



Health Policy Briefing

March 20, 2017

House Vote on AHCA Scheduled for Thursday

Republican leadership have scheduled a full House vote on repeal and replacement of the Affordable Care Act (ACA) for this Thursday, March 23 – exactly seven years after the ACA was signed into law.

The announcement followed release of the Congressional Budget Office (CBO) and the Joint Committee on Taxation’s (JCT) much anticipated **scoring** of the bill known as the American Health Care Act (AHCA). CBO and the JCT estimate that AHCA would lower the deficit by \$337 billion over the next decade, but that 24 million more people would be uninsured by 2026 under the GOP plan. The increase in the uninsured rate would largely be due to changes to the Medicaid program and the elimination of subsidies to help purchase insurance, though approximately seven million fewer people would become uninsured by choice or because their employer declined to offer health insurance. Out-of-pocket costs would be higher under AHCA than they currently are under the ACA, and low-income people and seniors would also pay more for their health insurance under the proposal as originally written. Individual health insurance premiums would be 10 percent lower under the GOP plan by 2026, after an initial increase in premiums of 15 to 20 percent in 2018 and 2019. In addition, funding for the Medicaid program would be cut by \$880 billion, or 20 percent, over the next decade. The CBO noted that it did not have time to produce a dynamic score of AHCA, which would have considered changes in the overall economy as a result of the legislation’s enactment. The White House pushed back against CBO’s estimates, arguing that the focus of the repeal plan is on affordable health care choices rather than coverage. Republican leadership has also pointed out that the score does not take into account the other phases planned for ACA repeal and replacement: regulatory changes and other legislation passed through regular order.

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Phase Two and Three of Repeal and Replace: The GOP plans to consider legislation that would eliminate anti-trust protections, allow small businesses to form pools across the nation, institute medical liability reform, and ensure access to stop-loss insurance. This week, the House will take up the Small Business Health Fairness Act (H.R. 1101), which would allow plans across state lines for certain small businesses. The chamber will also consider the Competitive Health Insurance Reform Act (H.R. 372), which would remove an anti-trust exemption for the health insurance industry. House leadership is expected to bring the medical liability reform legislation known as the Protecting Access to Care Act (H.R. 1215) to the floor within two weeks. The bill was recently advanced by the House Judiciary Committee. It is unclear, however, if any of these measures have the requisite 60 votes to pass the Senate.

AHCA Budget Markup: The House Budget Committee advanced the repeal and replace legislation by a vote of 19-17, with three Republicans voting no: Dave Brat (R-Va.), Mark Sanford (R-S.C.) and Gary Palmer (R-Ala.). During the markup, the Committee approved four non-binding Republican recommendations that will accompany the bill when it is sent to the Rules Committee. Republicans recommended a work requirement for able-bodied adults enrolled in Medicaid, as well as a change to the refundable tax credit that would better target low-income people while providing tax deductions for individuals with higher incomes. The Committee also recommended that states be given the option of receiving their Medicaid funding as a block grant, and that Medicaid enrollment be further limited. The House Rules Committee will decide whether any amendments will be made to the current legislation before it is considered by the full House of Representatives.

Negotiations Are Ongoing: The White House and GOP leaders are currently working with rank-and-file members who are reluctant to support a measure that does not repeal the 2010 health care law in its entirety, and which they characterize as creating a new entitlement program in the form of refundable tax credits to assist individuals in purchasing health insurance. President Trump has ensured that two changes will be made to the legislation to appease some of these members: states will have the option to impose work requirements in the Medicaid program as well as the option to receive Medicaid funding as a block grant. Other changes that have been suggested include the elimination of the penalty for a lapse in health insurance coverage, and legislating actions the administration could take to deregulate the insurance industry. But it is still unclear whether some of these changes would pass the Senate's rules for reconciliation.

More Help for Low-Income Individuals: Republicans in the House and Senate seem to be coming to an agreement that the refundable tax credits should be increased for older and low-income people. The push for this change is being led by Sen. John Thune (R-S.D.). Speaker of the House Paul Ryan (R-Wis.) has also said that he is looking at potential changes to the tax credits in the health care bill. It is unclear if a new CBO score for the revised bill will be available before the floor vote in the House scheduled for later this week.

The Road to 218, 51: Assuming all Democrats vote against AHCA, Republicans can only afford 21 defections in the House. Seventeen members are currently on the record in opposition to AHCA, with many more leaning no or still uncertain. In the Senate, Dean Heller (R-Nev.) and Susan Collins (R-Maine) are the latest members to state their opposition to the legislation as currently written. While other moderate Republicans are still undecided on how they would vote, President Trump is meeting with more conservative members to address their concerns about the bill. Trump met with Sen. Ted Cruz (R-Texas), Sen. Mike Lee (R-Utah), and House Freedom Caucus Chairman Mark Meadows (R-N.C.) over the weekend to discuss changes to the bill that could lower costs for consumers. Majority Leader Mitch McConnell (R-K.Y.) continues to offer assurances that the Senate will take up the House measure, and allow amendments when it comes to the Senate floor. President Trump has expressed confidence that AHCA will pass quickly.

