



Health Policy Briefing

September 26, 2016

Congress Nears Deadline for Avoiding Shutdown

Congress has through Friday, September 30th to finalize negotiations and pass a continuing resolution (CR) to keep the government open through the start of fiscal year (FY) 2017. Party leadership have reached an agreement on some of the contentious issues that had previously stalled talks on the short-term spending bill, like the inclusion of Planned Parenthood language with funding to combat the Zika virus, and whether and how to offset the legislation. Republicans agreed to allow federal dollars to go to Planned Parenthood’s partner clinic in Puerto Rico – Profamilias – and Democrats agreed to minor offsets to pay for the funding package. The package would provide \$1.1 billion in Zika aid, and includes \$400 million in offsets from previously appropriated unused funds for Ebola response and Affordable Care Act (ACA) exchanges that were never established. The CR would extend FY 2016 spending levels through December 9, leaving a longer-term deal to be passed during a lame duck post-election session. Senate Majority Leader Mitch McConnell (R-Ky.) announced that a cloture vote on a clean CR would take place this Tuesday. The short-term funding bill includes \$37 million in new funding to combat the opioid addiction epidemic, which will allow for implementation of some provisions in the recently passed Comprehensive Addiction and Recovery Act (CARA). Democrats, however, have threatened to reject the bill due to the lack of emergency funding to address the drinking water crisis in Flint, Mich. While the Senate has taken the lead on government funding, the chamber has been consulting with the House throughout negotiations. Although the House traditionally authors the first version of spending bills, Speaker of the House Paul Ryan (R-Wis.) has faced difficulty in getting members of his party to agree on the timing of the CR and spending levels. In anticipation of the CR, the House Rules Committee has already approved a special rule some refer to as “martial law,” also known as same-day authority, to allow House leadership to bring legislation to the floor the same day it is advanced by the Rules Committee. The Administration, however, has begun preparations in case of a government shutdown. The Office of Management and Budget (OMB) held a conference call on Friday with federal agency leadership to begin planning should a lapse in appropriations occur.

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Medicaid Fraud Prevention Measures Proposed

The U.S. Department of Health and Human Services (HHS) Office of the Inspector General (OIG) has released a proposed rule dealing with state Medicaid fraud prevention efforts. The proposed rule would give Medicaid Fraud Control Units (MFCUs) the ability to conduct investigations into allegations of patient abuse and neglect, or misappropriation of funding. The issue of fraud in the Medicaid program has been the subject of a congressional hearing, following reports that in 2015 Medicaid had a 9.8 percent rate of mistakenly paying providers. The agency will accept comments on the proposed rule through November 21.

McCarthy Expresses Support for Biannual Budgeting Bill

House Majority Leader Kevin McCarthy (R-Calif.) has expressed support for bringing a biannual budgeting bill to the floor this month. H.R. 1610, sponsored by Rep. Reid Ribble (R-Wis.), would establish a two-year budget process. McCarthy said he would support bringing the bill to the House floor before the chamber adjourns at the end of the month for the election recess. While a hearing on the legislation has been held in the Budget Committee, the bill has not yet been marked up. It currently has more than 230 bipartisan cosponsors, including Speaker of the House Paul Ryan (R-Wis.). Budget Committee Chairman Tom Price (R-Ga.) and Ranking Member Chris Van Hollen (D-Md.), however, have not yet signed on to the bill, but the concept of a two-year spending process has the support of budget leadership in the Senate. The proposal stemmed from an attempt by lawmakers to address the unpredictability of the annual appropriations process.

21st Century Cures Pushed to Lame Duck

House Energy and Commerce Committee Chairman Fred Upton (R-Mich.) will wait until the lame duck session to introduce a new version of his 21st Cures legislation. H.R. 6 passed the House last year with broad bipartisan support, but further progress on the bill has been stalled in the Senate over negotiations about how to offset new spending for the National Institutes of Health (NIH). Upton had hoped to pass the new version, which contains different spending offsets, before the election, but it appears that a deal was not able to be reached in time to move the bill before the November election recess. Upton did hint that an announcement with more details about the new 21st Century Cures bill should be expected before Congress leaves town.

Industry Announces Effort to Curb Antibiotic Resistance

Thirteen pharmaceutical manufacturers announced plans to reduce pollution from antibiotics factories and decrease the overuse of antibiotics in an effort to curb the rise of antimicrobial resistance. Both generic and brand drug makers will develop new factory standards and supply chains to ensure that antibiotic waste does not enter waterways. They will also review their promotional activities and implement measures to remove incentives to sell antibiotics in large volumes. The announcement coincided with a meeting of the United Nations General Assembly focusing on drug resistance.

Energy and Commerce Advances Health Legislation

The House Energy and Commerce Committee marked up six public health bills last week, which were advanced unanimously by voice vote. H.R. 4365, the Protecting Patient Access to Emergency Medications Act, would enable paramedics and emergency medical services (EMS) providers to continue to administer controlled substances to patients according to standing orders issued by their medical director. H.R. 1192, the National Clinical Care Commission Act, would establish a commission to evaluate and make recommendations on caring for people with metabolic syndromes and autoimmune disorders. H.R. 1209, the Improving Access to Maternity Care Act, would increase data collection to better place maternal health professional in geographic regions with workforce shortages through the National Health Service Corps (NHSC). H.R. 1877, the Mental Health First Aid Act, would award grants to initiate and sustain mental health awareness training. H.R. 2713, the Title VIII Nursing Workforce Reauthorization Act of 2015, reauthorizes grants and scholarships for nursing education. Finally, H.R. 3537, the Synthetic Drug Control Act, would place several synthetic drug compounds on Schedule I of the Controlled Substances Act. Both H.R. 1877 (the Mental Health First Aid Act) and H.R. 3537 (the Synthetic Drug Control Act) are scheduled to be considered this week by the full House under suspension of the rules.

