



Health Policy Briefing

January 29, 2018

Lawmakers Reach Short-Term Spending Deal to Reopen Federal Government

As the federal government shutdown entered its third day, lawmakers successfully reached an agreement to advance a short-term continuing resolution (CR) to reopen and fund the government through February 8. The Senate passed the latest CR by a vote of 81-18. The House approved the bill later in the evening by a vote of 266-150 and sent it to the President for his signature, allowing the government to completely reopen on Tuesday.

The deal provides Congress with three weeks to negotiate a broader spending deal – a trillion-dollar omnibus bill that would fund the government through the end of the fiscal year (FY) – and resolve the disagreement over immigration that led to the government closure. The short-term spending bill included reauthorization of the Children’s Health Insurance Program (CHIP) for six years. Additionally, the bill delays several Obamacare taxes: the medical device tax for another two years (2018 and 2019), the Cadillac tax for another two years (2020 and 2021), and the health insurance tax for one year starting in 2019.

Support for the CR from Senate Democrats hinged on assurances from Republican leadership on a path forward for voting on legislation to protect ‘Dreamers’ under the Deferred Action for Childhood Arrivals (DACA) program. The White House previously rescinded DACA with a delayed implementation until the end of March. Senate Majority Leader Mitch McConnell (R-Ky.) stated his intention to reach a bipartisan solution on immigration before the stopgap-spending bill expires. Sen. McConnell committed to proceed to consideration of legislation to protect Dreamers should negotiators fail to reach a deal before the CR expires on February 8 so long as the government remains open. McConnell guarantees that the debate and amendment process would be fair to members on both sides of the aisle. According to Senate Democrats, the Majority Leader has also committed to fund community health centers and include additional money to combat the opioid crisis as part of the forthcoming omnibus spending bill.

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Senate Confirms New Department of Health and Human Services Secretary

After lawmakers completed a deal to reopen the federal government, Senate Majority Leader Mitch McConnell (R-Ky.) moved to file a cloture motion to proceed with the nomination of Alex Azar to be Secretary of the U.S. Department of Health and Human Services (HHS), clearing the way for Azar's confirmation on Wednesday by a vote of 55-43. All Republicans, with the exception of Rand Paul (R-Ky.), voted in support of Azar's nomination. Sen. Paul disagreed with Azar about the merits of drug reimportation. Independent Angus King (Maine) joined six Democrats and Republicans to confirm the nominee: Tom Carper (D-Del.), Chris Coons (D-Del.), Joe Donnelly (D-Ind.), Heidi Heitkamp (D-N.D.), Doug Jones (D-Ala.), and Joe Manchin (D-W.V.).

Azar is a former executive of the drug company Eli Lilly. He previously served as general counsel (2001-2005) and deputy secretary (2005-2007) of HHS during the Bush Administration. Azar faced opposition from the majority of Senate Democrats, who have criticized his ties to the pharmaceutical industry and questioned his ability to lead efforts to address the nation's rising drug costs. Democrats have also expressed concerns about whether Azar will continue efforts by the Trump Administration to undermine the Affordable Care Act (ACA). His backers, however, tout his managerial experience in both the public and private sector. One key policy issue Senate Majority Leader McConnell and Senate Health, Education, Labor and Pensions (HELP) Committee Chair Lamar Alexander (R-Tenn.) hope he works to address is the opioid crisis.

Azar replaces Tom Price as HHS Secretary, who resigned in September amid a scandal over his use of tax payer dollars for travel on private jets.

DEA Moves to Implement CARA Provision for Expanded Buprenorphine Access

The U.S. Drug Enforcement Administration (DEA) has given nurse practitioners and physician assistants the authority to dispense buprenorphine from their offices. In an emailed statement last week, the DEA stated that it will allow the health care workers to become DATA-Waived qualifying practitioners who are allowed to prescribe the opioid maintenance drug to provide more treatment options for those suffering from addiction in rural and underserved areas. The regulatory action brings the DEA into conformity with the Comprehensive Addiction and Recovery Act (CARA), signed into law in 2016.

WH Budget Expected Feb. 12

The Administration has announced plans for President Trump's FY 2019 budget to be sent to Congress on February 12. This is one week later than initially planned. According to a White House spokeswoman, the delay is a result of the recent federal government shutdown.

President to Deliver State of the Union on Tuesday

President Trump will deliver his State of the Union address to Congress on Tuesday. His speech will focus on how the policies from the Administration's first year are building a safe, strong, and proud America. The President is expected to address the impact of drug addiction and the opioid crisis on the nation and has reportedly invited a relevant guest to be present in the gallery. Rep. Joe Kennedy (D-Mass.) has been selected to deliver the Democratic Party's response to the speech. Virginia State Delegate Elizabeth Guzman will deliver the Democrat's Spanish-language response.

Future of Medicare Extenders in Limbo

Health care stakeholders are increasing pressure on Congress to continue funding for a series of Medicare “extenders” – Medicare program and payment policies that expired at the end of 2017. Some examples of the extenders include the physical, occupational, and speech language therapy cap exception process; the Medicare low-volume hospital add-on payments; and geographic practice cost index (GPCI). Congress last extended these provisions in the Medicare Access and CHIP Reauthorization Act (MACRA) of 2015. This past fall, both the House Ways and Means Committee and Senate Finance Committee released agreements on a Medicare extenders package, but debate continues on what will be included in a final package and the pay fors. As a result, Medicare extenders were not included in the year-end spending bill or the recently-passed CR to fund the government until February 8. It remains uncertain whether and when lawmakers may be likely to reach an agreement on the extenders.

Upcoming Congressional Hearings and Meetings

House Committee on Veterans’ Affairs hearing “Appeals Reform: Will VA’s Implementation Effectively Serve Veterans?” 10:00 a.m., 334 Canon Bldg.; January 30

House Energy and Commerce Health Subcommittee hearing “Examining Implementation of the Compounding Quality Act;” 11:00 a.m., 2123 Rayburn Bldg.; January 30

Senate Health, Education, Labor, and Pensions Subcommittee on Primary Health and Retirement Security Roundtable on Small Business Health Plans; 3:30 p.m., 430 Dirksen Bldg.; January 30

Senate Health, Education, Labor, and Pensions Committee hearing “The Opioid Crisis: Impact on Children and Families;” 10:00 a.m., 430 Dirksen Bldg.; February 8

Recently Introduced Health Legislation

H.Res.706 (introduced by Rep. Janice D. Schakowsky): Expressing support for the designation of a “Women’s Health Research Day”; Energy and Commerce

H.R.4866 (introduced by Rep. Eleanor Holmes Norton): To amend title XIX of the Social Security Act to increase the Federal medical assistance percentage for the District of Columbia under the Medicaid Program to 80 percent; Energy and Commerce

S.2336 (introduced by Sen. Jon Tester): A bill to require the Secretary of Veterans Affairs to carry out a pilot program on providing intensive community care coordination and supportive services to veteran families who lack adequate access to services, and for other purposes; Veterans’ Affairs

H.R.4882 (introduced by Rep. Erik Paulsen): To amend the Internal Revenue Code of 1986 to treat amounts paid for private umbilical cord blood or umbilical cord tissue, or placental blood or placental tissue, banking services as medical care expenses; Ways and Means

S.Res.383 (introduced by Sen. Tammy Duckworth): A resolution expressing support for the designation of a “Women’s Health Research Day”; Health, Education, Labor, and Pensions