



Health Policy Briefing

December 10, 2018

Congress Passes CR to Avert Partial Government Shutdown

Congress approved a two-week continuing resolution (CR) (H.J. Res. 143) last week, averting a partial government shutdown. Funding was set to expire on Dec. 7 for federal agencies under seven appropriations bills, including funding for the Food and Drug Administration (FDA). The stopgap spending bill extends funding for approximately a quarter of government operations through December 21, providing lawmakers additional time to negotiate full-fiscal year appropriations. Lawmakers had been scheduled to leave town for the year on December 14.

Work on a funding deal was largely suspended last week for the ceremonies surrounding the funeral of former President George H.W. Bush, and negotiations on a funding level for construction of a U.S.-Mexico border wall are still ongoing. Senate Minority Leader Chuck Schumer (D-N.Y.) and House Minority Leader Nancy Pelosi (D-Calif.) had been scheduled to meet with President Trump last week, but the meeting was postponed. The President agreed to sign the CR, but maintains that he will veto any spending bill that does not contain at least \$5 billion for a border wall.

More Congressional Republicans Question White House Drug Pricing Policy

Last week, the House GOP Doctors Caucus met with Secretary of the U.S. Department of Health and Human Services (HHS) Alex Azar to question the Secretary about the administration’s recent proposal to tie certain Medicare Part B drug prices to an international pricing index. Critics of the policy argue that it would result in the importation of the price-fixing that takes place in other nations. Senate Finance Committee Chairman Orrin Hatch (R-Utah) is reportedly in talks with other Senate Republicans about writing a

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letter to the administration outlining concerns with the proposal. Incoming Finance Committee Chairman Chuck Grassley (R-Iowa) has also recently likened the policy to price controls. According to an HHS spokesperson, the Secretary plans to continue to meet with and talk with members of Congress across the aisle to discuss the proposal.

Wyden, Grassley Introduce Bill to Prevent Drug Misclassification

Sens. Chuck Grassley (R-Iowa) and Ron Wyden (D-Ore.) have introduced the ***Right Rebate Act of 2018*** (S. 3702), legislation that would give the HHS Secretary the authority to reclassify a drug and recoup Medicaid rebates when a pharmaceutical manufacturer deliberately misclassifies a drug to pay lower rebates and to recoup the rebate payments. Mylan, the makers of EpiPen, paid \$465 million in 2016 to settle a lawsuit for incorrectly classifying the product as a generic drug. Grassley is the incoming chairman of the Senate Finance Committee, where Wyden currently serves as the Ranking Member. The House of Representatives may vote on the measure this week as a part of a larger package that includes the ***ACE Kids Act***, a bipartisan bill aimed at improving care for children with complex medical needs.

Senate Clears Maternity Care Legislation

The Senate unanimously passed the ***Improving Access to Maternity Care Act*** (H.R. 315) last week. The bipartisan bill aims to expand access to maternal care and would incentivize OB-GYNs to work in counties with shortages of maternal health care providers. The legislation was passed by the House last year, also by a unanimous vote. The bill will now be sent to the President's desk for his signature.

Committee Leadership in the 116th Congress

House Republicans announced committee ranking members for the 116th Congress last week. There was no change for health-related committees. Rep. Greg Walden (R-Ore.) will serve as ranking member on the Energy and Commerce Committee, and Rep. Kevin Brady (R-Texas) will be the top Republican on the Ways and Means Committee.

CBO to Release New Report on Budgetary Options

The Congressional Budget Office (CBO) will release the latest edition of a periodic budgetary report titled ***Options for Reducing the Deficit: 2019 to 2028***, on December 13. It will include 121 policy options that would decrease federal spending or increase federal revenues over the next decade. The options contained in the report are not recommendations by CBO but are instead meant to educate lawmakers on the implications of possible policy choices. The report draws from legislative proposals, the administration's budget proposals, Congressional offices, other government entities, and private groups.

