



Health Policy Briefing

September 21, 2015

House Votes to Defund Planned Parenthood, Detached from CR

The House approved a bill to freeze federal funding for Planned Parenthood largely along party lines on Friday. H.R. 3134, the Defund Planned Parenthood Act of 2015 was passed by a 241-187 vote, with two Democrats joining nearly every Republican to block funding for the organization for one year, unless its providers agree to stop performing abortions. During that time period, Congress will investigate the organization's use of fetal tissue. Rep. Charlie Dent (R-Pa.), Rep. Robert Dold (R-Ill.) and Rep. Richard Hanna (R-N.Y.) voted against the funding freeze, while Rep. Dan Lipinski (D-Ill.) and Rep. Collin Peterson (D-Minn.) voted in favor of the bill. Rep. Steve King (R-Iowa) voted present, to signal his position that the legislation does not go far enough to permanently defund the organization. According to the Congressional Budget Office (CBO), the bill would result in a net savings of \$235 million in fiscal year 2016. The savings would largely be realized through a reduction in mandatory spending in the form of Medicaid reimbursement to the organization for the health care services other than abortions that it provides. The legislation would reinvest this \$235 million in Federally Qualified Health Centers to support women's health care. Democrats are expected to block the bill in the Senate, and the administration has condemned all efforts to defund Planned Parenthood. The vote on this legislation was held in an attempt by House GOP leadership to prevent further debate on the issue from hindering passage of a continuing resolution (CR). Five legislative days remain to pass a spending bill and avoid a government shutdown, and the coming week will be dominated by Pope Francis' visit to Washington, D.C. Many conservative lawmakers have promised to defund Planned Parenthood at any cost, and it is unclear whether this vote will appease the 31 members that have pledged not to vote for any spending measure that includes funds for the organization. Meanwhile, Democrats have said they will oppose any bill that attacks the group. One option being floated by some Republicans is the use of a budget reconciliation bill to defund Planned Parenthood, which would

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only require a simple majority (51) vote in the Senate to advance. The defunding provision could be added to a larger package aimed at the party's initial goal of repealing portions of the Affordable Care Act (ACA) through the reconciliation process while avoiding the threat of a Senate filibuster which requires 60 votes to end debate and proceed on legislation. Speaker of the House John Boehner (R-Ohio) has yet to offer a plan on how to keep the government open once federal funding expires at the end of fiscal year 2015 on September 30. Rep. Boehner's position as Speaker of the House could be on the line, as there are rumors that the most conservative members of his party may push for a formal leadership change. The House has, however, adopted a rule known as "martial law" that will allow for quick consideration of any measure on September 24, setting up the chamber to potentially debate a CR the same day it is advanced out of the House Rules Committee. Meanwhile, Senate Majority Leader Mitch McConnell (R-Ky.) has said that he has begun talks with Republican appropriators in the House to assemble a clean, short term CR that would give lawmakers time to negotiate a large fiscal year 2016 budget deal in the same vein as the Ryan-Murray deal of 2013 before the end of the calendar year. The length of such a CR would keep pressure on lawmakers to come up with a longer term budget agreement. Sen. McConnell has maintained his vow that there will be no government shutdown. If such negotiations take place, Democrats and the White House will likely demand the raising of sequestration level spending caps.

Affordable Care Act Update

Bipartisan Cadillac Tax Bill Introduced in the Senate

Sen. Dean Heller (R-Nev.) and Sen. Martin Heinrich (D-N.M.) introduced legislation last week to repeal the Affordable Care Act's (ACA) "Cadillac Tax." The tax will go into effect in 2018 and will impact any employer health insurance plans that cost more than \$10,200 per year for individuals or \$27,450 per year for families. Employers will have to pay 40 percent of the cost above the statutory limits. A study has shown that approximately a quarter of employers will be subject to the tax unless they change their benefit plans. The bill sponsors argue that the tax unfairly targets people who receive health insurance from their employers. A bill to repeal the tax was introduced in the House by Rep. Joe Courtney (D-Conn.) earlier this spring, but has yet to see a vote. Repeal of this ACA provision is estimated to cost \$87 billion.

