

Post-Election Update

November 14, 2016

Congress returned today to a new political dynamic that neither party anticipated. The Senate remains controlled by Republicans and Donald J. Trump is President-elect. Congressional Republicans are rallying around Mr. Trump, even though the vast majority of them during the campaign either publicly repudiated him or kept their distance.

Given Trump's lack of policy proposals during his campaign, it is not yet known how his Administration will approach many health and human services policies. The bare outlines of some of his proposals are beginning to be posted on his transition website: <https://www.greatagain.gov/>

What is known is Republicans will likely pursue more aggressively a number of health and human services proposals that have died in recent sessions of Congress. Below are some of them.

Lame Duck Session

The House and Senate are in session through this Thursday, November 17 and will return after Thanksgiving.

Spending Bills: Must-pass legislation includes acting on the 11 remaining appropriations bills before their temporary extensions expire on December 9. There are competing Republican strategies on acting on the spending measures. Some conservative Republicans are pushing for another short-term extension of funding through perhaps March 2017 to allow for cuts to programs mid-year and to attach policy riders opposed by Democrats, while others, including some Republican appropriations committee members, argue for passing a bill in 2016 that continues funding at current levels for the remainder of fiscal year 2017. That approach will give the appropriations committees a clean slate at the beginning of the year to work on FY 2018 bills. House and Senate Republican leadership have not committed to an action plan yet and those plans will likely be unveiled this week.

Family First Prevention Services Act: It is very likely that there will be further Senate attempts to adopt the Family First Prevention Services Act before year's end. Senate holds continue to be placed on further consideration, but the pressure from advocates and those within HHS to pass the bill will likely intensify given the uncertainties of a Trump Administration and the full plate of potential assaults on key entitlements next year. On the other hand, previous assurances by the Obama Administration that some items opposed by some states would be handled through favorable guidance appears to be no longer a possibility.

TANF: The Temporary Assistance for Needy Families (TANF) will be extended under the spending bills described above, leaving a full reauthorization to the next Congress.

Next Year

Affordable Care Act Repeal: Perhaps the only HHS-related policy that President-elect Trump touted in his campaign was to repeal the Affordable Care Act (ACA). Senate Majority Leader Mitch McConnell (R-KY) announced last week that ACA repeal is at the top of his agenda.

Earlier this year, after dozens of failed House attempts, the GOP was able to pass a bill repealing ACA's Medicaid expansion, premium subsidies, and the employer and individual mandates, among other provisions. In January 2016, President Obama vetoed the measure. Clearly, that scenario no longer exists.

In recent days, President-elect Trump has stated support for continuing ACA requirements that insurance plans must cover pre-existing conditions and extend coverage to young adults up to age 26 under their parent's plan. He has also stated that there would be no gap in coverage once the ACA was repealed and replaced. He asserts that "it'll be great health care for much less money." It is unknown, however, how and whether all 20-plus million individuals who gained coverage under the ACA will also have coverage under a new Trump-Republican plan.

As the ACA is examined and legislation moves forward, the House and Senate will likely use a special legislative vehicle called reconciliation to repeal portions of the ACA. Such a vehicle was used to enact a large portion of the ACA originally and, as mentioned above, was used by Republicans earlier this year to repeal it.

The process begins with the House and Senate adopting a very broad budget blueprint that would include reconciliation instructions to committees to find revenues and/or cut entitlements. The budget resolution does not go to the President for his signature, but it does set the path for a future omnibus bill containing an ACA repeal and changes to other entitlements. Given the time it takes to draft and adopt a budget resolution; the deliberations within the committees of jurisdiction which would follow; and, the complexity of health care, a reconciliation bill repealing the ACA is not likely to be enacted quickly. And, without enacting a so-far elusive or unspecified policy option to replace ACA provisions, 20 million individuals risk losing coverage. Both the President-elect and a number of Republicans acknowledge the loss of coverage is a significant issue.

