



## Health Policy Briefing

July 31, 2017

### Senate Rejects ACA Repeal Efforts

In the early hours of July 28, Senate Republicans’ attempt to repeal and replace the Affordable Care Act (ACA) fell apart. Majority Leader Mitch McConnell (R-Ky.) had offered amendment #667, the Health Care Freedom Act, referred to as the “skinny bill,” in hopes of passing something in the Senate that could engage the House of Representatives in conference negotiations to build consensus toward a final repeal and replace package. The final vote was 49-51 with Sens. John McCain (R-Ariz.), Lisa Murkowski (R-Alaska), and Susan Collins (R-Maine) joining Senate Democrats to oppose the amendment.

At the conclusion of the vote, Majority Leader McConnell returned the bill to the calendar. He thanked members for their work in trying to achieve consensus, but expressed disappointment that they could not come to an agreement. He asked for ideas on how to address the current problems with Obamacare. Minority Leader Chuck Schumer (D-N.Y.) stated that those who voted against the amendment are not celebrating, but are relieved at the outcome of the vote. He acknowledged that Obamacare can be improved, and that both parties should work together to do so. With the health care debate behind them for now, the Senate adjourned until July 31st, when they will return to consider judicial nominations.

The Health Care Freedom Act – “skinny” repeal – would have repealed the individual and employer mandates, extended through 2020 the moratorium on the medical device tax, increased the maximum health savings account (HSA) contribution limit to the amount of deductible and out-of-pocket limitations through 2020, provided funding for community health centers (CHCs), eliminated funding for Prevention and Public Health Fund beginning in FY 2019, eliminates funding for Planned Parenthood for one year, and provided flexibility for state innovation (i.e., 1332 waivers) – which could have allowed states to alter essential health benefits (EHBs).

Other amendments that failed to pass

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during the debate Thursday evening until early Friday morning included motions to recommit the bill to relevant health committees for further consideration, providing premium assistance for low-income individuals, and establishing a single payer health care system. An amendment to permanently repeal the ‘Cadillac’ tax on health benefit packages passed by a vote of 52-48.

Going into the evening, several Republican senators demanded assurance from the House that Senate passage of the skinny bill would result in conference negotiations. Speaker of the House Paul Ryan (R-Wis.) provided this assurance, which resulted in several senators voting for the package. Speaker Ryan stated “It is now obvious that the only path ahead is for the Senate to pass the narrow legislation that it is currently considering. This package includes important reforms like eliminating the job-killing employer mandate and the requirement that forces people to purchase coverage they don’t want. Still it is not enough to solve the many failures of Obamacare. Senators have made clear that this is an effort to keep the process alive, not to make law. If moving forward requires a conference committee, that is something the House is willing to do.”

The American Medical Association (AMA) stated that the group was relieved by the outcome of the vote, but added that the status quo is not acceptable and that Congress must work to stabilize the individual marketplace to ensure access to affordable and quality health insurance coverage.

The House adjourned for August recess on Friday. The Senate previously made the decision to delay its recess for two weeks. At this point, the Senate is poised only to complete work on nominations, but it may also take up the bipartisan Food and Drug Administration Reauthorization Act (FDARA), which previously passed the House by voice vote. Timely passage of FDARA is necessary to ensure that FDA review and approval of pharmaceuticals and medical devices is not disrupted as the user fees authorized by the bill provide more than half of the agency’s funding.

### ***What’s Next for Health Reform?***

Republicans remain divided on a path forward following the collapse of efforts to repeal and replace the Affordable Care Act (ACA). Lawmakers like Sens. Bill Cassidy (R-La.), Rob Portman (R-Ohio), John McCain (R-Ariz.), and Lisa Murkowski (R-Alaska) are urging their colleagues to begin work on a bipartisan plan that moves through regular order. Additionally, Sen. Bill Nelson (D-Fla.) has said that he has already begun work with Sen. Susan Collins (R-Maine) and a small group of senators from both parties on a bipartisan approach to stabilizing the market and making health insurance more affordable. Others, like Sen. Ted Cruz (R-Texas) and House Freedom Caucus Chairman Mark Meadows (R-N.C.) have dismissed any suggestions of working across the aisle, and wish to continue pursuing GOP-only health reform efforts. Other lawmakers are turning away from comprehensive health care reform altogether. Chairman of the House Energy and Commerce Committee Greg Walden (R-Ore.) has expressed interest in appropriating cost-sharing reduction payments to strengthen the individual market as soon as the House of Representatives returns from August recess.

