



Health Policy Briefing

November 11, 2019

Pelosi Pushes Vote on Drug Pricing to December

A vote on House Speaker Nancy Pelosi's drug pricing package (H.R. 3) will be delayed until the first week of December, according to a senior Democratic aide. Democratic leadership had planned to begin consideration of the bill before Thanksgiving but will instead await the release of a full score from the Congressional Budget Office (CBO), which will not be complete for another two weeks. Lawmakers must also still reconcile the differences between the three versions of the bill marked up by the committees of jurisdiction. While the legislation is expected to pass the House of Representatives, Majority Leader Mitch McConnell (R-Ky.) has said that he will not bring it for a vote before the Senate, and an anonymous White House official characterized Pelosi's plan as "unworkable" in comments last week.

Although the White House has stated that it is still in talks with the Speaker's office, it continues to push for the advancement of the bipartisan drug pricing bill passed by the Senate Finance Committee earlier this year. Finance Chairman Chuck Grassley (R-Iowa) stated last week that the President supports his package to lower the cost of prescription drugs, including a measure to penalize pharmaceutical manufacturers whose prices rise faster than inflation. Many Senate Republicans have been reluctant to endorse the provision, which some have likened to a government price control. Chairman Grassley and Ranking Member Ron Wyden (D-Ore.) plan to file a new bill soon following ongoing discussions with the White House and Senate colleagues in the hopes of garnering additional Republican support for the bill. While it is still unclear what the revisions will entail, Grassley has previously discussed making changes to the drug rebate system, and Wyden has previously introduced standalone legislation on the topic. White House Domestic Policy Council Chief Joe Grogan, however, recently cast doubt on the possibility of including a policy to address the issue of drug

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rebates. During an Alliance for Health Policy event last week, Grogan stated that policymakers are out of time to develop any new such measures.

Senators Push for Expedited Passage of Bipartisan Drug Pricing Bills

Two bipartisan pairs of lawmakers were unsuccessful in attempting to pass their drug pricing bills by unanimous consent last week. Sens. John Cornyn (R-Texas) and Richard Blumenthal (D-Conn.) pushed their legislation (S. 1416) that would empower the federal government to prevent brand manufacturers from using the patent system to block generic competition from coming to market, while Sens. Dick Durbin (D-Ill.) and Chuck Grassley (R-Iowa) sought to pass a bill (S. 1437) that would require drug makers to disclose the cost of their products in direct-to-consumer (DTC) advertising. According to Sen. Cornyn, Democratic leadership is withholding support for the patent bill until an agreement on broader efforts to reduce drug prices can be reached. Meanwhile, Sen. Pat Toomey (R-Pa.) is blocking Sen. Durbin's DTC advertising legislation because the latest bill has changed since being passed by the Senate last year and has not been vetted through the committee process. Sen. Toomey has expressed concern about the bill's potential to mislead consumers or deter them from seeking care but has stated that he does not object to a recorded roll call vote on the legislation. Some Democrats have also expressed broader concerns about passing the health bills without allowing for amendments and an open debate. Sens. Cornyn and Blumenthal plan to ask again to pass their legislation by unanimous consent this week.

HELP to Consider FDA Commissioner Nominee Nov. 20

Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-Tenn.) has offered details on the timing to consider the nomination of Texas oncologist Stephen Hahn, MD to be Commissioner of Food and Drugs, stating last week that the Senate should be able to schedule a vote on his confirmation in December. A hearing to consider his nomination has been scheduled before the HELP panel on November 20. In related news, concerns were raised by HELP Ranking Member Patty Murray (D-Wash.) last week regarding the appointment of U.S. Department of Health and Human Services (HHS) Assistant Secretary Brett Giroir as acting FDA commissioner, due to Giroir's prior efforts to curtail fetal tissue research.

Policymakers Consider CR, Border Wall Ahead of Nov. 21 Deadline

White House Office of Legislative Affairs Director Eric Ueland stated that the President is open to another stopgap spending bill to fund the government past November 21, when the current continuing resolution (CR) expires, as long as it does not include any restrictions on border wall spending. The White House is currently in conversations with appropriators regarding both regular order spending bills as well as a short-term spending measure, according to Ueland. Negotiations among congressional lawmakers are stalled over the question of top-line spending levels, though there is general agreement that another continuing resolution will be necessary. The potential length of such a CR is still undecided.

Freshman Lawmakers Push for HIT Delay

Reps. John Joyce (R-Pa.) and Anthony Brindisi (D-N.Y.) have sent a [letter](#) to House leadership requesting quick action to delay the Health Insurance Tax (HIT) for 2020 and 2021. The lawmakers assert that the tax would result in premium increases for approximately 142 million Americans. Congress previously suspended the tax for 2019 as a part of a continuing resolution (CR) signed into law last year. "As Congress considers policies to bring down health care costs, acting immediately to extend a moratorium on the HIT for 2020 and beyond is a step Congress can take now to protect individuals and families, seniors, and small businesses from higher health care costs," they state. The letter was co-signed by over 50 other lawmakers from both parties – more than half of the freshman class.

Medicaid Work Requirements Lose in KY, VA Elections

Efforts to strengthen state Medicaid programs saw wins in several elections last week. In the race for Kentucky governor, Democrat Andy Beshear defeated Republican incumbent Matt Bevin, whose policy to institute work requirements for Medicaid beneficiaries is currently tied up in court. Beshear has stated that he will quickly reverse the proposed changes to Kentucky's Medicaid program. In Virginia, Democrats regained control of the state legislature. The party will now have enough votes to roll back the work requirements conceded to Republicans when the state expanded its Medicaid program two years ago.

