# HALL RENDER'S THIS WEEK IN WASHINGTON – JANUARY 6, 2017

### SENATE TAKES FIRST STEP TOWARDS ACA REPEAL

On January 4, the U.S. Senate took the first step towards repeal of the Affordable Care Act ("ACA"). The Senate voted 51-48 to advance a fiscal 2017 budget resolution (*S. Con Res 3*) that allows Congress to use the parliamentary procedure known as budget reconciliation to repeal parts of the ACA by a simple majority vote. However, since the fast-track procedure only allows for repeal of ACA provisions that have an impact on the federal budget, several portions of President Obama's landmark health care law, such as the ban on pre-existing conditions or allowing children to stay on their parents' health insurance plan until age 26, will be spared. The budget resolution now proceeds to the House, where it could pass as early as the end of next week.

Once the resolution is passed, House Republicans will then turn their attention to drafting the actual repeal legislation. That procedure will take place in the House Ways and Means and Energy and Commerce committees. Although the Republican leadership hopes these committees will pass their respective bills quickly, the process could get bogged down as lawmakers decide what portions of the ACA will be repealed and how long any transition to a replacement plan should last. After these measures have passed out of each committee, they will be combined into one bill and voted on by the full House. The legislation will then be sent to the Senate where Republicans expect to pass it by a simple majority vote.

If the Republican leadership in the Senate is able to keep almost all of its members in support of the House-passed repeal bill, the measure will reach President-elect Trump's desk by late February or early March. However, there was growing concern this week among Senate Republicans over passing repeal legislation without having a replacement plan in place. House Speaker Paul Ryan (R-WI) also indicated that he intends to include a provision defunding Planned Parenthood, and a number of Republican governors called on Congress to preserve the ACA's Medicaid expansion funding. Thus, there are a number of issues that could push ACA repeal to later in the year.

### NEW CONGRESS SEEKS TO UNDO OBAMA ERA REGULATIONS

Legislation was introduced this week that would allow Congress to overturn regulations the Obama administration issued in the last half of 2016. Sen. Ron Johnson (R-WI) introduced a companion measure to the Midnight Rules Relief Act (H.R. 21), which was introduced in the House by Rep. Darrell Issa (R-CA) and passed by that body on January 4. The bill would amend the Congressional Review Act ("CRA"), which allows Congress to rescind a regulation passed within the last 60 legislative days by a simple majority, to allow lawmakers to rescind multiple regulations in one joint resolution of disapproval. The CRA now requires regulations to be repealed individually. If H.R. 21 is signed into law, as many as 61 regulations issued by the Obama administration could be bundled into one bill and rescinded. Republicans are also expected to pass the REINS Act, which would require congressional approval of any executive branch regulation that costs more than $100 million.

### HOUSE BILL INTRODUCED TO END MEDICAL DEVICE TAX

On January 3, Rep. Erik Paulsen (R-MN) introduced a bill (H.R. 184) to eliminate the ACA's medical device tax. The congressional effort to repeal the 2.3 percent excise tax on medical device sales has been extensive since the tax took effect in 2013. Congress previously agreed to suspend the collection of the tax for 2016 and 2017, but with collections starting again in January 2018, Rep. Paulsen and other legislators in the House and Senate are seeking a full repeal. The device tax will also be included in the larger budget reconciliation bill that Republicans will use to repeal most of the ACA.

### HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Sen. Dean Heller (R-NV) introduced a bill (S. 46) that would amend Title XVIII of the Social Security Act to strengthen intensive cardiac rehabilitations programs under Medicare.

Rep. Phil Roe (R-TN) introduced a bill (H.R. 277) to amend the ACA to provide for the creation of a safe harbor for defendants in medical malpractice actions who demonstrate adherence to clinical practice guidelines.

Rep. Elise Stefanik (R-NY) introduced a bill (H.R. 284) to establish rules for payment for graduate medical education costs for hospitals that establish a new medical residency training program after hosting resident rotators for short durations.

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Rep. Michael Burgess (R-TX) introduced a bill (H.R. 315) to amend the Public Health Service Act to distribute maternity care to health professionals to health professional shortage areas identified as in need of maternity care.

Rep. John Lewis (D-GA) introduced a bill (H.R. 335) that seeks to provide parity among states in the timing of the application of higher Federal Medicaid matching rates for the ACA expansion population.

**NEXT WEEK IN WASHINGTON**

Congress returns on January 9 for a final week of legislative activity prior to the inauguration. The House and Senate will continue consideration of the fiscal year 2017 budget resolution. Another issue confronting congressional leadership is whether the ACA repeal and replacement package should include changes to Medicare. Many Republicans in the Senate prefer a narrow focus on ACA replacement while a number of House members are seeking broad entitlement reform.

On January 18, the Senate HELP Committee has tentatively scheduled a hearing with the nominee for HHS Secretary, Rep. Tom Price (R-GA). However, lawmakers on the Senate Finance Committee will be the ones to review Dr. Price's qualifications and vote on whether to move his nomination to the full Senate for confirmation. The Finance Committee will also consider and vote on the nomination of Seema Verma to lead CMS. The committee has yet to schedule hearings for either of these nominees.

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