Upcoming Congressional Hearings and Markups

POSTPONED: Senate Health, Education, Labor and Pensions Committee markup of S.2873, the “Expanding Capacity for Health Outcomes (ECHO) Act”; S.2932, the “Protecting Patient Access to Emergency Medications Act of 2016”; and the “Career and Technical Education Act of 2016”; date and time TBD

House Energy and Commerce Oversight and Investigations Subcommittee hearing titled “Bioresearch Labs and Inactivation of Dangerous Pathogens;” 2:00 p.m., 2322 Rayburn Bldg.; September 27

POSTPONED: House Energy and Commerce Subcommittee on Health hearing titled “Examining Expanded Access to Investigational Therapies;” 10:00 a.m., 2322 Rayburn Bldg.; date and time TBD

House Ways and Means Oversight Subcommittee hearing titled “Health Care Fraud Investigations;” 10:00 a.m., 1100 Longworth Bldg.; September 28

Recently Introduced Health Legislation

H.R.6067 (introduced by Rep. Dianne Black): To amend the Internal Revenue Code of 1986 to provide an exemption from the individual mandate for certain individuals without access to Exchange coverage; Ways and Means; September 19

H.R.6083 (introduced by Rep. Steve Israel): To provide payment for patient navigator services under title XIX of the Social Security Act, and for other purposes; Energy and Commerce; September 20

H.R.6084 (introduced by Rep. Steve Israel): To amend title XVIII of the Social Security Act to provide comprehensive cancer patient treatment education under the Medicare program and to provide for research to improve cancer symptom management; Energy and Commerce, Ways and Means; September 20

H.R.6088 (introduced by Rep. James B. Renacci): To delay for one year the release of the Overall Hospital Quality Star Ratings, and for other purposes; Energy and Commerce; September 20

H.Res.874 (introduced by Rep. David B. McKinley): Expressing support for designation of the month of September as “Rheumatic Disease Awareness Month”, in recognition of the costs imposed by rheumatic diseases, the need for increased medical research, and the quality care provided by trained rheumatologists; Energy and Commerce; September 20

H.Res.877 (introduced by Rep. John J. Duncan): Encouraging each State to enact legislation that increases the likelihood of survival after sudden cardiac arrest in our Nation's schools; Education and the Workforce, Energy and Commerce; September 20

H.R.6094 (introduced by Rep. Tim Walberg): To provide for a 6-month delay in the effective date of a rule of the Department of Labor relating to income thresholds for determining overtime pay for executive, administrative, professional, outside sales, and computer employees; Education and Workforce; September 21

H.R.6101 (introduced by Rep. Dianne Black): To amend title XVIII of the Social Security Act to improve the Medicare accountable care organization (ACO) program, and for other purposes; Ways and Means, Energy and Commerce; September 21

H.R.6109 (introduced by Rep. Frank Pallone, Jr.): To amend titles XVIII and XIX of the Social Security Act to improve the affordability and enrollment procedures of the Medicare program, and for other purposes; Ways and Means, Energy and Commerce, Transportation and Infrastructure; September 21

H.R.6120 (introduced by Rep. Tim Murphy): To amend title XVIII of the Social Security Act to provide for clarification and rationalization of Medicare prescription drug plan recovery rules for certain claims; Energy and Commerce, Ways and Means; September 22

H.R.6132 (introduced by Rep. Tammy Duckworth): To establish a task force to develop a national trauma care system, to improve the trauma care system of the Department of Defense, and for other purposes; Energy and Commerce, Armed Services; September 22

H.R.6139 (introduced by Rep. Michael C. Burgess): To amend title XVIII of the Social Security Act to provide Medicare entitlement to immunosuppressive drugs for kidney transplant recipients.; Energy and Commerce, Ways and Means; September 22

H.R.6158 (introduced by Rep. Tom Reed): To provide for enhanced penalties for certain offenses relating to controlled substances containing fentanyl, and for other purposes; Judiciary, Energy and Commerce; September 22

H.Res.883 (introduced by Rep. Janice D. Schawkosky): Supporting the designation of a week as National Federal Nurse Recognition Week; Energy and Commerce; September 22

H.Res.887 (introduced by Rep. Peter A. DeFazio): Supporting efforts to increase competition and accountability in the health insurance marketplace, and to extend accessible, quality, affordable health care coverage to every American through the choice of a public insurance plan; Energy and Commerce; September 22

S.Res.570 (introduced by Sen. Christopher Murphy): A resolution recognizing the importance of substance abuse disorder treatment and recovery in the United States; Health, Education, Labor and Pensions; September 19

S.3361 (introduced by Sen. Robert P. Casey, Jr.): A bill to amend the Public Health Service Act to establish an interagency coordinating committee on pulmonary hypertension, and for other purposes; Health, Education, Labor, and Pensions; September 20

S.3371 (introduced by Sen. Ron Wyden): A bill to amend titles II, XVIII, and XIX of the Social Security Act to improve the affordability and enrollment procedures of the Medicare program, and for other purposes; Finance; September 21

S.3387 (introduced by Sen. Tom Cotton): A bill to provide for the fast track review of certain generic drugs; Health, Education, Labor, and Pensions; September 22

S.3392 (introduced by Sen. Johnny Isakson): A bill to amend title XVIII of the Social Security Act in order to improve the process whereby Medicare Administrative Contractors issue local coverage determinations under the Medicare Program, and for other purposes; Finance; September 22