

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

BILL INTRODUCED TO PREVENT 340B CUTS

On November 14, a **bipartisan bill** was introduced to prevent CMS from implementing the \$1.6 billion cut to the 340B drug discount program. The legislation, introduced by Reps. David McKinley (R-WV) and Mike Thompson (D-CA), pushes HHS to maintain the current 340B discount rate of Average Sales Price ("ASP") + 6 percent. In the 2018 OPPS final rule, CMS revised the payment rate to ASP -22.5 percent, which amounts to an overall cut of more than 28 percent. On November 13, a group of hospital associations and health systems **sued** the Trump administration in D.C. federal court to block the payment cuts before they are set to begin on January 1.

Proponents of the legislation will push lawmakers to pass it despite opposition from a number of House and Senate Republicans who have questioned the substantial increase in 340B spending in recent years. If the measure were to pass both houses of Congress, it could very well be vetoed by President Trump, who is unlikely to overturn a decision made by the leadership of CMS that he appointed. Last month, 228 members of the House signed a letter in opposition to the then-proposed 340B cut, while a bipartisan group of 57 senators signed a similar **letter**.

HOUSE PASSES GOP TAX REFORM BILL

On November 16, the House passed the **Tax and Jobs Act** (H.R. 1) that would make the most significant revision to the federal tax code since 1986. The measure was approved with only Republican votes, 227 to 205. The provisions in the bill that could impact nonprofit health care entities include elimination of the tax exemption for private activity bonds and a 20 percent excise tax on compensation in excess of \$1 million for certain executives. The bill repeals itemized deductions for medical expenses, but it does not repeal the ACA's individual mandate.

However, not long after the House approved the bill, the Senate Finance Committee **advanced** its version of a tax reform bill, which does repeal the ACA's individual mandate. While the Senate bill also includes the provision regarding executive compensation, it does not include language regarding private activity bonds.

AZAR NOMINATED TO HEAD HHS

On November 13, President Trump nominated Alex Azar to be the next Secretary of the Department of Health and Human Services. Azar, a former Eli Lilly executive and Indiana native, served as General Counsel and Deputy Secretary of HHS in the George W. Bush Administration. After confirmation hearings, Azar's nomination must be confirmed by the full Senate.

The Senate HELP Committee has scheduled its confirmation **hearing** for November 29. The Senate Finance Committee, which has jurisdiction over the nomination, had not scheduled its hearing at the time of this writing. However, Finance Committee member Sen. John Thune (R-SD) noted this week the committee wants to confirm Azar by the end of the year.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Greg Gianforte (R-MT) introduced a bill (**H.R. 4390**) to reauthorize the rural emergency medical service training and equipment assistance program under section 330J of the Public Health Service Act.

Sen. Jeanne Shaheen (D-NH) introduced **S. 2125** to improve the response by states to the opioid abuse crisis.

Sen. Dean Heller (R-NV) introduced **S. 2121** that would amend Title XVIII of the Social Security Act to require reporting of certain data by providers and suppliers of air ambulance services for purposes of reforming reimbursements for such services under the Medicare program.

Sens. Claire McCaskill (D-MO) and Richard Burr (R-NC) introduced a bill to amend Title XVIII of the Social Security Act to provide fairness in hospital payments under the Medicare program. The text of the bill (**S. 2156**) has yet to be published.

NEXT WEEK IN WASHINGTON

Congress will be out of session for the Thanksgiving holiday. The Senate returns on November 27, and the House returns the following day.

THIS WEEK IN WASHINGTON IN HISTORY

1995, 22 years ago this week: The federal government places non-essential federal workers on furlough due to a budget impasse between Congressional Republicans and President Bill Clinton. The standoff would last from November 14 through November 19 and would end with Congress passing a temporary funding measure.

1902, 115 years ago this week: A cartoon appears in the *Washington Star* prompting the "Teddy Bear Craze" after President Teddy Roosevelt refused to kill a captive bear tied up for him to shoot during a hunting trip to Mississippi.

For more information, please contact:

- **John Williams III** at (202) 370-9585 or jwilliams@hallrender.com;
- **Andrew Coats** at (202) 370-9587 or acoats@hallrender.com;
- **Abby Kaericher** at (202) 780-2989 or akaericher@hallrender.com; or
- Your regular Hall Render attorney.