While President Trump initially appeared to support waiting for the collapse of Obamacare before returning to health care reform, he has since expressed optimism about a plan from Sens. Lindsay Graham (R-S.C.), Bill Cassidy (R-La.), and Dean Heller (R-Nev.). Their proposal would provide hundreds of billions in federal money from ACA taxes to states for the purpose of designing their own health insurance market. Sen. Graham has said that he is including members of the House Freedom Caucus in discussions of the block grant proposal.

### ***House Completes Work on Four Appropriations Bills***

Before adjourning for August recess, the House completed work on its first spending legislation for fiscal year (FY) 2018, packaging together appropriations for Defense, Military Construction-VA, Energy and Water Development, and the Legislative Branch. Combined, the bill comprises 66 percent of federal discretionary spending. When the House of Representatives returns from August recess on September 5, leadership plans to bring the eight remaining spending bills to the floor for a vote. It is unclear when the Senate will move any appropriations bills to the floor. According to Speaker Ryan, tax reform will also be high on the House GOP agenda when members return from recess.

### ***Ways and Means Launches Project to Cut Medicare Red Tape***

The House Ways and Means Committee has launched an **initiative** aimed at scaling back regulatory and legislative burdens in the Medicare program. The Medicare Red Tape Relief Project requests comments from health care stakeholders about mandates that raise costs and hinder innovation and care quality. Lawmakers hope to work with the health care industry to find and eliminate such regulations either through legislation or administrative action, in conjunction with the U.S. Department of Health and Human Services (HHS). Health Subcommittee Chairman Pat Tiberi's (R-Ohio) ultimate goal is to improve efficiency and care quality for Medicare beneficiaries. The initiative will also include congressional roundtables with stakeholders across the country. Comments are due by August 25.

### ***House Passes Medicare Part B Package***

The House of Representatives passed H.R. 3178 by voice vote last week. The Medicare Part B Improvement Act is a package of changes to the Medicare Part B home infusion and dialysis benefits. It would create a transitional payment for providers of home infusion services before 2021, and would extend a demonstration project that pays for in-home administration of intravenous immunoglobulin (IVIG). The bill would also allow dialysis centers to use telehealth for home patient monitoring, and would make it easier for beneficiaries to access customized orthotics and prosthetics.

### ***House Votes to Extend VA Choice Program***

The House of Representatives passed a revised version of S. 114, the VA Choice and Quality Employment Act, last week. The bill provides \$2.1 billion in mandatory funds for the Veterans Choice Program, which allows care delivery outside of VA facilities. The legislation also authorizes \$274.6 million for VA facility leases, and would expand the VA's efforts to recruit and retain qualified health professionals. The program is set to run out of funding as early as mid-August. The funding included in S. 114 will extend the program for an additional six months.

## **Upcoming Congressional Meetings and Hearings**

***Senate Health, Education, Labor, and Pensions Committee nomination hearing (Assistant Secretary for Aging, Assistant Secretary for Health, Assistant Secretary for Preparedness and Response, Assistant Secretary for Mental Health and Substance Use, Surgeon General of the Public Health Service); 2:30 p.m., 430 Dirksen Bldg.; August 1***

***Senate Finance Committee nomination hearing examine the nominations of Gilbert B. Kaplan, of the District of Columbia, to be Under Secretary of Commerce for International Trade, and Matthew Bassett, of Tennessee, to be an Assistant Secretary of Health and Human Services; 10:00 a.m., 215 Dirksen Bldg.; August 3***

## **Recently Introduced Health Legislation**

***H.R.3358 (introduced by Rep. Tom Cole): Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2018, and for other purposes; Appropriations***

***H.R.3360 (introduced by Rep. Gregg Harper): To promote and expand the application of telehealth under Medicare and other Federal health care programs, and for other purposes; Energy and Commerce, Ways and Means***

***H.R.3378 (introduced by Rep. Jackie Walorski): To amend title XVIII of the Social Security Act to require reporting of certain data by providers and suppliers of air ambulance services for purposes of reforming reimbursements for such services under the Medicare program, and for other purposes; Energy and Commerce, Ways and Means***

