



ACEP 911 Network Weekly Update: January 27, 2017

Congress was in session early in the week then Republican members headed to Philadelphia for a two-day retreat. At the top of the agenda was how to repeal and replace the ACA or “Obamacare.”

The devil is in the details with lawmakers mulling how to repeal the taxes in the Affordable Care Act to what parts of a replacement plan could be included in reconciliation legislation. Both chambers return for legislative action next week.

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Congressional Hearings to Examine the ACA Begin Next Week

Republicans’ efforts to repeal and replace the ACA will heat up next week as several congressional committees will hold hearings to examine the law and options to replace it, including changes to the Medicaid program.

The Senate Health, Education, Labor and Pensions Committee (HELP) will hold a hearing next Wednesday entitled “Obamacare Emergency: Stabilizing the Individual Health Insurance Market.” The HELP Committee along with the Senate Finance Committee, the House Ways and Means and the Energy and Commerce Committee are the key committees charged with developing replacement legislation. Other hearings include:

- 1/31: The House Energy and Commerce Subcommittee on Oversight and Investigations will hold a hearing entitled “Medicaid Oversight: Existing Problems and Ways to Strengthen the Program.”
- 2/1: The House Energy and Commerce Health Subcommittee will hold a hearing entitled “Strengthening Medicaid and Prioritizing the Most Vulnerable.”
- 2/2: The House Energy and Commerce Health Subcommittee will hold a hearing entitled “Patient Relief from Collapsing Health Markets.”

Two Bills Introduced in Senate as Replacement Options to the ACA

This week, Sens. Bill Cassidy (R-LA) and Susan Collins (R-ME) introduced the "Patient Freedom Act" (S. 191), which could provide a starting point for the Obamacare replacement debate. This legislation would give states three options:

1. Reimplementation of the ACA: Option 1 allows the State to reinstate Title I of the ACA, including its mandates and other requirements. The State can continue to receive federal premium tax credits, cost-sharing subsidies, and Medicaid dollars, to the extent that such subsidies do not exceed the contributions that would have been made under Option 2.
2. Choose a New State Alternative: Option 2 allows the State to enact a new market-based system that empowers patients while still ensuring those with pre-existing conditions are protected. The State could continue to receive funding equal to 95% of federal premium tax credits and cost-sharing subsidies, as well as the federal match for Medicaid expansion. States can choose to receive funds in the form of per beneficiary grants or advanceable, refundable tax credits, but in both cases, funds will be deposited in a Roth Health Savings Account (HSA), meaning the money will go directly to the patient.
3. Design an Alternative Solution without Federal Assistance: Option 3 would return power to the States to design and regulate insurance markets that work for their specific populations, without any federal assistance.

The proposal provides financial assistance to legal residents of the U.S. not receiving health insurance through their employer or public programs like Medicare and Medicaid. To ensure everyone is covered, states will be able to auto-enroll uninsured individuals in basic health care coverage unless that individual opts out.

Of particular interest to ACEP, the bill would limit out-of-network reimbursement for emergency care paid for with an HSA to the lesser of either the cash price or 85% of the UCR charge. ACEP has communicated with Sen. Cassidy our request to modify the language as follows: the 85th percentile of UCR as determined by a third-party, independent database that is unaffiliated with insurance companies.

Sen. Rand Paul (R-KY) introduced a separate ACA replacement bill, the "Obamacare Replacement Act" (S. 222). This legislation would allow individuals to choose inexpensive insurance plans free of services mandated by the government; save unlimited amounts in an HSA and have wider options for using those funds; buy insurance across state lines; and join together in voluntary associations to gain the leverage of being part of a large insurance pool, among other things. *The bill would also allow physicians to take a tax deduction equal to the amount of uncompensated care due to bad debt (limited to 10% of a physician's gross income for the taxable year).*

ACEP-supported EMTALA Liability Relief Bill Reintroduced

Last week, Congressman Charlie Dent (R-PA), along with six other original cosponsors, reintroduced ACEP-supported legislation, H.R.548, the "Health Care Safety Net Enhancement Act." The bill is identical to last year's legislation that garnered the support of over 100 members in the House and 10 in the Senate. Current cosponsors in the 115th Congress include: Reps. Jim Langevin (D-RI), Pete Sessions (R-TX), Mike Kelly (R-PA), David Joyce (R-OH), Paul Gosar (R-AZ), Gregg Harper (R-MS), Roger Marshall (R-KS) and Andy Barr (R-KY.) The bill extends Federal Tort Claims Act liability protections to on-call and emergency physicians. Essentially, the legislation would ensure that federally-

mandated emergency medical services furnished by a hospital or physician would be covered in the same manner as Community Health Centers and health. For more information, contact ACEP Congressional Affairs Director Brad Gruehn at bgruehn@acep.org.

