

HALL RENDER'S THIS WEEK IN WASHINGTON - FEBRUARY 3, 2017

REPUBLICANS SIGNAL SLOWER PACE FOR ACA REPEAL WHILE REPLACEMENT PACKAGE STILL UNCLEAR

Republicans on Capitol Hill signaled this week that repeal of the Affordable Care Act ("ACA") may not happen as fast as they promised, and reports indicate they are no closer to consensus on a replacement package. After a contentious retreat in Philadelphia last Friday, where a leaked audio tape revealed deep disagreements over how fast to repeal the ACA and what replacement legislation should contain, Republicans in the House appeared ready this week to slow the pace of their work. GOP lawmakers also shifted their messaging from "repeal" to "repair" of the ACA, a sign they have begun to acknowledge that they won't be able to repeal all of Obama's landmark legislative achievement.

The delay in action was signaled after Republicans left the retreat no closer to a consensus on the timing or contents of an ACA replacement package. In an interview with *Politico*, House Speaker Paul Ryan (R-WI) said he now wants to give Republicans until the end of the year to pass an ACA replacement package. In a House Energy and Commerce Committee hearing this week, Chairman Greg Walden (R-OR) said, "We're going to take the time to get this right." And, in an interview with *Axios*, House Ways and Means Committee Chairman Kevin Brady (R-TX) said only that "the bulk of the changes in law and the bulk of regulatory changes must occur this year."

Perhaps nothing shows the Republicans' change in strategy more than their use of the word "repair." Before leaving Philadelphia, Speaker Ryan said Republicans are working to "repeal and replace and repair" the health care system. When asked this week whether Republicans should change their rhetoric from "repeal and replace" to "repair," Senate Finance Committee Chairman Orrin Hatch (R-UT) said, "I could stand either." The word "repair" was first used several weeks ago by Chairman Walden who told *Politico*, "We need to work aggressively on the repairs to the individual market, to Obamacare. Some might call that replacement. I call that a rebuild. I call it repair." However, Chairman Walden quickly stopped using the word "repair" after he was besieged with complaints from constituents and other Trump supporters demanding nothing less than full repeal of the ACA.

TRUMP SIGNS EXECUTIVE ORDER AIMED AT CURBING REGULATIONS

On January 30, President Trump signed an **executive order** announcing the policy that for every new regulation issued, at least two prior regulations must be eliminated. The administration issued interim guidance to implement the order on February 3, which says it applies only to "significant" regulations. Although the interim guidance does not define "significant," a Clinton era executive order that is still in effect defines "significant" as a regulation that imposes an annual cost of more than \$100 million. The executive order also applies to certain guidance documents. Federal agencies will be required to control the costs of all new rules within their budgets and be prohibited from imposing any new costs in finalizing or repealing a rule for the remainder of 2017, unless that cost is offset by the repeal of two existing regulations. The order doesn't apply to "military, national security or foreign affairs function of the United States" or independent agencies, such as the FCC.

The measure was criticized by some because it could take years for an agency to work through the legal process of eliminating a regulation and for increasing the burden on federal agencies that are already underfunded. However, the order was praised by AHA President and CEO Rick Pollack who said in a statement, "The regulatory burden that is imposed on hospitals and health systems is substantial and unsustainable, and has grown in recent years. We are encouraged by the executive order signed by President Trump today that will help reduce red tape."

HOUSE COMMITTEE HOLDS HEARINGS ON MEDICAID REFORM

The House Energy and Commerce Committee held two hearings this week on Medicaid, an issue Speaker Ryan has said the House will reform this year. Chairman Walden has indicated he would like to see Medicaid reforms included in the first ACA reconciliation package, but to what extent remains unclear. The committee's first Medicaid hearing on January 31 focused on ways to strengthen Medicaid oversight to reduce fraud and abuse. However, Republicans also outlined ways to convert Medicaid to a block grant program, which Democrats strongly oppose.

On February 1, the committee examined **three draft legislative proposals** that would require states to consider lump sum payments when

determining modified adjusted gross income for Medicaid and CHIP eligibility, restrict states from using federal matching funds to provide Medicaid services to individuals before verifying their citizenship or legal status and count certain income from annuities when determining a spouse's Medicaid eligibility for long-term care. The measures were not passed out of committee, and future action on them is unclear.

FINANCE COMMITTEE ADVANCES PRICE AS HHS SECRETARY

On February 1, the Senate Finance Committee voted to confirm Rep. Tom Price (R-GA) as the Secretary of Health and Human Services. Price will now need full confirmation by the Senate, which will likely happen as no Senate Republicans have waived in their support. The timing of the full senate vote is unclear, although the earliest a final vote could take place is late next week. The nomination was advanced after Democrats boycotted the confirmation vote for the second consecutive day on the grounds that more information about Price's health care-related stock deals was needed.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Sen. John Thune (R-SD) introduced a bill (S. 243) to permanently prohibit CMS from enforcing the "direct supervision" requirement of outpatient therapeutic services for critical access hospitals and small rural hospitals with 100 beds or fewer. CMS's policy would require practicing physicians to directly supervise other certified medical professionals who deliver outpatient therapy services. A companion bill was also reintroduced in the House by Rep. Lynn Jenkins (R-KS).

Sen. Sherrod Brown (D-OH) introduced a bill (S. 284) that would amend Title XVIII of the Social Security Act to prevent surprise billing and provide greater payment transparency.

Rep. Erik Paulsen (R-MN) introduced a bill (HR 807) that would amend Title XVIII of the Social Security Act to permanently remove Medicare's annual cap of \$1,940 on physical therapy, occupational therapy and speech-language pathology services under Medicare.

NEXT WEEK IN WASHINGTON

The House and Senate return on February 6. The House Energy and Commerce Committee will consider a bipartisan bill next week that aims to increase competition for generic drugs to prevent pharmaceutical companies from substantially raising prices of older drugs. The Senate will hold a final confirmation vote on HHS nominee Price. Once Price is confirmed, the Senate will turn to the nomination of CMS Administrator Seema Verma.

Also next week, the National Rural Health Association and the National Organization of State Offices of Rural Health will convene in Washington, D.C. for their annual Rural Health Policy Institute.

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