014 was in line with previous numbers observed over the past decade, according to the Centers for Disease Control and Prevention's (CDC) National Center for Health Statistics. Approximately 18 percent of people age 18 to 64 visited the ER one or more times, most often because they were facing an urgent medical problem. One in five respondents reported that the reason for their visit was an access-related issue – either their doctor's office was not open, or they lacked access to other providers. The CDC's analysis did not find a significant change in ER use as the Affordable Care Act's (ACA) coverage expansion took effect.

FDA News

FDA Makes Recommendation on Zika and Blood Donation

While there have been no reports of the Zika virus entering the country's blood supply, the Food and Drug Administration (FDA) has recommended that travelers to areas experiencing an outbreak of the Zika virus should defer blood donation for four weeks. The agency's guidance document recommends that blood donation organizations also defer people who have had sexual contact with a person who has traveled to a Zika-infected area within the last three months. The guidance says that blood donation establishments in Zika areas should obtain blood from areas without active transmission of the virus. The agency notes that it is prioritizing the development of blood screening and diagnostic tests that may be useful for identifying the presence of the virus, the evaluation of investigational vaccines and therapeutics, and review of technology that may suppress populations of mosquitoes responsible for spreading the virus. The FDA plans to issue guidance related to Zika and the donation of other human cells and tissues as well.

Medicare and Medicaid News

Administration Pushes for Puerto Rico Health Funding

The Obama Administration and the U.S. Department of Health and Human Services (HHS) is urging Congress to act to make changes to the Puerto Rican Medicaid program and increase health care funding for the federal territory. HHS has called on Congress to lift the cap on Medicaid funds provided to the island, and to gradually increase the federal government's share of Medicaid costs from 55 percent to 83 percent. The administration also wants Congress to raise the eligibility threshold for Medicaid to 100 percent of the poverty level. The request is a part of a broader push by the administration to assist Puerto Rico in its debt crisis. While the issue was not addressed in the fiscal year (FY) 2016 spending bill, Speaker of the House Paul Ryan (R-Wis.) has directed House committees to find a solution to the crisis by the end of March.

Lawmakers Press CMS on Medicaid Oversight

Energy and Commerce Health Subcommittee Chairman Joseph Pitts (R-Pa.) and Vice Chairman Brett Guthrie (R-Ky.) have [written](#) to Acting Administrator of the Centers for Medicare and Medicaid Services (CMS) Andy Slavitt making inquiries into the agency's oversight of states' use of provider taxes to finance the non-federal share of program expenditures. They express concerns that some states may be shifting some of the financial burden of Medicaid financing back to the federal government. The lawmakers raise six questions on this financing scheme and request that Slavitt respond within 30 days.

Upcoming Congressional Meetings and Hearings

Senate Foreign Relations Committee hearing to examine the President's proposed budget request for fiscal year 2017 for the Department of State; 10:00 a.m., 419 Dirksen Bldg.; February 23

Senate Finance Committee hearing on "Examining the Opioid Epidemic: Challenges and Opportunities;" 10:a.m., 215 Dirksen Bldg.; February 23

Senate Armed Services Subcommittee on Personnel hearing to examine defense health care programs; 2:30 p.m., G-50 Dirksen Bldg.; February 23

House Veterans' Affairs Committee hearing: "Persian Gulf War: An Assessment of Health Outcomes on the 25th Anniversary;" 4:30 p.m., 334 Cannon Bldg.; February 23

Senate Health, Education, Labor and Pensions Committee hearing on the Zika virus; 10:00 a.m., 430 Dirksen Bldg.; February 24

House Energy and Commerce Health Subcommittee hearing on "The Fiscal Year 2017 HHS Budget;" 10:00 a.m., 2123 Rayburn Bldg.; February 24

Senate Special Aging Committee hearing on "Opioid Use Among Seniors - Issues and Emerging Trends;" 10:30 a.m., 562 Dirksen Bldg.; February 24

House Appropriations Labor, Health and Human Services, Education and Related Agencies Subcommittee hearing on "The Department of Health and Human Services Budget;" 10:00 a.m., 2358-C Rayburn Bldg.; February 25

House Appropriations Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee hearing on "The Food and Drug Administration Budget;" 10:30 a.m., 2362-A Rayburn Bldg.; February 25

House Energy and Commerce Oversight and Government Reform Subcommittee hearing on the Zika virus; time and place TBD; March 2

Senate Health, Education, Labor and Pensions Committee executive session on the innovation agenda; time and place TBA; March 9

House Energy and Commerce Committee Broad Review of Concussions: Initial Roundtable; 2:00 p.m., 2123 Rayburn Bldg.; March 14

Senate Health, Education, Labor and Pensions Committee final markup on innovation agenda; time and place TBA; April 6