



Health Policy Briefing

March 13, 2017

GOP Releases ACA Reconciliation Recommendations

Last week, Republican leadership in the House unveiled their plans to repeal and replace the Affordable Care Act (ACA). The American Health Care Act (AHCA) would repeal the ACA's insurance coverage mandates, but allow insurers to raise premiums up to 30 percent for people who have a gap in coverage of two months or more. AHCA would eliminate nearly all of the ACA's taxes beginning in 2018, with the exception of the Cadillac tax on high-cost health plans. AHCA would allow the Cadillac tax to take effect in 2025, instead of 2020 as currently scheduled, in order to ensure that the reconciliation bill does not add to the deficit after 10 years. The plan would replace the ACA's subsidies with refundable tax credits of between \$2,000 and \$4,000 annually adjusted by age and phased out for individuals making more than \$75,000 per year. The legislation would create a Patient and State Stability Fund, meant to give states flexibility to design programs for their specific patient populations. The funds could also be used to increase access to preventive services. Medicaid expansion enrollment would be frozen at the end of 2019, with a plan to grandfather in current enrollees. States that didn't expand their Medicaid programs under the ACA would be offered financial support, and disproportionate share hospital (DSH) payments would be reinstated. Medicaid would be transitioned to a per-capita allotment. The bill would also defund Planned Parenthood for one year. Additionally, AHCA expands and enhances health savings accounts (HSAs). President Trump has endorsed the House GOP repeal and replacement plan, expressing hope that it will quickly pass Congress. Congressional Republicans will likely need the President's help in unifying their own members in support of the legislation in order to have the necessary number of votes for passage. U.S. Department of Health and Human Services (HHS) Secretary Tom Price also supports the plan as a good first step to reform the health care system. The White House hopes to have a bill on the President's desk by April.

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Reception in the House: While GOP leadership continues to defend the plan as a work in progress, AHCA had a lukewarm reception among rank-and-file conservatives in the House, casting doubts about whether the legislation can pass. The most conservative members of the Republican Party do not believe that the plan goes far enough to fully repeal the ACA and Medicaid expansion, and are concerned about the potentially high cost of the measure. Many are characterizing the refundable tax credit to help people purchase insurance as a new entitlement program, and are opposed to the retention of the Cadillac tax. The House Freedom Caucus has gone so far as to indicate that they will release their own repeal-and-replace plan that mirrors the repeal legislation passed in 2015 but vetoed by then-President Obama. While the Freedom Caucus has not voted to take a formal position on AHCA, opposition from the entire caucus would kill the legislation. The GOP can only afford 20 defections, assuming Democrats are united in opposition to the bill.

Successful Committee Markups: While Republican leadership has appeared open to changes to AHCA, health committees began their markup of the legislation only two days after the bill was posted for public review. The Ways and Means Committee advanced the legislation without any changes after 18 hours of debate. The final vote was 23-16 along party lines. The Energy and Commerce Committee advanced the legislation after 27 hours of debate by a party-line vote of 31-23. Democrats delayed the markup by offering a slew of amendments, all of which were rejected. During the Energy and Commerce markup, Rep. Joe Barton (R-Texas) offered and withdrew two amendments. One would have moved up the termination of Medicaid expansion to 2018, and the other would have instituted work requirements for able-bodied, childless adults on Medicaid. Chairman of the Republican Study Committee (RSC) Mark Walker (R-N.C.) said that he and the RSC would vote yes on AHCA if the two amendments were ultimately adopted. Rep. Walker is also pushing to change the structure of the tax credits to make them partially refundable. Each committee's reconciliation recommendations will now be sent to the House Budget Committee to be compiled into one legislative package. Leadership plans to vote on the House floor within a few weeks.

Waiting on a Score: The fact that the markups were taking place before a Congressional Budget Office (CBO) score was available was the subject of much debate. The CBO score analyzing the cost of the bill as well as its impact on health insurance coverage is expected in the coming days. Republicans have insisted that a score will be available before the floor vote. Leadership has acknowledged that their plan will cover fewer people than the ACA, but will increase access to medical care instead of increasing access to insurance. The White House also announced plans to release a score from the Office of Management and Budget (OMB), citing concerns about CBO's history of inaccuracy with regard to their score of the ACA. Speaker Paul Ryan (R-Wis.) has gone so far as to guarantee the 218 votes necessary for House-passage. He is selling the plan as an opportunity for members to keep their central campaign promise of 2016. He also outlined to his members the additional phases planned for repeal and replace in the coming months. Budget reconciliation is the first of three phases, and would be followed by administrative actions to deregulate the market. Lawmakers could then turn to passage of additional legislation via regular order to replace ACA provisions that cannot be accomplished through reconciliation due to Senate rules, such as the ability to sell health insurance across state lines.

Reception in the Senate: While Majority Leader Mitch McConnell (R-Ky.) embraced the plan and promised to bring it to the Senate floor before the two-week April recess (which begins April 7), the plan did garner criticism from a number of Senate Republicans. Sens. Rob Portman (R-Ohio), Shelley Moore Capito (R-W.V.), Cory Gardner (R-Colo.) and Lisa Murkowski (R-Alaska) have all said they will vote against the bill unless it is revised so as not to disrupt access to care for the Medicaid expansion population. Sen. Murkowski is also opposed to the provision that would defund Planned Parenthood. Sens. Mike Lee (R-Utah) and Tom Cotton (R-Ark.) have come out against the bill, and Sen. Susan Collins (R-Maine) has expressed doubts about whether she will be able to vote in favor of AHCA. Sen. Rand Paul (R-Ky.) went so far as to declare the measure "dead on arrival." Republicans can only afford to lose two members and still pass the bill.

