



Health Policy Briefing

February 4, 2019

Negotiations Begin on Government Funding

Lawmakers on Capitol Hill have begun negotiations on a legislative option to avoid another partial government shutdown. The 17 conferees charged with reaching a deal met for the first time last week, but measurable progress has yet to be made. Nevertheless, the lawmakers, led by Senate Appropriations Chairman Richard Shelby (R-Ala.) and Ranking Member Patrick Leahy (D-Vt.) and House Appropriations Chairwoman Nita Lowey (D-N.Y.) and Ranking Member Kay Granger (R-Texas), have stated that they are optimistic they will reach a compromise.

There was no additional border wall money in the Democrat’s opening offer, but their proposal did include funding for new customs officers and ports of entry technology. President Trump has threatened another government shutdown if the final plan does not include adequate money for a border wall; he is also considering declaring a state of emergency in an attempt to circumvent Congress to build the wall. The President has already said that he does not expect the final compromise to contain sufficient border wall funding.

Funding for agencies impacted by the 35-day partial government shutdown will lapse again on Feb. 16 unless a new spending agreement is reached.

SOTU Scheduled for Feb. 5

President Trump and House Speaker Nancy Pelosi (D-Calif.) reached agreement to hold the State of the Union address in the House chamber on Feb. 5. Senate Minority Leader Chuck Schumer (D-N.Y.) announced that Stacey Abrams, who ran for governor last year in Georgia, will give the Democratic response to the President’s speech. Abrams previously served as the Democratic leader of the Georgia General Assembly.

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House Dems Investigate Insulin Pricing

Energy and Commerce Committee Democrats have opened an investigation into insulin pricing practices. Committee Chairman Frank Pallone (D-N.J.) and Investigations Subcommittee Chairwoman Diana DeGette (D-Colo.) have [written](#) to the three main manufacturers of insulin in the U.S. – Eli Lilly, Novo Nordisk, and Sanofi – requesting information about average prices, net profits, and any changes made to products. According to the letter, the cost of insulin nearly tripled between 2002 and 2013, and almost doubled between 2012 and 2016. The lawmakers ask the companies if they have attempted to keep generic versions of the products off the market. They request a response by Feb. 13.

Trump Administration Proposes Changes to the Rebate Program

The Trump administration has proposed a change to the prescription drug rebate system. The proposed rule from the U.S. Department of Health and Human Services (HHS) would eliminate the antikickback safe harbor for rebates negotiated between pharmaceutical manufacturers and pharmacy benefit managers (PBMs). In its place, HHS proposes two new and narrower antikickback safe harbors with the intent to encourage manufacturers to offer discounts directly to patients at the point-of-sale. The proposal was not well-received by Democrats. House Speaker Nancy Pelosi (D-Calif.) expressed concerns that the policy would put most Medicare beneficiaries at risk of higher premiums and out-of-pocket (OOP) costs. Democratic leadership of the House Ways and Means and Energy and Commerce committees also expressed opposition to the rule, arguing that it will increase government spending by \$200 billion. HHS has stated that premium increases resulting from the proposal will be offset by lower OOP spending on high-cost drugs.

Bipartisan Value-Based Payment Legislation Introduced

Sens. Bill Cassidy (R-La.) and Mark Warner (D-Va.) have released draft legislation that aims to lower drug prices through the use of value-based payment. The [Patient Affordability, Value, and Efficiency Act](#) would tie prescription drug and medical device prices to the product's clinical effectiveness. The bill would create carve outs for these new payment models from certain anti-kickback and physician self-referral laws, which some argue inhibit the move toward value-based care. Sens. Cassidy and Warner are requesting feedback on the draft by Feb. 19. Submissions should be emailed to paveact@cassidy.senate.gov and paveact@warner.senate.gov.

Medicare for All Hearings, Legislation Expected Soon

House Democrats plan to begin hearings on 'Medicare for All' proposals this month, with the goal of passing legislation to expand the program by the end of next year, according to House Budget Committee Chairman John Yarmuth (D-Ky.). Yarmuth believes that the most feasible path would be to allow individuals age 50 or 55 and above to enroll in the program. Medicare eligibility currently begins at age 65. He hopes that congressional hearings will more clearly define the concept of Medicare for All, help develop a framework for legislation, and determine what proposals are possible from a financial perspective.

Rep. Pramila Jayapal (D-Wash.) has said that Democrats plan to introduce a bill this month, with committee hearings beginning in March. While she has the support of Chairman Yarmuth to hold a Medicare for All hearing before the Budget Committee, she has yet to receive commitments to explore the idea from panels with health jurisdiction – the House Ways and Means and Energy and Commerce committees.

HELP Considers Community Health Center Reauthorization

The Senate Health, Education, Labor, and Pensions (HELP) Committee is working to provide for a five-year extension of funding for the nation's community health centers. HELP considered the bipartisan reauthorization legislation (S. 192) authored by Chairman Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.) during a congressional hearing last week. The bill would provide \$4 billion per year to the Community Health Center program; the National Health Service Corps (NHSC); the Teaching Health Center Graduate Medical Education program; the Special Diabetes Program at the National Institutes of Health (NIH); and the Special Diabetes Program for Indians before current funding expires Sept. 30.

