



Health Policy Briefing

March 27, 2017

Republicans Pull ACA Repeal and Replace Legislation

House Republicans have ended consideration of their bill to repeal and replace the Affordable Care Act (ACA) because it lacked enough support for passage. The House floor vote on the American Health Care Act (H.R. 1628) was cancelled only shortly before it was scheduled to take place on Friday afternoon. Republicans had intended to repeal President Obama’s signature accomplishment on the seventh anniversary of its signing into law.

Last Minute Negotiations: GOP leadership had struggled to garner the votes necessary to pass the proposal since unveiling the plan. Negotiations attempted to appease two factions of the Republican Party: the conservative Freedom Caucus, which wanted to address the cost of health insurance through complete repeal of the ACA, and more moderate members, who were concerned about an increase in the uninsured rate and constituents losing health care coverage. Concessions were made in an effort to win the support of members of the Freedom Caucus, but may have cost the votes of more moderate members. The Congressional Budget Office (CBO) found that recent changes to AHCA, like immediate repeal of Obamacare taxes and providing states the options of receiving Medicaid block grants and using work requirements in Medicaid, would result in less deficit reduction than the original AHCA draft but would lead to the same levels of coverage losses and premium increases. Other late-breaking revisions to the bill include the elimination of essential health benefit requirements and the addition of \$15 billion to the Patient and State Stability Fund, paid for by keeping the ACA’s Medicare tax on high earners for an additional six years. The Freedom Caucus pushed for the elimination of the insurer ban from denying coverage to people with preexisting conditions, which would have resulted in a reduction in premium costs. The White House, however, was not willing to negotiate on the issue of preexisting conditions. In an attempt to pressure conservative Republicans to support the bill, President Trump issued an ultimatum Thursday night, saying that he would leave the ACA in place unless lawmakers passed the White House-backed legislation to repeal and replace the law.

Inside

Republicans Pull ACA Repeal and Replace Legislation.....	1
Last Minute Negotiations.....	1
Signs of Trouble.....	2
Whip List.....	2
What’s Next?.....	2
House Passes Accompanying Health Reform Legislation.....	2
GAO to Report on Orphan Drug Program.....	2
Upcoming Congressional Hearings/Meetings.....	3
Recently Introduced Health Legislation.....	3

Signs of Trouble: The vote had been initially scheduled for Thursday night, but was pushed back to Friday in an attempt to corral enough support for the bill. But the first serious sign of trouble came when the House voted to begin debate on the health care plan Friday morning, with six Republicans voting no. Lawmakers typically do not break with their party on procedural votes, even if they plan to vote against the underlying legislation. The House went on to spend four hours debating the bill, with time equally divided between Republicans and Democrats. Republicans could only afford defections from 21 members in order to assure passage with the required 216 votes. All Democratic members had planned to vote against the bill. Despite round-the-clock efforts from the White House to sell the bill to Republicans in Congress, President Trump and Speaker of the House Paul Ryan (R-Wis.) were ultimately unsuccessful and agreed to cancel the vote.

Whip List: The exact number of Republicans who remained in opposition to the bill is unknown. During the time leading up to the cancelled vote, most of the 20 to 30 members affiliated with the Freedom Caucus were still planning on voting no, and more moderate members like Appropriations Chairman Rodney Frelinghuysen (R-N.J.) and co-chairman of the Tuesday Group Charlie Dent (R-Pa.) announced their opposition. Over the weekend, Rep. Ted Poe (R-Texas) resigned from the House Freedom Caucus and urged Members to come together to find solutions to move forward.

What's Next?: Given the failure of the AHCA, House Republican leadership has no Plan B to revive their pledge to repeal and replace Obamacare. In the Senate, Rand Paul (R-Ky.) and Mike Lee (R-Utah) have said that they will begin working on a full ACA repeal bill that could pass their chamber. Others, like Sens. Chuck Grassley (R-Iowa) and Lindsey Graham (R-S.C.), have advocated for working across the aisle to pass legislation. Senate Minority Leader Chuck Schumer (D-N.Y.) has said that his party would be willing to work with their Republican colleagues as long as the purpose is to improve, and not undermine, the current law. Senate GOP leadership, however, have given no indication of what they plan to do. There is some disagreement about how the outcome of the AHCA will affect another one of the GOP priorities: tax reform. Both the President and congressional leadership, however, have signaled that reforming the tax code is next on their agenda.