AHCA Opposition: Democrats are unified in opposition to the reconciliation measure, citing concerns that it will strip insurance from millions of people, and only serve to benefit those with high incomes. The American Hospital Association (AHA), the American Medical Association (AMA), the American Nurses Association (ANA), and AARP have all issued statements in opposition to the bill.

Cummings Meets with President on Drug Pricing

While the GOP's American Health Care Act (AHCA) does not contain any provisions that would address drug pricing, Rep. Elijah Cummings (D-Md.) said that the President is willing to work with Democrats on the issue. President Trump and Rep. Cummings met last week on the subject, and the President signaled he was open to granting the government more power to negotiate drug prices. Congressional Republicans have been historically opposed to such a policy. Rep. Cummings intends to introduce legislation on the subject in the coming weeks with Rep. Peter Welch (D-Vt.).

Senate to Vote on CMS Nominee Today

The Senate has advanced Seema Verma, President Trump's nominee for Administrator of the Centers for Medicare and Medicaid Services (CMS). The initial procedural vote passed 54-44, and scheduled a final vote on the nomination for 5:30 p.m. this evening.

Trump Nominates FDA Commissioner

President Trump has nominated Scott Gottlieb to be Commissioner of the Food and Drug Administration (FDA). Dr. Gottlieb is a former FDA deputy commissioner, and is currently a resident fellow at the American Enterprise Institute. He is also a clinical assistant professor at New York University School of Medicine, and is an internist at Tisch Hospital. He sits on the boards of several drug and biotech companies, and is an advisor to GlaxoSmithKline Plc. A Senate confirmation hearing on Dr. Gottlieb's nomination has not yet been scheduled but will take place in the Senate Health, Education, Labor and Pensions (HELP) Committee.

Upcoming Congressional Hearings/Meetings

House Veterans' Affairs Health Subcommittee hearing on "Healthy Hiring: Enabling VA to Recruit and Retain Quality Providers;" 2:00 p.m., 334 Cannon Bldg.; March 22

Recently Introduced Health Legislation

H.R.1375 (introduced by Rep. Katherine M. Clark): To amend the Public Health Service Act to authorize the Secretary of Health of Human Services to award grants to States (or collaborations of States) to establish, expand, or maintain a comprehensive regional, State, or municipal system to provide training, education, consultation, and other resources to prescribers relating to patient pain, substance misuse, and substance abuse disorders, and for other purposes; Energy and Commerce

H.R.1378 (introduced by Rep. Gregg Harper): To amend the Public Health Service Act to provide for the participation of doctors of chiropractic in the National Health Service Corps scholarship and loan repayment programs, and for other purposes; Energy and Commerce

H.R.1381 (introduced by Rep. Morgan H. Griffith): To amend title XIX of the Social Security Act to permit States to impose an individual responsibility requirement for nondisabled, nonelderly, nonpregnant individuals made eligible for medical assistance; Energy and Commerce

H.R.1389 (introduced by Rep. Gus M. Bilirakis): To amend title XIX of the Social Security Act to provide States with flexibility to provide care coordination under Medicaid for the most vulnerable through managed care; Energy and Commerce

H.R.1394 (introduced by Rep. Susan W. Brooks): To amend title XIX of the Social Security Act to provide States with flexibility with respect to providing coverage for nonemergency transportation under Medicaid; Energy and Commerce

H.R.1395 (introduced by Rep. Michael C. Burgess): To amend title XIX of the Social Security Act to improve the Medicaid and CHIP Payment and Access Commission (MACPAC); Energy and Commerce

H.R.1408 (introduced by Rep. Darrell E. Issa): To repeal the Patient Protection and Affordable Care Act and the health care-related provisions in the Health Care and Education Reconciliation Act of 2010 and to amend title 5, United States Code, to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes; Energy and Commerce, Ways and Means, Oversight and Government Reform, Education and the Workforce, Natural Resources, Judiciary, Appropriations, House Administration, Rules

H.R.1409 (introduced by Rep. Leonard Lance): To amend the Public Health Service Act to require group and individual health insurance coverage and group health plans to provide for cost sharing for oral anticancer drugs on terms no less favorable than the cost sharing provided for anticancer medications administered by a health care provider; Energy and Commerce

H.R.1413 (introduced by Rep. Tim Ryan): To provide for a grants program to develop and enhance integrated nutrition and physical activity curricula in medical schools; Energy and Commerce

H.R.1415 (introduced by Rep. Christopher H. Smith): To facilitate effective research on and treatment of neglected tropical diseases, including Ebola, through coordinated domestic and international efforts; Energy and Commerce, Foreign Affairs, Financial Services

H.Res.176 (introduced by Rep. Barbara Lee): Supporting the goals and ideals of Multiple Sclerosis Awareness Week; Energy and Commerce

H.R.1421 (introduced by Rep. Joe Courtney): To amend title XVIII of the Social Security Act to count a period of receipt of outpatient observation services in a hospital toward satisfying the 3-day inpatient hospital stay requirement for coverage of skilled nursing facility services under Medicare, and for other purposes; Ways and Means, Energy and Commerce

S.568 (introduced by Sen. Sherrod Brown): A bill to amend title XVIII of the Social Security Act to count a period of receipt of outpatient observation services in a hospital toward satisfying the 3-day inpatient hospital requirement for coverage of skilled nursing facility services under Medicare; Finance

S.581 (introduced by Sen. Joe Manchin, III): A bill to include information concerning a patient's opioid addiction in certain medical records; Health, Education, Labor and Pensions

H.R.1480 (introduced by Rep. Chellie Pingree): To amend the Federal Food, Drug, and Cosmetic Act to allow for the personal importation of safe and affordable drugs from approved pharmacies in Canada; Energy and Commerce