Health and Human Services (HHS) Report Recommends Steps to Increase Health Care Choice, Competition

HHS, alongside the U.S. Departments of Labor and Treasury, released a report titled "[Reforming America's Healthcare System Through Choice and Competition](#)," detailing a wish list for developing a better functioning health care market. The report identifies government regulations that act as barriers to market competition and stifle innovation, lead to higher prices, and fail to incentivize improvements in quality. It includes over 50 recommendations for action by either the administration, Congress, or state governments, arguing for the expanded use of Health Savings Accounts (HSAs), increased price transparency, and a lifting of restrictions on physician-owned hospitals. The report also recommends broadening providers' scope of practice, expanding access to telehealth, and funding graduate medical education (GME) through a single grant that rewards the training of residents in priority specialties or programs. The recommendations outline the administration's health policy priorities for the second half of the President's first term.

North Carolina Democratic Candidate Withdraws Concession Amidst Allegations of Election Fraud

The North Carolina State Board of Elections has voted to hold an evidentiary hearing about claims of fraudulent ballot activities in the state's 9th Congressional District. The bipartisan, unanimous decision further delays certification of the election in which Republican Mark Harris beat Democrat Dan McCready by just over 900 votes. Voters have come forward claiming that their absentee ballots were collected illegally, and statistical evidence shows a higher rate of mail-in ballots were never returned from two heavily African American counties in the 9th CD. Two people also have claimed to have been paid by a GOP operative to collect the ballots.

Azar Selects New Drug Czar

John O'Brien has been picked by HHS Secretary Alex Azar to serve as the department's drug czar. In this capacity, O'Brien will lead the department's efforts to lower drug prices. He replaces Daniel Best, former secretary for drug pricing reform, who passed away earlier this year. O'Brien has held multiple positions within HHS, having worked as Advisor to the Secretary for Health Reform and Drug Pricing and Deputy Assistant Secretary for Health Policy. He was previously the Vice President of Public Policy for CareFirst BlueCross BlueShield.

Upcoming Congressional Hearings and Meetings

House Energy and Commerce Health Subcommittee hearing "Implementing the 21st Century Cures Act: An Update from the Office of the National Coordinator;" 10:15 a.m., 2322 Rayburn Bldg.; December 11

House Energy and Commerce Oversight and Investigations Subcommittee hearing "Examining the Availability of SAFE Kits at Hospitals in the United States;" 10:15 a.m., 2322 Rayburn Bldg.; December 12

House Oversight and Government Reform Subcommittee on Government Operations and Subcommittee on Health Care, Benefits, and Administrative Rules joint hearing "Exploring Alternatives to Fetal Tissue Research;" 10:00 a.m., 2154 Rayburn Bldg.; December 13

Recently Introduced Health Legislation

H.R.7212 — To amend the Public Health Service Act to provide for additional programs funded by grants to strengthen the healthcare system's response to domestic violence, dating violence, sexual assault, and stalking, and for other purposes; Sponsor: Rep. Dingell, Debbie [D-MI-12]; Committees: House - Energy and Commerce

S.3701 — A bill to protect and educate children about the dangers of e-cigarettes and other electronic nicotine delivery systems, and for other purposes; Sponsor: Sen. Hatch, Orrin G. [R-UT]; Committees: Senate - Health, Education, Labor, and Pensions

S.3702 — A bill to amend title XIX of the Social Security Act to prevent the misclassification of drugs for purposes of the Medicaid drug rebate program; Sponsor: Sen. Wyden, Ron [D-OR]; Committees: Senate - Finance

S.3711 — A bill to establish an annual fee applicable to opioid manufacturers; Sponsor: Sen. Merkley, Jeff [D-OR]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.7217 — To amend title XIX of the Social Security Act to provide States with the option of providing coordinated care for children with complex medical conditions through a health home, and for other purposes; Sponsor: Rep. Barton, Joe [R-TX-6]; Committees: House - Energy and Commerce, Ways and Means

H.R.7222 — To require the Secretary of Health and Human Services to establish the Megan Rondini national sexual assault care and treatment task force; and for other purposes; Sponsor: Rep. Poe, Ted [R-TX-2]; Committees: House - Energy and Commerce, Ways and Means, Judiciary

H.R.7223 — 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