***H.R.3382 (introduced by Rep. Katherine M. Clark): To amend the Public Health Service Act to better address substance use and substance use disorders among young people; Energy and Commerce***

*H.R.3391 (introduced by Rep. Andy Harris): To amend the Controlled Substances Act to make marijuana accessible for use by qualified marijuana researchers for medical purposes, and for other purposes; Energy and Commerce, Judiciary*

*H.R.3393 (introduced by Rep. Ted Lieu): To increase cybersecurity education and job growth, and for other purposes; Science, Space, and Technology, Ways and Means, Education and the Workforce, Oversight and Government Reform*

*H.R.3394 (introduced by Rep. Cathy McMorris Rodgers): To reauthorize section 340H of the Public Health Service Act to continue to encourage the expansion, maintenance, and establishment of approved graduate medical residency programs at qualified teaching health centers, and for other purposes; Energy and Commerce*

*H.R.3417 (introduced by Rep. Janice D. Schakowsky): To authorize the Secretary of Health and Human Services to carry out a pilot program to improve community-based care infrastructure; Energy and Commerce*

*H.R.3426 (introduced by Rep. Debbie Dingell): To amend title XVIII of the Social Security Act to remove the exclusion of Medicare coverage for hearing aids and examinations therefor, and for other purposes; Energy and Commerce, Ways and Means*

*H.R.3443 (introduced by Rep. Suzan K. DelBene): To amend the Public Health Service Act to prohibit wellness programs, including those offered by health insurance issuers or in connection with a group health plan, from disclosing personally identifiable information related to individuals' use or non-use of contraceptives; Energy and Commerce*

*H.R.3447 (introduced by Rep. Lynn Jenkins): To amend title XVIII of the Social Security Act to provide prescription drug plans under part D of the Medicare program with parts A and B Medicare claims data to promote the appropriate use of medications and improve health outcomes; Energy and Commerce, Ways and Means*

*H.R.3450 (introduced by Rep. Janice D. Schakowsky): To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates; Energy and Commerce*

*H.R.3451 (introduced by Rep. Jeff Denham): To amend title III of the Public Health Service Act to expand the program for payments to teaching health centers with GME programs, and for other purposes; Energy and Commerce*

*H.R.3457 (introduced by Rep. Gus M. Bilirakis): To require the Comptroller General of the United States to conduct an evaluation on the extent to which the Medicare and Medicaid programs provide reasonable accommodations to individuals who are blind or visually impaired; Energy and Commerce, Ways and Means*

*H.R.3461 (introduced by Rep. Matt Cartwright): To amend the Older Americans Act of 1965 to develop and test an expanded and advanced role for direct care workers who provide long-term services and supports to older individuals in efforts to coordinate care and improve the efficiency of service delivery; Education and the Workforce*

*H.R.3482 (introduced by Rep. Bill Johnson): To amend title XVIII of the Social Security Act to expand the use of telehealth under the Medicare program, and for other purposes; Energy and Commerce, Ways and Means*

*H.R.3484 (introduced by Rep. John Katko): To direct the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, to award grants to States to implement a tick identification pilot program; Energy and Commerce*

*H.R.3495 (introduced by Rep. Ben Ray Lujan): To amend the 21st Century Cures Act to appropriate funds for the Account for the State Response to the Opioid Abuse Crisis through fiscal year 2023, and for other purposes; Energy and Commerce*

*H.R.3497 (introduced by Rep. Cathy McMorris Rodgers): To direct the Secretary of Veterans Affairs to carry out a pilot program establishing a secure, patient-centered, portable medical records system, that would allow veterans to have access to their Personal Health Information, and for other purposes; Veterans' Affairs*

*H.Res.482 (introduced by Rep. Rosa L. DeLauro): Expressing support for the designation of September 2017 as National Ovarian Cancer Awareness Month; Oversight and Government Reform*

*S.1656 (introduced by Sen. Richard Blumenthal): A bill to amend the Federal Food, Drug, and Cosmetic Act to provide cybersecurity protections for medical devices; Health, Education, Labor, and Pensions*

*S.1667 (introduced by Sen. Dianne Feinstein): A bill to amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates; Health, Education, Labor, and Pensions*

*S.Res.236 (introduced by Sen. Mazie Hirono): A resolution recognizing July 28, 2017, as “World Hepatitis Day 2017”; Health, Education, Labor, and Pensions*