



ACEP 911 Network Weekly Update July 14, 2017

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Revised Senate Health Care Bill Released

Yesterday, the Senate Republican leadership unveiled its revised “Better Care Reconciliation Act” (BCRA) proposal to repeal and replace the Affordable Care Act (ACA). However, the latest draft did not make any changes to reduce cuts to, or extend support for, Medicaid (either for expansion or the underlying program) and it now includes a provision sponsored by Sen. Ted Cruz (R-TX) that could potentially destabilize exchange markets further. The Cruz provision would allow insurers to offer insurance exchange plans that do not comply with ACA requirements (essential health benefits, pre-existing conditions, etc.) if they offer at least one plan that does meet those minimum standards. Some health policy experts have expressed concern with this idea because it fundamentally undermines the basic concept of insurance pools and could create two separate groupings – one with less substantive, and therefore less expensive, plans that would attract healthy individuals and one for people with pre-existing or chronic conditions that would quickly become cost-prohibitive.

Some of the changes incorporated into the new plan include:

- Expanding the use of Health Savings Accounts (HSAs),
- Implementing a six-month delay in coverage for individuals who do not maintain continuous coverage,
- Keeping several ACA taxes intact,
- Increasing funding for reinsurance programs by \$70 billion (total of \$132 billion over five years),
- Increasing funding to fight the opioid crisis by \$43 billion (total \$45 billion over nine years),
- Altering Disproportionate Share Hospital (DSH) payment calculations (based on number of uninsured instead of Medicaid population),
- Exempting Medicaid payments during public health emergency from state’s per capita/block grant limit, and
- Increasing and permitting tax credit use to purchase low-premium, low coverage catastrophic plans.

ACEP believes the ACA law has its flaws and would like to see those rectified by Congress, but the BCRA is not the answer. [Click here to contact your U.S. Senators today and urge them to vote “no” on BCRA.](#)

An updated score from the Congressional Budget Office (CBO) is expected Monday, although it may not include the Cruz Amendment because of its complexity. Senate Majority Leader Mitch McConnell (R-KY) hopes to have a procedural vote early next week that would allow Senate consideration of the bill to begin. With no Democratic support expected, that vote would require the support of at least 50 Republican senators. Currently, Sens. Rand Paul (R-KY) and Susan Collins (R-ME) have said they will not support this motion (although they oppose it for very different reasons). Nearly 10 other Senate Republicans have previously expressed concern, but have not announced their position on the latest draft. If even one of them announces their opposition, the bill will effectively be dead. If McConnell is successful on the procedural motion, we expect numerous amendments to be offered by senators.

We will be keeping close tabs on this vote and other possible modifications. **Stay tuned for possible updates and Action Alerts next week.**

ACEP Supports Legislation to Promote Use of Advance Directives

On Tuesday, two ACEP-supported bills were reintroduced in Congress to help promote the voluntary use of electronic advance directives by seniors. The legislation, the “Medicare Choices Empowerment and Protection Act” (S. 1530/H.R. 3181) would provide a one-time \$75 discount to a senior’s Part B premium if they create and register a certified and secure advance directive online. The bill also establishes a website with model advance directives representing a range of options for beneficiaries to review, allows CMS to only keep track of the certified organization through which the beneficiary created the advance directive (not a database of these documents), and does not interfere with any state laws governing advance directives.

The Senate bill is sponsored by Sens. Chris Coons (D-DE), Bill Cassidy (R-LA), John Barrasso (R-WY) and Mike Bennet (D-CO). The House bill is sponsored by Diane Black (R-TN), Mike Thompson (D-CA), Chris Collins (R-NY) and Peter Welch (D-VT). The National Right to Life Committee and the American Nurses Association, among others, are also supporting the bills.

House Approves FDA Reauthorization Bill

Yesterday, the House approved the “FDA Reauthorization Act of 2017” (H.R. 2430) by voice vote. The bill would reauthorize the Prescription Drug User Fee Act, the Medical Device User Fee Amendments, the Generic Drug User Fee Amendments and the Biosimilar User Fee Act, as well as modify the FDA’s drug review process. The Senate has a similar version of the bill, S. 934.

The legislation is considered “must-pass” as failing to reauthorize the user fee agreements before the current authorizations expire (Sept. 30) would lead to significant layoffs at FDA. To complicate matters, if Congress doesn’t pass, and President Trump doesn’t sign into law, the reauthorization before the August recess begins, layoff notices will have to be sent to more than 5,000 FDA employees.

House Committee Advances Funding for Health Programs

Yesterday, the House Appropriations Labor-HHS-Education Subcommittee approved its FY 2018 funding bill along party lines (9 to 6) sending the last of the 12 annual appropriations measures to the full committee for consideration. The overall bill provides \$156 billion (\$5 billion less than FY 17) in discretionary funding for the various departments and agencies, including: \$77.6 billion for HHS (-\$542 million), \$35.2 billion for NIH (+\$1.1 billion), \$7

billion for CDC (-\$198 million), \$1.45 billion for CDC Public Health Preparedness and Response (+\$45 million), \$3.5 billion for SAMHSA (-\$306 million), \$1.86 billion for Substance Abuse Block Grants (same), \$747 million for opioid and heroin abuse (same), \$5.8 billion for HRSA (-\$398 million), \$300 million for Children’s Hospital GME (same), \$300 million for AHRQ (-\$24 million), and \$38 million for ONC (-\$22 million).

House Approves Human Trafficking Bill

On Wednesday, the House approved the reauthorization of the nation’s most comprehensive human trafficking law, the “Trafficking Victims Protection Act” (TVPA), by voice vote. The “Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act” (H.R. 2200), sponsored by Reps. Chris Smith (R-NJ) and Karen Bass (D-CA), provides \$520 million (over four years) for programs that train law enforcement officials to recognize and combat human trafficking, provide assistance to victims and investigate international trafficking rings. During the past few weeks, the House has passed more than a dozen bills related to human trafficking, but H.R. 2200 is recognized as the most significant one.

Medicare Trustees Report – IPAB Trigger Delayed

Yesterday, CMS released the 2017 Medicare Trustee’s report that provides financial data regarding the financial operations and solvency of the Hospital Insurance Trust Fund (HI) and Supplementary Medical Insurance Trust Fund (SMI). HI, otherwise known as Medicare Part A, covers hospital inpatient, home health (following hospital stays), SNF and hospice. SMI consists of Medicare Part B and Part D. According to the report, HI will run out of money in 2029, which is one year later than what was predicted last year, as national health spending continues to grow slower than expected. Since the spending rates are still lower than Medicare’s target level, the ACA-established Independent Payment Advisory Board (IPAB) is not anticipated to be activated until 2021. The 2016 trustees’ report predicted it would be triggered this year.

To read the report, [click here](#).



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