CBO Releases New Individual Mandate Estimates

According to the Congressional Budget Office (CBO), repealing the Affordable Care Act's (ACA) individual mandate would lower the deficit by \$305 billion over the next decade but would result in 14 million people becoming uninsured. That would bring the total number of people without health insurance coverage to 43 million, a level not seen since 2013. Eliminating the mandate would also cause premiums to rise by 20 percent in the individual market, according to CBO estimates.

Medicare and Medicaid News

Energy and Commerce Continues Consideration of Medicaid Legislation

The House Energy and Commerce Health Subcommittee held a hearing last week to discuss four pieces of legislation aimed at strengthening the Medicaid program. The first bill, the Medicaid Directory of Caregivers (DOC) Act, would require state Medicaid programs that operate fee for service and/or primary care case management programs to include a directory of physicians who have served Medicaid patients in the prior six months on the Medicaid program's website. Also under consideration was the Program of All Inclusive Care for the Elderly (PACE) Innovation Act (H.R.3243), which would allow the Centers for Medicare and Medicaid Services (CMS) to test the PACE model with new populations. H.R. 670, the Special Needs Trust Fairness Act, would allow individuals to set up their own special needs trust. Finally, H.R. 209, the Ensuring Access to Clinical Trials Act, would allow individuals to participate in clinical trials for rare diseases and conditions without counting the income earned from these trials against their eligibility for the Medicaid program. This hearing was the second subcommittee hearing in recent weeks to examine the Medicaid program.

The Food and Drug Administration

Robert Califf Nominated to Head the FDA

The President nominated Dr. Robert Califf to lead the Food and Drug Administration (FDA) last week. Dr. Califf is currently serving as the FDA's second-highest ranking official overseeing the agency's centers for drugs, devices, and tobacco products. He first joined the FDA in January as deputy commissioner. While Dr. Califf spent over thirty years of his career as a cardiologist and a medical researcher at Duke University, he has previously worked on expert committees that advise the FDA. If confirmed by the Senate, he will be forced to address pressure from Congress to streamline regulations for medical products. In July, the House of Representatives passed H.R. 6, the 21st Century Cures Act, which would require the FDA to quicken the drug approval process, consider more flexible clinical trials, and incorporate the patient perspective in the FDA's approval process. The Senate is expected to unveil its own version of the bill and begin consideration before the end of the year. The Senate Health, Education, Labor, and Pensions (HELP) Committee will hold a hearing on Dr. Califf's nomination. Chairman Lamar Alexander (R-Tenn.) has said the nomination will be considered promptly.

FDA Fast Tracks Ebola Drug

The Food and Drug Administration (FDA) has decided to grant fast track approval to ZMapp, an experimental drug that was given to the first American treated for Ebola in the United States. The drug was first administered under emergency use authorization for patients in Africa, the United States, and Western Europe. The first clinical trial of ZMapp took place in Liberia and the United States. The medicine works by preventing the virus from entering and infecting new cells. It takes six months to produce and supply is still extremely limited.

Upcoming Congressional Meetings and Hearings

His Holiness Pope Francis will make history as the first Pope to ever address a joint meeting of Congress on September 24, 2015 at 10:00 a.m.

