

HALL RENDER'S THIS WEEK IN WASHINGTON - FEBRUARY 16, 2018

TRUMP BUDGET PROPOSES CUTS TO HHS AND ENTITLEMENT PROGRAMS

On February 12, the White House released President Trump's FY 2019 [budget proposal](#), which seeks major cuts to the Department of Health and Human Services. If enacted into law, the budget would cut the HHS discretionary budget by 21 percent and slash Medicare and Medicaid spending by hundreds of billions of dollars. However, as with every presidential budget, the request is seen as more of an aspirational "wish list" than a realistic legislative proposal by most lawmakers on Capitol Hill. Nevertheless, provisions in the budget could find their way into legislation or agency regulations.

On the positive side, the Trump budget would provide HHS with nearly \$10 billion in new funding to fight the opioid crisis through drug abuse prevention, treatment and recovery programs. However, it would also reduce Medicare uncompensated care payments, cut coverage of Medicare bad debt payments from 65 percent to 25 percent over a three-year period starting in 2019 and pay all hospital-owned physician offices located off campus at the physician office rate. Additionally, much like the Graham-Cassidy bill introduced in the Senate last year, the budget looks to end Medicaid's expansion under the Affordable Care Act ("ACA") and provide block grant funding to the states to set enrollment standards. While the budget seeks repeal of the ACA as a deficit reduction measure, Republican lawmakers have indicated they will not attempt to repeal the ACA in 2018.

HEAVY FOCUS ON 340B PROGRAM REFORM

President Trump's budget request also calls for significant modifications to the 340B drug discount program. The proposal calls for savings from hospitals providing a certain amount of uncompensated care to be redistributed based on that percentage. Hospitals that do not meet the requirement would not receive any funds and their payment reductions would be returned to the trust. In addition, the budget proposal pushes for a requirement that hospitals report how they use savings from the 340B program, even including proposed legislative language to let HHS audit the records of providers to determine how savings are used.

The budget also calls for \$16 million in user fees to help the Health Resources and Services Administration ("HRSA") administer the 340B program. Nonprofit hospitals and other facilities would pay user fees amounting to 0.1 percent of 340B drug purchases. On February 15, Hall Render attended HRSA's FY 2019 budget rollout where the agency described program priorities. HRSA officials said they are asking for increased regulatory authority over the 340B program to set standards as well as implement the user fee. HRSA administrators indicated they are still ironing out details of the new proposals and will release them as soon as possible.

The 340B program proposals in the president's budget echo many of the concerns raised by Congress, and several track very closely to recommendations in a [report](#) released by the House Energy and Commerce Committee earlier this year. Members of the committee also raised concerns about the 340B program during a recent hearing on the impact of health care consolidation. In his opening statement, Chairman Greg Walden (R-OR) cited the 340B program as one of the reasons for increased consolidation because it "creates an incentive for hospitals to acquire independent physician offices not eligible for the 340B discount, especially those in the oncology space."

Prior to the budget's release, the White House Council of Economic Advisors issued a [drug-price report](#) suggesting increased oversight of the 340B program. The report suggests restricting the drug discount program to low income patients, and it raises concerns with current 340B eligibility standards.

SENATE FINANCE COMMITTEE INTEREST IN IRS OVERSIGHT OF NONPROFIT HOSPITALS

On February 15, the Senate Finance Committee Chairman Orin Hatch (R-UT) and senior committee member Chuck Grassley (R-IA) sent IRS Commissioner David Kautter a [letter](#) calling on the agency to investigate the not-for-profit status of hospitals. The two veteran lawmakers acknowledge the importance of the community benefit standard but also raise questions on whether the standard is being met. Citing a recent [Politico article](#) that alleges the community benefit standard had fallen in recent years, the letter requests the IRS report to the committee on actions the agency is taking to address this issue.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. David P. Joyce (R-OH) introduced [H.R. 5052](#) to amend Title XVIII of the Social Security Act to provide for patient protection by

establishing safe nurse staffing levels at certain Medicare providers

Sen. Tammy Baldwin (D-WI) introduced **S. 2437** to reauthorize and improve the 21st Century Cures opioid grant program.

Sen. Chuck Grassley (R-IA) introduced **S. 2415** to amend Title XIX of the Social Security Act to streamline enrollment of certain Medicaid providers and suppliers across state lines.

NEXT WEEK IN WASHINGTON

The House and Senate will be out of session next week for a state/district work period. Both chambers return the week of February 26 and will be in session for seven of the next eight weeks. During this time, lawmakers must pass spending legislation before the current continuing resolution expires on March 23 and are expected to continue their efforts to reach an immigration deal and allocate funds for the opioid crisis.

THIS WEEK IN WASHINGTON IN HISTORY

1990: 28 years ago this week, President George H. W. Bush ratifies the United Nations Convention against the trafficking of narcotic drugs. President Bush calls the signing "a formidable weapon" in the struggle against international drug traffickers.

1798: 220 years ago this week, the first fistfight in Congress breaks out as Rep. Roger Griswold (F-CT) famously attacks Matt Lyon (R-VT) on the House floor. Griswold attacks Lyon with a walking stick before Lyon responded with a pair of fireplace tongs. The underlying cause of the dispute was Lyon's support for President John Adam's foreign policy.

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.