WH to Miss Budget Deadline

The White House will not meet the official deadline for sending the President's budget proposal, according to the Office of Management and Budget (OMB). By law, the President is required to release his budget proposal by the first Monday in February, but the White House is currently working on a revised schedule due to the furloughing of many OMB staff during the recent partial government shutdown.

VA Releases Proposed Standards for Community Care

The Department of Veterans Affairs has released a proposed document containing new access standards for community and urgent care. The standards, which seek to implement the VA MISSION Act, would expand eligibility to community care for veterans who are not within a 30-minute drive of a VA medical facility. Veterans previously had to be more than 40 miles from a VA facility to qualify for subsidized private care. If the wait time for an appointment is more than 20 days for primary or mental health care services, veterans will be permitted to seek private health care services. Previous rules required a 30 day wait time. According to the Department, the new standards will increase the number of community care-eligible veterans from eight percent to between 20 and 30 percent. The new standards are expected to be implemented in June and incur an additional cost of \$1.1 billion in fiscal year (FY) 2019. While the changes were applauded by Republican lawmakers for better meeting the needs of veterans, Democrats expressed concern about the increased privatization of VA health care and the projected cost of the changes coming at the expense of internal VA medical services.

Upcoming Congressional Hearings and Meetings

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing "How Primary Care Affects Health Care Costs and Outcomes;" 10:00 a.m., 430 Dirksen Bldg.; February 5

Senate Appropriations Subcommittee on Military Construction and Veterans Affairs hearing to examine an implementation update on the Department of Veterans Affairs' electronic health record modernization; 10:30 a.m., 124 Dirksen Bldg.; February 5

House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies oversight hearing "Impact on the Administration's Policies Affecting the Affordable Care Act;" 10:00 a.m., 2358-C Rayburn Bldg.; February 6

House Judiciary Committee hearing "Preventing Gun Violence: A Call to Action;" 10:00 a.m., 2141 Rayburn Bldg.; February 6

House Energy and Commerce Health Subcommittee hearing "Texas v. U.S.: the Republican Lawsuit and Its Impacts on Americans with Pre-Existing Conditions;" 10:15 a.m., 2322 Rayburn Bldg.; February 6

House Education and Labor Committee hearing "Examining Threats to Workers with Preexisting Conditions;" 10:15 a.m., 2175 Rayburn Bldg.; February 6

Recently Introduced Health Legislation

H.R.803 — To amend title XVIII of the Social Security Act to prohibit prescription drug plan sponsors and MA-PD organizations under the Medicare program from retroactively reducing payment on clean claims submitted by pharmacies. Sponsor: Rep. Welch, Peter [D-VT-At Large]; Committees: House - Energy and Commerce, Ways and Means

S.228 — A bill to amend title XVIII of the Social Security Act to restructure the payment adjustment for non-emergency ESRD ambulance transports under the Medicare program. Sponsor: Sen. Cassidy, Bill [R-LA]; Committees: Senate - Finance

S.Res.29 — A resolution expressing support for the designation of a “Women’s Health Research Day”. Sponsor: Sen. Duckworth, Tammy [D-IL]; Committees: Senate - Health, Education, Labor, and Pensions

S.237 — A bill to amend title XVIII of the Social Security Act to permit nurse practitioners and physician assistants to satisfy the documentation requirement under the Medicare program for coverage of certain shoes for individuals with diabetes; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Finance

H.R.808 — To amend title XVIII of the Social Security Act to permit nurse practitioners and physician assistants to satisfy the documentation requirement under the Medicare program for coverage of certain shoes for individuals with diabetes; Sponsor: Rep. Blumenauer, Earl [D-OR-3]; Committees: House - Energy and Commerce, Ways and Means

H.R.813 — To amend title XVIII of the Social Security Act to provide for temporary stabilization of Medicare Advantage payments following Hurricane Maria; Sponsor: Rep. Gonzalez-Colon, Jennifer [R-PR-At Large]; Committees: House - Ways and Means, Energy and Commerce

H.R.817 — To combat the heroin epidemic and drug sample backlogs; Sponsor: Rep. Kuster, Ann M. [D-NH-2]; Committees: House - Judiciary

H.R.818 — To amend the Federal Food, Drug, and Cosmetic Act to enhance medical device communications and ensure device cleanliness; Sponsor: Rep. Lieu, Ted [D-CA-33]; Committees: House - Energy and Commerce

H.R.826 — To facilitate effective research on and treatment of neglected tropical diseases, including Ebola, through coordinated domestic and international efforts; Sponsor: Rep. Smith, Christopher H. [R-NJ-4]; Committees: House - Energy and Commerce, Foreign Affairs, Financial Services

H.Con.Res.8 — Expressing the sense of Congress on the need to improve and expand training for future physicians on properly treating pain and prescribing opioids, and for other purposes; Sponsor: Rep. Roe, David P. [R-TN-1]; Committees: House - Energy and Commerce