Senate Health, Education, Labor and Pensions (HELP) Committee: hearing on health information technology; time and place tba, Oct 1, as announced at the committee's Sept. 16 HIT hearing

House Veterans' Affairs Committee: hearing titled "A Call for System-Wide Change: Evaluating the Independent Assessment of the Veterans Health Administration;" 10:30 a.m., 334 Cannon Bldg., Oct. 7

Health Legislation Recently Introduced

H.R. 3498 (introduced by Rep. Harris): A bill to amend title 18, United States Code, to prohibit human cloning; to the Committee on the Judiciary. (Sept. 11)

H. Res. 419 (introduced by Rep. Lowey for herself and Rep. Chrenshaw): A resolution recognizing the importance of frontline health workers toward accelerating progress on global health and saving the lives of women and children, and for other purposes; to the Committee on Foreign Affairs. (Sept. 15)

H.R. 3513 (introduced by Rep. Cummings for himself, Rep. Ellison, Rep. Norton, and Rep. Sarbanes): A bill to ensure greater affordability of prescription drugs; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. (Sept. 16)

H.R. 3520 (introduced by Rep. Brady of Texas for himself and Rep. Capps): A bill to amend the Public Health Service Act to establish an interagency coordinating committee on pulmonary hypertension, and for other purposes; to the Committee on Energy and Commerce. (Sept. 16)

H.R. 3525 (introduced by Rep. Engel): A bill to direct the Secretary of Energy to establish a pilot program to award grants and loan guarantees to hospitals to carry out projects for the purpose of reducing energy costs and increasing resilience to improve security; to the Committee on Energy and Commerce. (Sept. 16)

H.R. 3537 (introduced by Rep. Dent for himself and 16 others): A bill to amend the Controlled Substances Act to clarify how controlled substance analogues are to be regulated, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. (Sept. 17)

H.R. 3539 (introduced by Rep. Boustany for himself, Rep. Thompson of California, Rep. Paulsen, Rep. Shimkus, and Rep. Gene Green of Texas): A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for clinical testing expenses for qualified infectious disease drugs and rapid diagnostic tests; to the Committee on Ways and Means. (Sept. 17)

H.R. 3549 (introduced by Rep. Kline for himself, Rep. Peterson, Rep. Emmer of Minnesota, and Rep. Paulsen): A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs. (Sept. 17)

H. Res. 425 (introduced by Rep. Neugebauer for himself, Rep. Payne, and Rep. Mullin): A resolution expressing support for designation of September 2015 as "National Prostate Cancer Awareness Month"; to the Committee on Energy and Commerce. (Sept. 17)

H.R. 3580 (introduced by Rep. Tiberi): A bill to establish in the Department of Veterans Affairs a continuing medical education program for non-Department medical professionals who treat veterans and family members of veterans to increase knowledge and recognition of medical conditions common to veterans and family members of veterans, and for other purposes; to the Committee on Veterans' Affairs. (Sept. 18)

H. Res. 432 (introduced by Rep. Murphy for himself and Rep. Rooney): A resolution expressing support for designating of February 2016 as "National Spine Ability Month"; to the Committee on Energy and Commerce. (Sept. 18)

Health Legislation Recently Introduced cont.

- S. 2030 (introduced by Sen. Bennet for himself, Sen. Burr, Sen. Warren, and Sen. Hatch): A bill to allow the sponsor of an application for the approval of a targeted drug to rely upon data and information with respect to such sponsor's previously approved targeted drugs; to the Committee on Health, Education, Labor, and Pensions. (Sept. 15)
- S. 2041 (introduced by Sen. Casey for himself, Sen. Cassidy, and Sen. Menendez): A bill to promote the development of safe drugs for neonates; to the Committee on Health, Education, Labor, and Pensions. (Sept. 16)
- S. 2045 (introduced by Sen. Heller for himself and 15 others): A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage; to the Committee on Finance. (Sept. 17)
- S. 2049 (introduced by Sen. Brown): A bill to establish in the Department of Veterans Affairs a continuing medical education program for non-Department medical professionals who treat veterans and family members of veterans to increase knowledge and recognition of medical conditions common to veterans and family members of veterans, and for other purposes; to the Committee on Veterans' Affairs. (Sept. 17)
- S. 2052 (introduced by Sen. Klobuchar for herself and Sen. Franken): A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs. (Sept. 17)
- S. 2055 (introduced by Sen. Burr for himself and Sen. Casey): A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to national health security; to the Committee on Health, Education, Labor, and Pensions. (Sept. 17)