



Health Policy Briefing

December 18, 2017

Congress to Vote on Final Tax Reform Bill This Week

The House-Senate Conference Committee on the Tax Cuts and Jobs Act (H.R. 1) signed off on the final language of the conference report on Friday afternoon. House and Senate votes are expected to occur this week. Sens. John McCain (R-Ariz.) and Thad Cochran (R-Miss.) have both been absent from the Senate due to health reasons. Reports on Sunday afternoon indicated that Sen. McCain would not be available for the vote; no word yet on Sen. Cochran. Sen. Bob Corker (R-Tenn.), who voted against the Senate tax bill, has announced that he will support the package, despite sending a letter to Sen. Hatch (R-Utah) over the weekend regarding his concerns with the passthrough provisions in the bill. His decision leaves no other GOP senators publically opposed to the legislation. The final tax bill would end the Affordable Care Act's (ACA) individual mandate requiring that all individuals purchase insurance or pay a fine. The deal does not, however, include the House-passed provision to repeal the medical expense deduction. Instead, the bill would allow for the deduction of medical bills above 7.5 percent of adjusted gross income for two years before restoring the deduction's income threshold to 10 percent. Lawmakers will still have to take steps to officially waive the PAYGO rule, which would otherwise trigger cuts to Medicare and other federal programs to offset the impact of the tax bill on the deficit. House Democrats are threatening to allow the automatic spending cuts to take effect next year unless individual mandate repeal is removed from the tax bill. Democratic votes are needed in the Senate to waive the PAYGO law.

House Unveils CR to Fund the Government through January 19

The House of Representatives released its plans for a continuing resolution (CR) to fund the government past December 22, when the current CR is set to expire. The short-term spending bill would fund most parts of the government through January 19, while providing full-year funding for the Defense Department. The CR also includes a five-year extension of the Children's Health Insurance Program (CHIP) as well as the CHAMPIONING HEALTHY KIDS Act (H.R. 3922), which would also extend funding for federally qualified health centers (FQHCs) for two years in addition to

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reauthorizing other public health programs. The bill is offset through a reduction in federal Medicare subsidies for high-income seniors, by dis-enrolling lottery jackpot winners from Medicaid, and through cuts to the Affordable Care Act's (ACA) Prevention and Public Health Fund. The offsets have been previously rejected by Democrats. Additionally, the CR does not include provisions to stabilize the individual insurance market, though House lawmakers have acknowledged that policies such as funding for reinsurance or cost-sharing reduction (CSR) payments could be added by the Senate. Sen. Susan Collins (R-Maine) has made her vote on the GOP tax bill contingent on passage of such legislation before the end of the year. Lawmakers are also considering the addition of a separate disaster relief measure to the CR to provide increased hurricane response funds for Texas, Florida, and Puerto Rico. The plan is set to be voted on this week. It is unclear whether the proposed House CR has enough support to pass the Senate. While the Senate Democrats have decided not to require a compromise on the Dreamers legislation as part of the end of the year package, Democrats are opposed to a funding increase for the Pentagon without a similar increase in non-defense programs. To complicate matters further, it is also unclear whether the House has enough votes to pass a clean CR should the Senate decide to strip the defense appropriations from the bill. The health committees previously released bipartisan plans to address a variety of expired or soon-to-be expired Medicare extenders which could be addressed before the end of the year.

Ways and Means Members Introduce Legislation to Repeal ACA Taxes

Republicans on the House Ways and Means Committee have introduced several bills to delay a number of Affordable Care Act (ACA) taxes scheduled to take effect in 2018. These targeted introductions provide a potential pathway for their inclusion in an end-of-the-year legislative package. The following bills were introduced last week: H.R. 4616, to provide three years of retroactive relief and one year of prospective relief from the employer mandate, along with a one-year delay of the Cadillac tax; H.R. 4617, to provide relief from the medical device tax for five years; H.R. 4618, to eliminate health savings account (HSA) restrictions on over-the-counter (OTC) purchases for two years; H.R. 4619, to repeal the health insurance tax for all plans in Puerto Rico for two years; and H.R. 4620, to repeal the health insurance tax in 2018 through rebates to consumers and then directly to all plans in 2019. The legislation introduced last week does not include any offsets.

WH Preparing Executive Order on Federal Safety Net

According to a report from Politico last week, the White House is preparing a complete review of federal safety-net programs, including Medicaid, food stamps, and housing benefits. President Trump is expected to sign an executive order to mandate the review as early as January. The executive order parallels efforts by congressional House Republicans to draft legislation tightening safety net qualification. The use of such policies has increased since President Trump took office, with Administrator of the Centers for Medicare and Medicaid Services (CMS) Seema Verma encouraging states to promote employment through their Medicaid programs, and some states requesting to institute Medicaid work requirements.

Azar Nomination Hearing Pushed to January

The Senate Finance Committee will wait until next year to hold a hearing for U.S. Department of Health and Human Services (HHS) nominee Alex Azar. The Committee had originally planned to hold a hearing this week, with the goal of voting on his nomination before the end of the year. Negotiations on tax reform and government funding, however, have taken priority, and a hearing has yet to be scheduled.

HELP Requests Input on Opioid Crisis from State and Local Leaders

Leadership on the Senate Health, Education, Labor, and Pensions (HELP) Committee has sent **letters** to every governor and state insurance commissioner requesting specific recommendations on how the federal government can be a better partner in efforts to address the opioid crisis. Chairman Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.) ask how recent laws such as the 21st Century Cures Act and the Comprehensive Addiction and Recovery Act (CARA) have helped state and local officials address the opioid crisis and whether additional changes to federal law or regulation are necessary. They request recommendations and comments no later than January 15, 2018.