House Passes Accompanying Health Reform Legislation

The House passed two bills last week that were intended to be a part of the GOP health care reform plan to enhance the American Health Care Act (AHCA). H.R. 372, the Competitive Health Insurance Reform Act, would end the exemption for health insurers from federal antitrust laws, and was passed by a vote of 416-7. The 1945 McCarran-Ferguson Act exempted insurers from federal antitrust laws to the extent it is regulated by a state. Republicans supported the bill as a means to increase competition in the health insurance market, while Democrats are in favor of enforcing antitrust regulations should insurers collude to raise rates or engage in other anti-competitive practices. The House also passed legislation that would remove some of the regulations on small businesses providing health insurance to their employees through association health plans (AHPs). Under the legislation, AHPs would be governed by rules similar to those that apply to employers in the large group market. H.R. 1101, the Small Business Health Fairness Act, passed by a vote of 236-175.

GAO to Report on Orphan Drug Program

The Government Accountability Office (GAO) will examine whether pharmaceutical companies are abusing federal incentives to develop orphan drugs for rare diseases. The report comes at the request of Sens. Chuck Grassley (R-Iowa), Orrin Hatch (R-Utah), and Tom Cotton (R-Ark.), who are concerned that drug manufacturers are misusing the orphan drug designation, which involves tax credits, research and development funding, reduced user fees, and seven years of marketing exclusivity upon entering the market. The high price tags of many orphan drugs have raised concerns about whether the orphan drug status is being misused to maximize profits. The lawmakers have asked for a list of drugs approved or denied orphan status by the Food and Drug Administration (FDA), and whether there is consistency in the agency's reviews of the designations. Due to the GAO's current workload, the agency won't begin their analysis for several months.

Upcoming Congressional Hearings/Meetings

House Energy and Commerce Subcommittee on Health hearing on “Examining FDA’s Medical Device User Fee Program;” 10:15 a.m., 2322 Rayburn Bldg.; March 28

House Oversight and Government Reform Committee hearing on federally funded cancer research; 9:30 a.m., 2154 Rayburn Bldg.; March 29

House Appropriations Committee Labor-HHS-Education Subcommittee hearing on the HHS budget; 10:00 a.m., 2358-C Rayburn Bldg.; March 29

Senate Special Committee on Aging hearing on “The Arch of Alzheimer’s: From Preventing Cognitive Decline in Americans to Assuring Quality Care for those Living with the Disease”; 2:30 p.m., 106 Dirksen Bldg.; March 29

Senate Appropriations Defense Subcommittee hearing to review the defense health program and military medicine funding; 10:30 a.m., 192 Dirksen Bldg.; March 29

Recently Introduced Health Legislation

H.R.1603 (introduced by Rep. Karen Bass): To amend the Higher Education Act of 1965 to improve education opportunities for physician assistants, and for other purposes; Education and the Workforce

H.R.1604 (introduced by Rep. Karen Bass): To amend title XIX of the Social Security Act to extend to physician assistants eligibility for Medicaid incentive payments for the adoption and use of certified electronic health records, whether or not such physician assistants practice at a rural health center or Federally qualified health center; Energy and Commerce

H.R.1605 (introduced by Rep. Karen Bass): To amend the Public Health Service Act to provide loan repayment incentives for physician assistants, and for other purposes; Energy and Commerce, Ways and Means

H.R.1606 (introduced by Rep. Earl L. “Buddy” Carter): To amend title XXVII of the Public Health Service Act to improve health care coverage under vision and dental plans, and for other purposes; Energy and Commerce

H.R.1610 (introduced by Rep. Michelle Lujan Grisham): To amend title XXVII of the Public Health Service Act, and title XVIII of the Social Security Act, to direct the Secretary of Health and Human Services to conduct audits of medical loss ratio reports submitted by health insurance issuers, and for other purposes; Energy and Commerce, Ways and Means

H.R.1617 (introduced by Rep. Tom Reed): To amend title XVIII of the Social Security Act to permit nurse practitioners and physician assistants to satisfy the documentation requirement under the Medicare program for coverage of certain shoes for individuals with diabetes; Energy and Commerce, Ways and Means

