

HALL RENDER'S THIS WEEK IN WASHINGTON - MARCH 17, 2017

HOUSE BUDGET COMMITTEE ADVANCES AMERICAN HEALTH CARE ACT

On March 16, the House Budget Committee voted 19-17 to advance the ACA repeal and replace legislation known as the American Health Care Act ("AHCA"). The bill passed despite the opposition of several conservatives on the committee who opposed the measure on the grounds that it doesn't go far enough. Although the Budget Committee hearing differed from the markup hearings held by the House Energy and Commerce and Ways and Means committees last week in that no amendments were offered, several non-binding motions were passed that recommend changes to the measure that reflect the concerns of conservatives. These include cuts to Medicaid beyond what's already in the bill and work requirements for able-bodied participants. Also, in a rare display of bipartisanship, five Democrats joined all of the committee's Republicans to approve a motion that recommends extending the bill's tax credits to cover more low income people.

The bill now advances to the House Rules Committee where Republicans will address the recommendations made by the Budget Committee, as well as other changes that are in the works. Over the last several days, President Donald Trump, Vice President Mike Pence and HHS Secretary Tom Price have been deeply engaged with House conservatives on changes to the bill that would win enough votes to ensure its passage. However, those discussions have focused on including an optional Medicaid work requirement and allowing states to choose the option of receiving funding through a block grant. Either change would make the legislation more conservative and exacerbate the criticisms of some Republicans in the Senate who have indicated they will not support the measure in its current form.

House Speaker Paul Ryan (R-WI) is sticking to his plan for a vote on the bill by the full House next week, but that could be derailed until the final week of March if changes are made by the Rules Committee. The legislation could also be amended on the floor of the House through use of a manager's amendment, an idea that has been part of the discussions between the White House and conservative Republicans in the House. Regardless of whether the AHCA is changed before it passes the low chamber, it is likely to be further amended when it moves to the Senate. A handful of Senate Republicans, both moderate and conservative, have expressed concerns ranging from the bill's Medicaid cuts to the coverage projections made by the Congressional Budget Office ("CBO").

CBO PROVIDES COST ESTIMATE OF ACA REPEAL AND REPLACE BILL

On March 13, CBO **released its cost estimate** for the AHCA, which comes a week after the proposal was introduced and passed by the House Ways and Means and Energy and Commerce committee. From a budgetary perspective, the CBO report estimates the AHCA would reduce federal deficits by \$337 billion over 10 years with significant savings from Medicaid reform and the elimination of ACA subsidies for the individual health insurance market. It also estimates that nearly 24 million fewer people would be insured under the AHCA than the ACA by 2026.

Critics were quick to point out that CBO's estimate is based on an assumption that 14 million of those people would be without coverage because they would chose not be, either because they no longer have to pay a penalty or they find coverage to be too expensive. However, CBO also estimates that health insurance premiums for individual health plans in 2018-2019 would increase on average by 15-20 percent before decreasing by about 10 percent by 2026.

PRESIDENT'S "SKINNY BUDGET" BLUEPRINT SLASHES DISCRETIONARY SPENDING

On March 16, President Trump released a broad budget request to Congress. **The blueprint**, which is being referred to as a "skinny budget" due to its lack of line-by-line funding requests, slashes HHS spending by 18 percent to \$69 billion, a decrease of roughly \$15 billion from 2017. The budget does not change funding for mandatory spending programs such as Medicare or Social Security nor does it address specific funding levels for HHS programs and sub-agencies. The Trump administration will address specific funding levels in a more detailed budget that's expected to be released in May. The proposed HHS funding cuts will run into significant resistance from Congress, which is ultimately responsible for setting the various funding levels.

MEDPAC RELEASES ANNUAL REPORT TO CONGRESS

On March 15, the Medicare Payment Advisory Commission ("MedPAC") released its **annual report to Congress**. For the third time in recent years, MedPAC addressed site-neutral payments and recommended that Congress direct HHS to reduce payment rates for evaluation and

management office visits so that total payment rates for these visits are the same whether the service is provided in a physician office or a hospital outpatient department. MedPAC also recommended that Congress reduce payment rates to inpatient rehabilitation hospitals and home health agencies by five percent in 2018.

MedPAC is an independent congressional agency established to advise Congress on issues affecting Medicare. While congressional committees take MedPAC recommendations into consideration, Congress must take action for a MedPAC recommendation to be implemented.

PRICE AND VERMA ADDRESS MEDICAID IN LETTER TO GOVERNORS

A day after she was confirmed as CMS Administrator, Seema Verma and HHS Secretary Price **wrote a letter to governors** suggesting they are likely to grant states Medicaid waivers similar to the Healthy Indiana Plan 2.0 that Verma helped Indiana enact under then-Governor Pence. Verma and Price also encouraged states to seek waivers that align Medicaid coverage with features found in private insurance plans, including health savings accounts, increased premiums, waivers of non-emergency medical transportation and copays, to discourage inappropriate use of emergency rooms. Although the letter says they support Medicaid waivers that will "increase employment and community engagement," it did not expressly back work requirements.

HEALTH CARE-RELATED BILLS INTRODUCED THIS WEEK

Rep. Andy Barr (R-KY) introduced a bill (H.R. 1565) to provide for the creation of a safe harbor for defendants in medical malpractice actions who demonstrate adherence to clinical practice guidelines.

Rep. Brett Guthrie (R-KY) introduced a bill (H.R. 1539) to amend the Public Health Service Act to reauthorize a program for early detection, diagnosis and treatment regarding deaf and hard-of-hearing newborns, infants and young children. A companion bill was introduced in the Senate by Sen. Rob Portman (R-OH).

Sen. Jon Tester (D-MT) introduced a bill (S. 619) to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program.

NEXT WEEK IN WASHINGTON

The House and Senate return on March 20 and March 21, respectively. The full House could vote to pass the AHCA, but the timing will depend largely on how Republicans amend the current version. On March 22, the House Energy and Commerce Committee will hold a hearing on the FDA's Prescription Drug User Fee Program. The Senate HELP Committee will hold a similar hearing on the FDA user fee agreements on March 21. The two committees are attempting to pass their prescription drug user fee bill by May or June of this year.

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