HHS Nominee Confirmation Hearings

The Senate Finance Committee on Tuesday held a confirmation hearing on Rep. Tom Price's (R-GA) nomination for Secretary of the U.S. Department of Health and Human Services (HHS). The congressman, who is an orthopaedic surgeon by training, formerly chaired the House Budget Committee and is a member of the House Ways and Means Subcommittee on Health. He has long opposed the Affordable Care Act (ACA) and has proposed legislation every year since 2009 seeking to replace the law.

The Senate Finance Committee's hearing was the second held on Price's nomination. The Senate Health, Education, Labor, and Pensions (HELP) Committee [last week](#) held the chamber's first nomination hearing for Dr. Price. Senate Finance Committee hearing [details here](#). The Finance Committee must vote either favorably, unfavorably or without recommendation before it can be taken up by the full Senate.

According to recent reports, the panel could vote on Price's nomination next week. Republicans on the panel, which hold the majority, likely would support Price's nomination. However, if the committee takes too long to vote on the nomination, the full Senate can vote to invoke cloture, which allows the full chamber to consider the nomination. Fifty-one votes in the full Senate are needed to confirm Price's nomination. Republicans hold 52 seats in the Senate, while Democrats hold 46. Two Senators identify as Independent but caucus with Democrats. In the instance of a tie, Vice President Pence will cast his vote as a tie-breaker.

Kari's Law Passes House

H.R. 582, known as "Kari's Law" passed the House on Monday with a unanimous vote of 408-0. It requires multi-line telephone systems to have a configuration that permits users to directly initiate a call to 9-1-1 without dialing any additional digit, code, prefix, or post-fix.

Health Agency Communications Restricted

The Trump Administration is restricting external communications, press releases and social media postings from federal health agencies during the next couple of weeks. Employees at HHS and the National Institutes of Health said they had received a memo calling for a halt to external correspondence.

"For your additional awareness, please note that we have been directed not to send any correspondence to public officials (to include Members of Congress and state and local officials) between now and February 3, unless specifically authorized by the Department," said the memo.

NIH issued an email to the NIH Institute and its center directors providing guidance from HHS on new or pending regulations, policy or guidance. The HHS guidance instructs HHS Operating Divisions to hold off publishing new rules or guidance in public forums and discussing such matters with public officials until the administration has had an opportunity

to review them.

CMS also received a directive restricting external communication, according to a source within the agency.

Register for the 2017 Leadership and Advocacy Conference

March 12-15, 2017 in Washington, D.C.

With a new Administration, Congress, and legislative agenda, the need for emergency physicians' involvement in the legislative and political process is greater than ever before. Highlights include confirmed speaker ZDoggMD and invited speakers: House Democratic Whip Steny Hoyer (MD); nominee for HHS Secretary, Rep. Tom Price (R-GA); and nominee for CMS Administrator, Seema Verma. ACEP Board Member Dr. Mark Rosenberg will host a session on "Creating Solutions to the Opioid Epidemic" and Ed Gaines, Dr. Alison Haddock, and Dr. Nathan Schlicher will host a session on "Out-of-Network/Balance Billing – Where are We?"

On Tuesday, March 14, attendees will head to Capitol Hill for ACEP's Lobby Day. ACEP members' insight is critical this year as Congress works to shape the nation's delivery of health care. Ensure that emergency medicine is well-represented by [registering here now!](#)

Congressional Dine-Arounds & Socials during LAC

NEMPAC will again be hosting Congressional Dine-Arounds and Socials for key members of congress during the LAC. Consider joining ACEP leaders and influential lawmakers at one of these exclusive events. A minimum donation to the Member of Congress' campaign is suggested for participation, which will be combined with the support provided by NEMPAC.

Confirmed legislators include: Rep. Michael Burgess (R-TX), Sen. Chris Murphy (D-CT), Rep. Raul Ruiz (D-CA), Sen. Debbie Stabenow (D-MI), Rep. Pat Tiberi (R-OH), and Rep. Greg Walden (R-OR).

For additional information, contact ACEP Political Affairs Director Jeanne Slade at jslade@acep.org.



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