H.R.1621 (introduced by Rep. Raul Ruiz): To amend title XVIII of the Social Security Act to distribute additional information to Medicare beneficiaries to prevent health care fraud, and for other purposes; Energy and Commerce, Ways and Means

H.Res.208 (introduced by Rep. Raul Ruiz): Supporting the goals and ideals of “National Latino AIDS Awareness Day” on October 15, 2017, and for other purposes; Energy and Commerce

H.R.1634 (introduced by Rep. Raul M. Grijalva): To require the Secretary of Health and Human Services to issue to Federal agencies guidelines for developing procedures and requirements relating to certain primary care Federal health professionals completing continuing medical education on nutrition and to require Federal agencies to submit annual reports relating to such guidelines, and for other purposes; Energy and Commerce

H.R.1639 (introduced by Rep. John Shimkus): 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; Energy and Commerce

H.Res.209 (introduced by Rep. Doug Collins): Providing for consideration of the bill (H.R. 372) to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers; Rules

H.Res.210 (introduced by Rep. Bradley Byrne): Providing for consideration of the bill (H.R. 1101) 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; Rules

H.Res.212 (introduced by Rep. Jimmy Panetta): Expressing the sense of the House of Representatives that any legislation to repeal the Patient Protection and Affordable Care Act should include a replacement for such Act that includes certain health care consumer protections; Energy and Commerce

H.R.1648 (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.1651 (introduced by Rep. Eddie Bernice Johnson): To designate the same individual serving as the Chief Nurse Officer of the Public Health Service as the National Nurse for Public Health; Energy and Commerce

H.R.1652 (introduced by Rep. Joseph P. Kennedy, III): To provide for the regulation of over-the-counter hearing aids; Energy and Commerce

H.Res.213 (introduced by Rep. Henry C. "Hank" Johnson, Jr.): Expressing support for designation of October 17, 2017, as the "National Vitiligo Awareness Day"; Energy and Commerce

H.Res.215 (introduced by Rep. Gus M. Bilirakis): Expressing the fact that the House of Representatives supports the system for prescription drug coverage provided under part D of the Medicare program and believes that changes to such system should not be part of the American Health Care Act of 2017; Energy and Commerce, Ways and Means

S.670 (introduced by Sen. Elizabeth Warren): A bill to provide for the regulation of over-the-counter hearing aids; Health, Education, Labor, and Pensions

S.689 (introduced by Sen. Patty Murray): A bill to provide women with increased access to preventive and life-saving cancer screening; Health, Education, Labor, and Pensions

H.R.1671 (introduced by Rep. Lou Barletta): To amend the Internal Revenue Code of 1986 to require the provision of social security numbers as a condition of receiving the health insurance premium tax credit; Ways and Means

H.R.1676 (introduced by Rep. Elliot L. Engel): To amend the Public Health Service Act to increase the number of permanent faculty in palliative care at accredited allopathic and osteopathic medical schools, nursing schools, social work schools, and other programs, including physician assistant education programs, to promote education and research in palliative care and hospice, and to support the development of faculty careers in academic palliative medicine; Energy and Commerce

S.693 (introduced by Sen. Tammy Baldwin): A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care at accredited allopathic and osteopathic medical schools, nursing schools, social work schools, and other programs, including physician assistant education programs, to promote education and research in palliative care and hospice, and to support the development of faculty careers in academic palliative medicine; Health, Education, Labor, and Pensions

H.R.1703 (introduced by Rep. Morgan H. Griffith): To amend the Federal Food, Drug, and Cosmetic Act with respect to determining the intended use of drugs and device; Energy and Commerce

H.R.1704 (introduced by Rep. Richard Hudson): To improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; Judiciary, Energy and Commerce

H.Res.225 (introduced by Rep. Daniel T. Kildee): Expressing the sense of the House of Representatives on Trumpcare, also known as the American Health Care Act of 2017; Energy and Commerce

S.694 (introduced by Sen. Angus S. King, Jr.): A bill to amend the Internal Revenue Code of 1986 to increase the standard charitable mileage rate for delivery of meals to elderly, disabled, frail, and at risk individuals; Finance

S.Res.96 (introduced by Sen. Robert P. Casey, Jr.): A resolution designating March 25, 2017, as “National Cerebral Palsy Awareness Day”; submitted, considered, and agreed to without amendment and with a preamble by Unanimous Consent