



Congress Begins Second Session of 115th Congress

On Tuesday, the U.S. House and Senate reconvened to begin the Second Session of the 115th Congress. The Senate began the week by swearing-in two new Members, Sens. Doug Jones (D-AL) and Tina Smith (D-MN). Sen. Jones defeated Roy Moore in last month's special election in Alabama and Sen. Smith was appointed to replace Sen. Al Franken (D-MN) who resigned amid harassment allegations. Other than the House approving the reauthorization of the Foreign Intelligence Surveillance Act (FISA) by a vote of 256 to 164 on Thursday, most of the week focused on House and Senate leadership negotiations with the White House on reaching deals on immigration and budget caps for defense and non-defense spending (see story below).

ACEP Capital Minute Video Update

[Click here](#) to see ACEP Associate Executive Director Laura Wooster's quick update on current topics being considered by the U.S. Congress this week and other political matters.



Legislative Items Left-Over from 2017

The end of last year was consumed with Republicans approving an overhaul of the U.S. tax code and, in deference to that issue, most other must-do items were only temporarily extended into the new year. The current short-term funding deal to keep the federal government operational is set to expire next Friday (1/19). Negotiations on further extensions have been complicated by a lack of agreement on immigration and spending levels for defense and non-defense programs.

Some Members of Congress do not want to support additional government funding without a deal in place to extend the Obama-era program called Deferred Action for Childhood

Arrivals (DACA), which relates to immigrants brought illegally to this country as children (aka “dreamers”). However, this extension has been complicated by whether they should have a pathway to citizenship and border security, among other issues.

Congressional Republicans are simultaneously seeking to expand defense spending beyond the cap set by the Budget Control Act of 2011. Defense advocates say short-term spending bills are crippling the military and want a two-year deal that would boost spending on national defense by more than \$700 billion this year. However, others are arguing that non-defense programs should also receive a similar exemption to the budget caps. Congress must agree to lift these caps before it can pass an omnibus spending bill to fund the government through the remainder of the fiscal year, which expires Sept. 30.

Resistance from both ends of the political spectrum has put Republican leaders in a difficult position and they will have to resolve two major, controversial agreements within the next seven days (one on spending, one of immigration) or face a potential government shutdown.

In addition, ACEP continues to advocate for a long-term or permanent extension of the Children’s Health Insurance Program (CHIP), which initially expired on Sept. 30 and has been temporarily extended to March 31, and Medicare program extensions (such as rural ambulance payments, geographic payment adjustments, etc.) that expired at the end of 2017. The latest report from the Congressional Budget Office (CBO) yesterday estimates extending CHIP for 10 years would save roughly \$6 billion.

HHS Secretary Nominee Confirmation Hearing

On Tuesday, the Senate Finance Committee conducted its confirmation hearing for Alex Azar who has been nominated to become the Trump Administration’s second Secretary of Health and Human Services (HHS). Committee Democrats raised concerns about his recent history as top executive of Eli Lilly and questioned whether his ties with the pharmaceutical industry would impede federal efforts to make prescription drugs more affordable. As he did during the courtesy hearing held by the Senate HELP Committee in November, Azar cited drug prices among four issues he would treat as a priority if confirmed stating he favors fostering different incentives for pharmaceutical companies in setting list prices, along with greater competition from generic drugs and biosimilars. ACEP worked with Sen. Ben Cardin (D-MD) and other members to develop potential questions for Azar, such as his position on upholding the Prudent Layperson Standard (PLS). The Senate is expected to hold the confirmation vote soon and we anticipate they will approve his nomination.

To review the hearing, [click here](#).

MedPAC Recommends Repealing MIPS

Yesterday, the congressionally established Medicare Payment Advisory Committee (MedPAC) formally voted (14 to 2) to recommend ending the Merit-based Incentive Payment System (MIPS) that was established as part of the ACEP-supported Medicare Access and CHIP Reauthorization Act (MACRA). The committee’s chief complaints are that MIPS is burdensome, complex, and focuses on reporting information that isn’t meaningful. Instead, MedPAC proposes replacing it with a Voluntary Value Program (VPP) where 2% of

clinician payment would be withheld unless clinicians either join and Alternative Payment Model (APM) or elect to be measured as part of a larger group on measures assessing quality, patient experience and value. **ACEP does not support repealing MIPS, rather we are supporting technical changes to the law that will provide CMS with the time and flexibility needed to address concerns raised about the program.** At this point, it is unclear how Congress and CMS will respond to the MedPAC recommendation.

VA Issues Rule Regarding Reimbursement for Emergency Health Care Services

On Tuesday, the Department of Veterans Affairs published an Interim Final Rule that will require the agency to reimburse veterans for emergency care they received outside of the VA health system. The rule reverses the VA's policy of denying reimbursement of emergency services for veterans who may have had other health coverage and may require the VA to potentially make retroactive payments of as much as \$6 billion in claims that have been pending since April 8, 2016. ACEP is reviewing the rule, but is pleased that this longstanding issue is on a path towards resolution. We will continue to monitor the implementation of the rule to determine how it will affect emergency providers.

To view the Interim Final Rule, [click here](#).



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