

HALL RENDER'S THIS WEEK IN WASHINGTON - JUNE 30, 2017

SENATE DELAYS VOTE ON BCRA

On June 27, Senate majority leader Mitch McConnell (R-KY) announced the Senate would delay voting on the Better Care Reconciliation Act ("BCRA"). The Senate was scheduled to vote Wednesday on a motion to proceed with debate on its version of legislation to repeal a significant portion of the Affordable Care Act. However, following the Republicans' weekly lunch on Tuesday, it became evident the majority party was well short of the 50 votes needed to start deliberations on the Senate floor.

The announcement came a day after the Congressional Budget Office ("CBO") **estimated** that enacting the Senate legislation would reduce the cumulative federal deficit by \$321 billion over 10 years. That amount is \$202 billion more than the estimated new savings from the House version of H.R. 1628. However, the CBO also estimated the Senate bill would increase the number of people who are uninsured by 22 million by 2026. While this is slightly lower than the increase in uninsured estimated for the House-passed bill, it proved much too high to win over moderate Senate Republicans worried about the loss of Medicaid coverage in their state.

Throughout this week, Majority Leader McConnell tried to win over wavering lawmakers by offering changes to the bill that would dramatically increase the funding to combat opioid abuse and a new provision that would require consumers whose coverage lapses for 63 days or more to wait six months before enrolling in new coverage, which is intended to encourage individuals to enroll and maintain coverage in place the individual mandate.

Despite the setback, the Republican leadership still believes a deal can be reached after the Senate reconvenes following the July 4 recess.

HOUSE PASSES BILL TO LIMIT MEDICAL MALPRACTICE LAWSUITS

On June 28, the House passed legislation imposing new limits on medical malpractice lawsuits. The bill narrowly passed the House by a 218-210 margin due to opposition from Democrats and conservative Republicans who believe the measure infringes upon states' rights.

Among other provisions, the bill would tighten the statute of limitations for malpractice suits, cap certain damage awards and crack down on attorneys' fees. It would impose a \$250,000 maximum on non-economic damages tied to medical malpractice and protect providers from prescription drug lawsuits over FDA-approved drugs. The bill faces significant opposition in the Senate where it will need 60 votes to win passage, making its chance of becoming law unlikely.

CMS ISSUES PROPOSED PAYMENT UPDATE FOR KIDNEY DISEASE TREATMENT

On June 29, CMS **proposed** a one percent increase in payments for hospital-based facilities treating patients with kidney disease. The increase would be effective for services provided on or after January 1, 2018. CMS projected the changes would translate to a roughly \$100 million increase in overall Medicare spending on end-stage renal disease reimbursements. The proposed rule also asks providers to submit feedback on Medicare regulations as part of the agency's overall efforts to roll back health care regulations.

HOUSE REPUBLICANS PUSH CMS TO ADOPT OIG RECOMMENDATIONS

House Energy and Commerce Committee leadership is asking CMS Administrator Seema Verma to implement 12 of the HHS Office of Inspector General's ("OIG") recommendations covering Medicare and Medicaid by August of 2018. The letter also asked CMS to prioritize OIG's list of unimplemented recommendations.

Among the recommendations are: increasing protections for Medicare beneficiaries under the two-midnight hospital admissions policy; reforming hospice payments; changing the way Medicare reimburses nursing homes for therapy services; and lowering hospital outpatient rates to those for similar services performed in ambulatory surgical centers.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

House Energy and Commerce Health Subcommittee Chairman Michael Burgess (R-TX) introduced a bill (H.R. 3120) that would amend Title XVIII of the Social Security Act to reduce the volume of future electronic health record-related significant hardship requests.

Rep. Patrick Meehan (R-PA) introduced a bill (H.R. 3044) to amend Title XVIII of the Social Security Act to expand supplemental benefits to

meet the needs of chronically ill Medicare Advantage enrollees under Medicare.

Sen. Dean Heller (R-NV) introduced a bill that is intended to expand health care choices by allowing Americans to buy health care coverage across state lines.

NEXT WEEK IN WASHINGTON

The House and Senate are out next week for the July 4 recess. Both chambers return July 10, and the Senate will immediately address the health care reform bill if the votes exist. The House is expected to vote on its FDA user fee package, which should pass easily. In light of the Congressional recess next week, *This Week in Washington* will not be published next Friday but will return the following Friday.

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