Democrat Doug Jones Wins in Alabama Senate Election Upset

Former U.S. attorney Doug Jones (D) won the election for the Alabama senate seat vacated by now Attorney General Jeff Sessions in an upset against Republican Roy Moore. Jones will be the first Democrat to represent Alabama in the Senate in over two decades and will serve out the rest of Sessions' term until January 2021. The loss of a Senate seat complicates the GOP's 2018 agenda. Senate Republicans will now only be able to afford one defection in any effort to use the budget reconciliation process. Democrats will likely push Majority Leader Mitch McConnell (R-Ky.) to delay any major congressional votes until Jones is seated. In his victory speech, however, Jones called on Congress to immediately pass a bipartisan deal to fund the Children's Health Insurance Program (CHIP).

MN Governor Announces Franken Replacement

Minnesota Lieutenant Governor Tina Smith has been tapped by Gov. Mark Dayton to replace Sen. Al Franken (D-Minn.) until the 2018 midterm elections. Franken recently announced his intent to resign from the Senate in the coming weeks following allegations of sexual misconduct. Smith has said that she plans to run in November to complete the remaining two years of Franken's term. She is a former Planned Parenthood executive and has worked on the state's Destination Medical Center initiative aimed at improving the infrastructure around the Mayo Clinic.

Upcoming Congressional Hearings and Meetings

House Committee on Veterans' Affairs markup of H.R. 422, the VA Care in the Community Act; 10:00 a.m., 334 Cannon Bldg.; December 19

Recently Introduced Health Legislation

H.R.4613 (introduced by Rep. Cathy McMorris Rodgers): To allow the use of claims, eligibility, and payment data to produce reports, analyses, and presentations to benefit Medicare, and other similar health insurance programs, entities, researchers, and health care providers, to help develop cost saving approaches, standards, and reference materials and to support medical care and improved payment models; Energy and Commerce, Ways and Means

S.2214 (introduced by Sen. Michael B. Enzi): A bill to amend title XVIII of the Social Security Act to provide for the recognition of attending physician assistants as attending physicians to serve hospice patients, and for other purposes; Finance

H.Res.659 (introduced by Rep. Richard M. Nolan): Amending the Rules of the House of Representatives to establish a point of order against legislation that cuts Social Security, Medicare, or Medicaid benefits; Rules

H.R.4616 (introduced by Rep. Devin Nunes): To amend the Patient Protection and Affordable Care Act to provide for a temporary moratorium on the employer mandate and to provide for a delay in the implementation of the excise tax on high cost employer-sponsored health coverage; Ways and Means

H.R.4617 (introduced by Rep. Erik Paulsen): To amend the Internal Revenue Code of 1986 to provide for a temporary moratorium on the medical device excise tax; Ways and Means

H.R.4618 (introduced by Rep. Lynn Jenkins): To amend the Internal Revenue Code of 1986 to provide for a temporary moratorium on certain taxes affecting purchases of prescription medication; Ways and Means

H.R.4619 (introduced by Rep. Carlos Curbelo): To amend the Patient Protection and Affordable Care Act to provide temporary relief from the annual fee imposed on health insurance providers, to the extent that such fee is due to Puerto Rican health insurance; Ways and Means, Energy and Commerce

H.R.4620 (introduced by Rep. Kristi L. Noem): To amend the Patient Protection and Affordable Care Act to provide temporary relief from the annual fee imposed on health insurance providers; Energy and Commerce, Ways and Means

H.R.4621 (introduced by Rep. Christopher H. Smith): To galvanize United States Government programs in support of brain health for global victims of autism, hydrocephalus and Alzheimer's and other forms of dementia, and for other purposes; Foreign Affairs, Energy and Commerce

S.Res.358 (introduced by Sen. Johnny Isakson): A resolution designating December 3, 2017, as "National Phenylketonuria Awareness Day"; submitted, considered, and agreed to without amendment and with a preamble by Unanimous Consent

H.J.Res.124 (introduced by Rep. Rodney P. Frelinghuysen): Making further additional continuing appropriations for fiscal year 2018, and for other purposes; Appropriations, Budget, Ways and Means

H.R.4638 (introduced by Rep. Peter T. King): To establish a National Commission on Fibrotic Diseases; Energy and Commerce

H.R. 4642 (introduced by Rep. Tipton): A bill to amend the Veterans Access, Choice, and Accountability Act of 2014 to include in the Veterans Choice Program all veterans enrolled in the patient enrollment system of the Department of Veterans Affairs, and for other purposes; Veterans' Affairs

H.R. 4652 (introduced by Rep. Blackburn): A bill to amend title XIX of the Social Security Act to make permanent the Tennessee disproportionate share hospital (DSH) allotment under the Medicaid program; Energy and Commerce

H.R. 4653 (introduced by Rep. Cartwright): A bill to provide for a prescription drug take-back program for members of the Armed Forces and veterans, and for other purposes; Energy and Commerce, Armed Services, Judiciary, and Veterans' Affairs

S. 2239 (introduced by Sen. Stabenow): A bill to amend the Veterans Access, Choice, and Accountability Act of 2014 to improve the scheduling of appointments, the accountability of third party administrators, and payment to providers under such Act, and for other purposes; Veterans' Affairs

S. 2241 (introduced by Sen. King): A bill to amend the Patient Protection and Affordable Care Act by clarifying that State Exchanges are prohibited from imposing fees or assessments on issuers of excepted benefits and standalone dental plans not sold through an Exchange; Health, Education, Labor, and Pensions