House Passes VA Patient Access Legislation

The House of Representatives has passed H.R. 1367, a bill aimed at improving the authority of the Secretary of Veterans Affairs (VA) to hire and retain physicians by a vote of 412-0. The bill would establish a health care and benefits fellowship program in partnership with the private sector, and create a database of mission-critical vacant positions in the Department. The VA would also be authorized to appoint a qualified former employee without the use of the competitive hiring process.

White House Budget Blueprint Released

President Trump released his fiscal year (FY) 2018 budget blueprint last week. The White House budget proposal would cut funding for the U.S. Department of Health and Human Services (HHS) by \$15 billion – approximately 18 percent – in FY 2018. HHS funds to address waste, fraud and abuse and to improve substance abuse detection and treatment would increase, while funding for biomedical research and programs for low-income individuals would be cut. The Health Care Fraud and Abuse Control Program would receive an additional \$70 million in funding, and the Substance Abuse and Mental Health Services Administration (SAMHSA) would receive an additional \$500 million. The National Institutes of Health (NIH), however, would see a \$5.8 billion budget cut. The Fogarty International Center, which conducts global health research, would be eliminated, and the Agency for Healthcare Quality and Research (AHRQ) would be absorbed into the NIH. The White House budget would double medical product user fees from a total of \$1 billion to \$2 billion annually, and \$400 million in funding for dedicated health care professional training programs would be eliminated. The Department of Veterans Affairs (VA) would see a \$4.4 billion budget increase. The additional funds would be used to expand the VA's Choice Program and patient access to care. Many congressional Republicans and appropriators have already made it clear that they are not in agreement with all of the details of the budget blueprint. Ultimately Congress will determine the funding specifics of the FY 2018 budget through the federal appropriations process. Director of the Office of Management and Budget (OMB) Mick Mulvaney has said that the full White House budget can be expected in May, and will contain the President's plans for reforming the Medicare program.

Senate Confirms CMS Administrator

The Senate has confirmed Seema Verma as Administrator of the Centers for Medicare and Medicaid Services (CMS) by a vote of 55-43. Three Democrats voted for the CMS nominee: Sens. Heidi Heitkamp (D-N.D.), Joe Manchin III (D-W. Va.) and Joe Donnelly (D-Ind.). Sen. Angus King (I-Maine) also voted to approve Verma. Sens. Johnny Isakson (R-Ga.) and Gary Peters (D-Mich.) missed the vote. No Republicans voted against the nomination. In a March 14th **letter** to governors penned by Verma and U.S. Secretary of Health and Human Services (HHS) Tom Price, the administrators pledge to provide states with more flexibility to design their Medicaid programs and to more quickly and transparently handle requests for Medicaid waivers. The letter outlines a conservative vision for the Medicaid program, with an increased focus on work requirements and cost sharing.

Wyden Introduces PBM Drug Pricing Legislation

Ranking Member of the Senate Finance Committee Ron Wyden (D-Ore.) has introduced legislation aimed at reducing drug costs by targeting prescription drug benefit managers (PBMs). The Creating Transparency to Have Drug Rebates Unlocked (C-THRU) Act (S. 637) would mandate that patient co-pays or co-insurance for Medicare Part D drugs are based on the negotiated price, rather than the higher list price, of the drug. The legislation would also mandate that PBMs disclose the aggregate rebates negotiated, the amount of those rebates passed on to health plans, and the difference between what a PBM pays a pharmacy for a product and what the PBM charges a health plan for the same product. After two years, a minimum percentage of the rebate would need to be passed on to health plans, and shared with patients.

Upcoming Congressional Hearings/Meetings

House Rules Committee will meet on the following measures: H.R. 372 — Competitive Health Insurance Reform Act of 2017 and H.R. 1101 — Small Business Health Fairness Act of 2017; 5:00 p.m., H-313 Capitol Bldg.; March 20

Senate Health, Education, Labor, and Pensions hearing on “FDA User Fee Agreements: Improving Medical Product Regulation and Innovation for Patients Part I;” 10:00 a.m., 430 Dirksen Bldg.; March 21

House Energy and Commerce Subcommittee on Oversight and Investigations hearing on “Fentanyl: The Next Wave of the Opioid Crisis;” 10:15 a.m., 2123 Rayburn Bldg.; March 21