H.R.856 — To amend the Internal Revenue Code of 1986 to provide a deduction for certain charity care furnished by physicians, and for other purposes; Sponsor: Rep. Webster, Daniel [R-FL-11]; Committees: House - Ways and Means, Energy and Commerce

S.283 — A bill to amend title XVIII of the Social Security Act to improve access to, and utilization of, bone mass measurement benefits under part B of the Medicare program by establishing a minimum payment amount under such part for bone mass measurement; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate - Finance

H.R.861 — To amend title XVIII of the Social Security Act to prevent surprise billing practices, and for other purposes; Sponsor: Rep. Doggett, Lloyd [D-TX-35]; Committees: House - Ways and Means, Energy and Commerce

H.R.863 — To amend the Federal Food, Drug, and Cosmetic Act to prevent the abuse of dextromethorphan, and for other purposes; Sponsor: Rep. Matsui, Doris O. [D-CA-6]; Committees: House - Energy and Commerce

H.R.884 — To amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; Sponsor: Rep. Chu, Judy [D-CA-27]; Committees: House - Energy and Commerce, Ways and Means

H.R.888 — To amend title XIX of the Social Security Act to allow for greater State flexibility with respect to excluding providers who are involved in abortions; Sponsor: Rep. Duffy, Sean P. [R-WI-7]; Committees: House - Energy and Commerce

H.R.900 — To amend title XVIII of the Social Security Act to improve the way beneficiaries are assigned under the Medicare shared savings program by also basing such assignment on primary care services furnished by nurse practitioners, physician assistants, and clinical nurse specialists; Sponsor: Rep. Kilmer, Derek [D-WA-6]; Committees: House - Ways and Means, Energy and Commerce

H.R.908 — To amend the Internal Revenue Code of 1986 to allow individuals only enrolled in Medicare Part A to contribute to health savings accounts; Sponsor: Rep. Latta, Robert E. [R-OH-5]; Committees: House - Ways and Means

H.R.909 — To amend title XIX of the Social Security Act to provide parity among States in the timing of the application of higher Federal Medicaid matching rates for the ACA-expansion population; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Energy and Commerce

H.R.913 — To amend title XIX of the Social Security Act to promote access to life-saving therapies for Medicaid enrollees by ensuring coverage of routine patient costs for items and services furnished in connection with participation in qualifying clinical trials, and for other purposes; Sponsor: Rep. Lujan, Ben Ray [D-NM-3]; Committees: House - Energy and Commerce

S.286 — A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes; Sponsor: Sen. Barrasso, John [R-WY]; Committees: Senate - Finance

S.289 — A bill to amend title XVIII of the Social Security Act to support rural residency training funding that is equitable for all States, and for other purposes; Sponsor: Sen. Gardner, Cory [R-CO]; Committees: Senate - Finance

S.296 — A bill to amend XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate - Finance

S.299 — A bill to amend title VII of the Public Health Service Act to reauthorize programs that support interprofessional geriatric education and training to develop a geriatric-capable workforce, improving health outcomes for a growing and diverse aging American population and their families, and for other purposes; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate - Health, Education, Labor, and Pensions

S.304 — A bill to reauthorize section 340H of the Public Health Service Act to continue to encourage the expansion, maintenance, and the establishment of approved graduate medical residency programs at qualified teaching health centers, and for other purposes; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate - Health, Education, Labor, and Pensions

S.311 — A bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives and abortion or attempted abortion; Sponsor: Sen. Sasse, Ben [R-NE] (Introduced 01/31/2019)

H.R.937 — To amend title XIX of the Social Security Act to prevent the misclassification of drugs for purposes of the Medicaid drug rebate program; Sponsor: Rep. Schrader, Kurt [D-OR-5]; Committees: House - Energy and Commerce, Ways and Means

H.R.938 — To amend the Federal Food, Drug, and Cosmetic Act, with respect to eligibility for approval of a subsequent generic drug, to remove the barrier to that approval posed by the 180-day exclusivity period afforded to a first generic applicant that has not yet received final approval, and for other purposes; Sponsor: Rep. Schrader, Kurt [D-OR-5]; Committees: House - Energy and Commerce

H.R.941 — To direct the Secretary of Veterans Affairs to adopt certain strategies for preventive colorectal screenings for veterans, and for other purposes; Sponsor: Rep. Bergman, Jack [R-MI-1]; Committees: House - Veterans' Affairs

H.R.944 — To require the Medicaid and CHIP Payment and Access Commission to publish an annual report on the estimated impact in each State of the Medicaid expansion added by the Patient Protection and Affordable Care Act, including the estimated impact that adopting such expansion would have in States that have not expanded their Medicaid coverage; Sponsor: Rep. Murphy, Stephanie N. [D-FL-7]; Committees: House - Energy and Commerce

H.R.945 — To amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes; Sponsor: Rep. Thompson, Mike [D-CA-5]; Committees: House - Energy and Commerce, Ways and Means