Given the reconciliation rules which only allow changes to tax revenues and/or entitlements, at risk of repeal under reconciliation is the enhanced funding for Medicaid expansion, premium subsidies and individual and employer mandates. Phasing out the premium subsidies over two years to allow individuals and families to transition to a new federal plan may be considered. Past Republican proposals have included full tax deductibility for purchasing private insurance and/or more robust, tax-advantaged health savings accounts. Such tax approaches assume that lower- to moderate-income families have the financial ability to purchase a private plan.

How to finance the more popular health care policies on no pre-existing conditions and others supported by President-elect Trump remains an outstanding question, given that insurance companies have depended on the individual and employer mandates, subsidies, and new Medicaid funding to support their plans.

Children's Health Insurance Program (CHIP): CHIP block grant funding expires on September 30, 2017. Given that states will want some state budgetary certainty well before then, Congress will be under pressure to appropriate funds for the bipartisan block grant early in the year. In April 2015, CHIP was funded for two years under a major health bill which also contained reforms to Medicare physician payments and home visiting programs. Without a similar effort in 2017, over 8 million children over the year will lose coverage. In 2015, Congress appropriated nearly \$40 billion for CHIP during FY's 2016-2017.

Also at issue for CHIP next year will be whether Congress will retain the 23 percentage point federal match boost for CHIP each state receives currently compared to their normal match rate for Medicaid.

Block Grants

Block granting Medicaid and the Supplemental Nutrition Assistance Program will likely be high on the Republican's entitlement reform agenda. Changes to both programs could be included in an omnibus budget reconciliation measure later in 2017. And, the Social Services Block Grant will be under severe scrutiny.

Medicaid: President-elect Trump has stated that he supports block granting Medicaid. Past Republican House budget proposals have contained such a proposal, but the committee with jurisdiction over Medicaid has never acted on a bill. House Speaker Ryan (R-WI) has also called for block granting the program. In return for increased flexibility at the state level to design the program, per-capita payments would be provided to each state based on their Medicaid spending patterns. Such a per-capita approach would allow for program growth, but will lock each state into their historic spending pattern, creating 'winners' and 'losers'.

Supplemental Nutrition Assistance Program (SNAP): While the farm bill, typically the vehicle for SNAP changes, is not due for reauthorization until 2019, House Republicans have been proposing block granting the program for some time, but no legislation has been introduced. The House Agriculture Committee has conducted seven hearings on SNAP this year, with one more slated for this Wednesday. These hearings will give the Committee the opportunity to assert they have already undertaken a full program review, leaving open the potential to move a block grant proposal in 2017 before the full farm bill reauthorization is due. It remains unclear, however, if indeed such a strategy would be used, given SNAP policy changes are traditionally made within a farm bill and 'savings' from SNAP could be used to fund other agriculture priorities within that measure.

Social Services Block Grant (SSBG): Proposed for elimination in numerous House budgets and by Speaker of the House Paul Ryan (R-WI), the House Ways and Means Committee adopted a bill (H.R. 4724) earlier this year to eliminate the \$1.7 billion block grant at the end of FY 2016. While such a bill

failed, SSBG will likely again surface as a budget target in 2017, given the ten year 'savings' of \$17 billion if the flexible block grant is repealed. Republicans have argued that the block grant duplicates existing social programs and the SSBG benefits are difficult to quantify.

TANF/Foster Care/Other Entitlements – As noted above, action in 2016 on the Family First Prevention Services Act continues to be stalled, due to objections from Senators in a handful of states. The Temporary Assistance for Needy Families program (TANF) will be extended before year's end, but whether a full reauthorization will be considered in 2017 is uncertain. Key Senate Finance and Ways and Means Committee members and staff will continue to serve next year, and how the Trump Administration views foster care or TANF is unknown. Certainly key conservative think tanks such as the Cato Institute and Heritage Foundation will be even more influential, either within HHS or advising it from the outside.

Tom Joseph
NACHSA Washington Representative
Waterman & Associates
202.898.1446
tj@wafed.com