Upcoming Congressional Hearings and Markups

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing “Examining the Response to Lung Illnesses and Rising Youth Electronic Cigarette Use;” 10:00 a.m., 430 Dirksen Bldg.; November 13

House Energy and Commerce Subcommittee on Health markup of H.R.2339, the “Reversing the Youth Tobacco Epidemic Act,” H.R. 4995, the “Maternal Health Quality Improvement Act of 2019,” H.R.4996, “the Helping Medicaid Offer Maternity Services Act of 2019,” and H.R.2387, the “Stop The Overuse of Petitions and Get Affordable Medicines to Enter Soon (STOP GAMES) Act;” 10:00 a.m., 2123 Rayburn Bldg.; November 13

House Committee on Small Business hearing “Upskilling the Medical Workforce: Opportunities in Health Innovation;” 11:30 a.m., 2360 Rayburn Bldg.; November 13

House Committee on Ways and Means hearing “Caring for Aging Americans;” 10:00 a.m., 1100 Longworth Bldg.; November 14

House Committee on Science, Space, and Technology markup of legislation including H.R. 4704, Advancing Research to Prevent Suicide Act;” 10:00 a.m., 2318 Rayburn Bldg.; November 14

House Committee on Oversight and Reform hearing “Examining State Efforts to Undermine Access to Reproductive Health Care;” 2:00 p.m., 2154 Rayburn Bldg.; November 14

Senate HELP Committee hearing on the nomination of Stephen M. Hahn, MD, to serve as Commissioner of Food and Drugs; 10:00 a.m., 430 Dirksen Bldg.; November 20

Senate Armed Services Subcommittee on Personnel hearing to examine testimony about servicemember, family, and veteran suicides and prevention strategies; 2:30 p.m., 222 Russell Bldg.; December 4

Recently Introduced Health Legislation

H.R.4974 — To amend the Controlled Substances Act to require physicians and other prescribers of controlled substances to complete training on treating and managing patients with opioid and other substance use disorders (which shall also satisfy certain training required to receive a waiver for dispensing narcotic drugs for maintenance or detoxification treatment), and for other purposes; Sponsor: Rep. Trahan, Lori [D-MA-3]; Committees: House - Energy and Commerce; Judiciary

H.R.4989 — To authorize the Secretary of Health and Human Services to award a grant to a health care organization to promote student access to defibrillation in elementary and secondary schools, and for other purposes; Sponsor: Rep. Lawson, Al, Jr. [D-FL-5]; Committees: House - Energy and Commerce; Education and Labor

H.R.4985 — To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to furnish, at the request of an eligible veteran, nursing home care and hospital care at State licensed or certified residential care facilities; Sponsor: Rep. DeLauro, Rosa L. [D-CT-3]; Committees: House - Veterans' Affairs

H.R.4982 — To amend the Public Health Service Act to provide for treatment of certain respiratory protective devices as covered countermeasures for purposes of targeted liability protections for pandemic and epidemic products and security countermeasures, and for other purposes; Sponsor: Rep. Bacon, Don [R-NE-2]; Committees: House - Energy and Commerce

H.R.4980 — To assist States, tribes, territories, counties, and cities in implementing the Family First Prevention Services Act, and for other purposes; Sponsor: Rep. Davis, Danny K. [D-IL-7]; Committees: House - Ways and Means

S.2772 — A bill to amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Finance

S.2774 — A bill to direct the Attorney General to establish and carry out a Veteran Treatment Court Program; Sponsor: Sen. McSally, Martha [R-AZ]; Committees: Senate - Judiciary

S.2777 — A bill to assist States, tribes, territories, counties, and cities in implementing the Family First Prevention Services Act, and for other purposes; Sponsor: Sen. Grassley, Chuck [R-IA]; Committees: Senate - Finance

S.2785 — A bill to set forth a method of determining maximum out-of-pocket limits and annual updates to premium tax credit eligibility under the Patient Protection and Affordable Care Act; Sponsor: Sen. Shaheen, Jeanne [D-NH]; Committees: Senate - Health, Education, Labor, and Pensions

S.2793 — A bill to amend the Internal Revenue Code of 1986 to require coverage without a deductible of certain primary care services by high deductible health plans; Sponsor: Sen. King, Angus S., Jr. [I-ME]; Committees: Senate - Finance

S.2807 — A bill to amend title XVIII of the Social Security Act to improve the quality of care furnished by hospice programs under the Medicare program; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate - Finance

S.2812 — A bill to amend title XVIII of the Social Security Act to establish a Medicare payment option for patients and eligible professionals to freely contract, without penalty, for Medicare fee-for-service items and services, while allowing Medicare beneficiaries to use their Medicare benefits; Sponsor: Sen. Paul, Rand [R-KY]; Committees: Senate - Finance

S.2817 — A bill to require the Secretary of Health and Human Services to establish an annual reference price for insulin products for purposes of Federal health programs, and for other purposes; Sponsor: Sen. Merkley, Jeff [D-OR]; Committees: Senate - Health, Education, Labor, and Pensions

S.2821 — A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to allow a veteran to receive a full year supply of contraceptive pills, transdermal patches, and vaginal rings, and for other purposes; Sponsor: Sen. Duckworth, Tammy [D-IL]; Committees: Senate - Veterans' Affairs

S.2822 — A bill to direct the Secretary of Veterans Affairs to develop and maintain a suicide risk management and prevention and lethal means training course for certain employees of the Department of Veterans Affairs, and for other purposes; Sponsor: Sen. Duckworth, Tammy [D-IL]; Committees: Senate - Veterans' Affairs