HALL RENDER'S THIS WEEK IN WASHINGTON – MARCH 24, 2017

AMERICAN HEALTH CARE ACT PULLED JUST BEFORE HOUSE VOTE

Despite a last minute lobbying effort by President Trump, the Republican leadership in the House pulled the American Health Care Act ("AHCA") off the floor minutes before a vote was scheduled to take place when it became evident there weren't enough votes for it to pass. The move comes after Republican conservatives and moderates in the House found themselves unable to vote for a bill that would repeal large portions of the Affordable Care Act ("ACA") and significantly reform the Medicaid program, although for significantly different reasons. The conservative bloc, known as the House Freedom Caucus, refused to support the measure because its members wanted the bill to repeal most of Title 1 of the ACA. Title 1 includes such popular provisions as the ban on preexisting conditions exception, the prohibition on annual or life time coverage limits and the requirement that parents be allowed to keep their children on their health insurance policy until they are age 26. President Trump and the Republican leadership had agreed to the conservatives request to repeal the ACA's essential health benefits requirement and give authority over it to the states, but that agreement is what caused many Republican moderates to withhold their support. While it's unclear if the House leadership will make another attempt to move an ACA repeal bill or move on to tax reform legislation, House Speaker Paul Ryan (R-WI) told reporters late Friday, "We're going to be living with Obamacare for the foreseeable future."

HHS DELAYS CMMI'S BUNDLED PAYMENTS, 340B CEILING PRICE, FDA RULE

On March 20, CMS published an interim final rule further delaying two Medicare bundled payment programs from the Center for Medicare and Medicaid Innovation ("CMMI"). The Federal Register Notice postponed an expansion of its bundled payment program for knee and hip replacements and the Cardiac Rehabilitation Incentive Payment Model. The programs were part of a final rule issued in December. Postponement isn't surprising given that HHS Secretary Tom Price was very critical of CMMI's mandatory demonstration programs while he was a member of Congress. Hall Render published a summary of the CMS interim final rule earlier this week.

The move comes on the heels of a Health Resources and Services Administration ("HRSA") announcement last Friday to delay implementation of the 340B ceiling price and civil monetary penalty rule. HRSA previously delayed implementing the rule from March 6 until March 21, and the interim final rule released on March 17 delays implementation until May 22. HRSA is also seeking comments on whether to further delay the rule until October.

The rule, which was finalized shortly before the start of the Trump administration, would establish penalties for manufacturers that "knowingly and intentionally" overcharge 340B providers. HRSA has also indicated it intends to take a broader look at the 340B program.

Also on March 20, the FDA published a notice in the Federal Register delaying the implementation of the final rule regulating off-label drug promotion until March 19, 2018. Hall Render has published a more detailed account of the FDA action.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Buddy Carter (R-GA) introduced the DOC Access Act. The bill (H.R. 1606) would amend Title XXVII of the Public Health Service Act to improve health care coverage under vision and dental plans.

Rep. Karen Bass (D-CA) introduced the Health IT Modernization for Underserved Communities Act. The bill (H.R. 1604) would amend Title XIX of the Social Security Act to extend to physician assistants' eligibility for Medicaid incentive payments for the adoption and use of certified electronic health records, whether or not such physician assistants practice at a rural health center or federally qualified health center.

NEXT WEEK IN WASHINGTON

The House Energy and Commerce Committee will hold a hearing on medical device user fee amendments ("MDUFA") legislation on Tuesday. The committee is hoping to mark up a MDUFA bill by the end of April.

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