



'Dire straits' for ACA repeal and replace

By Stephanie Zaremba | July 19, 2017

Healthcare news is coming out of Washington, D.C. at a breakneck pace. Here's the latest on what we know about the future of the Affordable Care Act, as well as other developments worth watching from the past week.

GOP repeal bill is again at an impasse

As you may have heard, the Senate's bill to repeal and replace the ACA was in dire straits after four GOP senators – Mike Lee of Utah, Jerry Moran of Kansas, Susan Collins of Maine, and Rand Paul of Kentucky – announced they would oppose it in its current form.

Where does that leave us? Movement on the bill was already delayed until Sen. John McCain, R-Ariz., recovers from surgery – a timeline that remains unclear. Majority Leader Mitch McConnell (R-Ky.) is holding firm, saying he will schedule a procedural vote to take up the repeal bill "in the very near future."

The contingency plan to the less-than-popular GOP replacement plan is to bring to the floor a straight repeal bill, similar to what Republicans

passed and President Obama vetoed in 2015, with a replacement strategy to be determined at a later date. But with three Senate Republicans already on the record that they will not vote for repeal without replacement, it is very unlikely that the Senate will be able to get simple repeal across the finish line, either.

While many in Congress would view that as a huge failure, there are certainly some who see a silver lining: the chance to return to regular order and public process. Senate Health, Education, Labor and Pensions Committee Chairman Lamar Alexander (R-Tenn.) is already talking about scheduling hearings before August recess on potential bipartisan solutions for individuals with no insurance options in 2018 – a precursor to full replacement solutions.

FDA user fee bill heads to the Senate

One thing the Senate may do with its newfound spare time is finish up work on the FDA user fee reauthorization bill. The House passed the bill last week. It includes provisions requiring speedier

reviews of some generic drugs and improvements to medical device inspections. FDA will also expand eligibility for clinical trials to improve patient access to experimental treatments. The Senate is not expected to make dramatic changes to the bill.

House would cut ONC funding by 35 percent

The House appropriations bill released last week maintained President Trump's proposal to diminish the Office of the National Coordinator for Health Information Technology by about a third.

While some have decried any and all cuts to the government – and wondered how clinicians will manage to use technology without the help of a federal regulator – many others have been advocating in support of a re-conceived ONC. A serious budget cut would force the agency to trim down its operations, let private-sector leadership emerge, and maintain a narrower focus on high-priority issues.

But it is not a given that Congress will accept all of Trump's budget proposals. The House appropriations bill rejects the White House's proposed cuts to the National Institutes of Health, and the House also declined to follow Trump's suggestion that the FDA get considerably more funding from industry user fees instead of taxpayer funding.

Expect more scrutiny over EHR incentive payments

After the Health and Human Services Office of the Inspector General estimated that CMS overpaid doctors almost \$730 million in payments under the Meaningful Use program, Republican Sens. Orrin Hatch (Utah) and Chuck Grassley (Iowa) called on CMS to recoup some of that money.

The senators requested information about how CMS will respond, and took issue with the agency's current approach of targeted audits. OIG also announced that it will now turn its attention to investigating Meaningful Use overpayments to hospitals.

Outlook for Medicare is improving

The Medicare Board of Trustees announced two noteworthy items in its annual report last week. The Medicare insolvency date is projected to come in 2029, a year later than the Board had estimated last year.

The Trustees also announced that the Independent Payment Advisory Board, or IPAB, would not be triggered this year, as they had previously predicted. The IPAB is the agency that, under the ACA, has to come up with Medicare cost-saving proposals if the program's growth rate exceeds a set target amount. That's right, Medicare growth is slowing a bit – but the Board still is not sure if that's due to lingering effects of the recession or systemic changes in healthcare.

Don't expect telemedicine legislation this year

In January, legislation to pave the way for government reimbursement of telemedicine seemed realistically on the table. But now that we are more than halfway through the year and most GOP legislative priorities are completely stalled, it seems unlikely that Congress will be able to tack much of anything onto its remaining "must pass" healthcare legislation (namely, the CHIP reauthorization).

In recent interviews, House GOP leaders demurred on the issue of whether telemedicine may find its way into any major bills this year, suggesting that telemedicine advocates will need to continue their fight into 2018.

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