House Energy and Commerce Subcommittee on Health hearing on “Examining FDA’s Prescription Drug User Fee Program;” 10:15 a.m., 2322 Rayburn Bldg.; March 22

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.Res.193 (introduced by Rep. Raja Krishnamoorthi): Protecting health coverage for all Americans; Energy and Commerce

H.R.1492 (introduced by Rep. Pete Sessions): To amend the Controlled Substances Act to direct the Attorney General to register practitioners to transport controlled substances to States in which the practitioner is not registered under the Act for the purpose of administering the substances (under applicable State law) at locations other than principal places of business or professional practice; Energy and Commerce, Judiciary

S.619 (introduced by Sen. Jon Tester): A bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes; Health, Education, Labor, and Pensions

S.629 (introduced by Sen. Dianne Feinstein): A bill to amend the Federal Food, Drugs, and Cosmetic Act to ensure the safety and effectiveness of medically important antimicrobials approved for use in the prevention, control, and treatment of animal diseases, in order to minimize the development of antibiotic-resistant bacteria; Health, Education, Labor, and Pensions

H.R.1533 (introduced by Rep. Yvette D. Clarke): To provide for further comprehensive research at the National Institute of Neurological Disorders and Stroke on unruptured intracranial aneurysms; Energy and Commerce

H.R.1539 (introduced by Rep. Brett Guthrie): To amend the Public Health Service Act to reauthorize a program for early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children; Energy and Commerce

H.R.1542 (introduced by Rep. Bill Johnson): To amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care, to amend title XVIII of such Act to modify the requirements for diabetic shoes to be included under Medicare, and for other purposes; Energy and Commerce, Ways and Means

H.R.1550 (introduced by Rep. David G. Reichert): To amend the Internal Revenue Code of 1986 to increase and make permanent the exclusion for benefits provided to volunteer firefighters and emergency medical responders; Ways and Means

H.R.1554 (introduced by Rep. Tim Walberg): To include information concerning a patient's opioid addiction in certain medical records; Energy and Commerce

S.637 (introduced by Sen. Ron Wyden): A bill to amend titles XI and XVIII of the Social Security Act to provide greater transparency of discounts provided by drug manufacturers; Finance

S.640 (introduced by Sen. Richard J. Durbin): A bill to prioritize funding for an expanded and sustained national investment in biomedical research; Budget

S.652 (introduced by Sen. Rob Portman): A bill to amend the Public Health Service Act to reauthorize a program for early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children; Health, Education, Labor, and Pensions

S.663 (introduced by Sen. John Thune): A bill to establish the position of Choice Program Ombudsman within the Office of Inspector General of the Department of Veterans Affairs to manage complaints regarding the provision of hospital care and medical services under section 101 of the Veterans Access, Choice, and Accountability Act of 2014; Veterans' Affairs

S.Res.89 (introduced by Sen. Michael B. Enzi): A resolution supporting the designation of March 2017 as "National Colorectal Cancer Awareness Month"; submitted, considered, and agreed to without amendment and with a preamble by Unanimous Consent

H.R.1561 (introduced by Rep. Nydia M. Velazquez): To prohibit any hiring freeze from affecting the National Institutes of Health and the Centers for Disease Control; Oversight and Government Reform

H.R.1563 (introduced by Rep. John Katko): To amend the Public Health Service Act to provide for the establishment of a mesothelioma patient registry, and for other purposes; Energy and Commerce

H.R.1565 (introduced by Rep. Andy Barr): To provide for the creation of a safe harbor for defendants in medical malpractice actions who demonstrate adherence to clinical practice guidelines; Energy and Commerce, Judiciary

H.R.1578 (introduced by Rep. Donald M. Payne, Jr.): To amend title XVIII of the Social Security Act to provide coverage under the Medicare program for FDA-approved qualifying colorectal cancer screening blood-based tests, and for other purposes; Energy and Commerce, Ways and Means

H.R.1586 (introduced by Rep. Jose E. Serrano): To amend the Federal Food, Drug, and Cosmetic Act to ensure that liquid over-the-counter medications are packaged with appropriate dosage delivery devices and, in the case of such medications labeled for pediatric use, appropriate flow restrictors, and for other purposes; Energy and Commerce

H.R.1587 (introduced by Rep. Louise McIntosh Slaughter): To amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antimicrobials used in the treatment of human and animal diseases; Energy and Commerce

H.R.1589 (introduced by Rep. Mike Thompson): To amend the Internal Revenue Code of 1986 to adjust the phaseout of the health insurance tax credit for geographic variations in the cost-of-living; Ways and Means

H.R.1592 (introduced by Rep. Ted S. Yoho): To remove penalties for health insurers under the Patient Protection and Affordable Care Act and Health Care and Education Reconciliation Act of 2010; Energy and Commerce