

HHS Federal Update

The National Conference of State Legislatures

2/22/2017

Congressional Highlights

HOUSE REPUBLICAN LEADERS RELEASE DRAFT REPEAL AND REPLACE PLAN

Feb. 16, 2017– At his weekly press briefing, House Speaker Paul Ryan released the House's plan for repealing and replacing the Affordable Care Act (ACA). "After the House returns following President's Day, we intend to introduce legislation to repeal and replace Obamacare," stated Ryan.

The Proposal

The proposal document, which incorporates many concepts from 2016 House Republican's proposal called "A Better Way," lays out specific goals of their plan that the repeal and replace legislation hopes to achieve including:

- **Modernizing the Medicaid program** to allow states to innovate with plan designs that will best meet their needs,
- Utilizing state innovation grants to enable states to **strengthen and improve their health insurance marketplaces** and provide for populations with greater needs.
- **Enhancing and expanding the use of health savings accounts (HAS)** by increasing the amount of money an individual or family may contribute; allowing funds in the HSA to be used to purchase "over-the-counter" health care items; allowing spouses to make additional contributions; and expanding the amount of time HSA funds may be used on certain expenses.
- Providing **access to a portable monthly tax credit** to buy a health insurance plan that is unrelated to an employment or government program plan. The proposal is based on age, so as individuals' health needs evolve over time, so will their monthly portable tax credit. The credit would be portable so that it stays with an individual from job to job, state to state, stays home to start a business or raise a family, and used in retirement.

HOUSE AGRICULTURE COMMITTEE CONSIDERS PROS AND CONS TO RESTRICTING SNAP PURCHASES

FEB. 16, 2017–The House Agriculture Committee held a [hearing](#) to explore the implications of restricting what can be purchased with Supplemental Nutrition Assistance Program (SNAP) benefits. A panel of experts provided testimony addressing challenges that may arise in implementing product restrictions, the need for encouraging healthy purchasing habits, and the role that incentives and nutrition education can play in changing consumer behavior.

Chairman Mike Conaway (Texas) commented that the committee needs to focus on the future of SNAP, and referenced the results of a recent U.S. Department of Agriculture study, which raises the question whether certain foods and beverage items should be restricted as eligible food items in SNAP. The House Committee on Agriculture completed a comprehensive review of the SNAP during the 114th Congress. Known as the Past, Present, and Future of SNAP, the purpose of the review was to provide a better understanding of SNAP and the population it serves,



NEW NCSL WEB RESOURCES

- [Actions Toward Health System Change 2017](#)
This web page will serve as a landing page for links to NCSL web pages regarding the new developments and resources in the Federal Government.
- [Office of Child Support Enforcement \(OCSE\) Final Rules Governing Child Support Enforcement Programs](#)
- [Blueprint Proposals for Medicaid](#)
A discussion of the proposals being considered in Congress in 2017.

to review how SNAP utilizes cash and noncash benefits to serve that population, and to examine ways the program can be improved.

Congressional Report: [Past, Present, & Future of SNAP](#)

HOUSE VOTES TO NULLIFY TITLE X FAMILY PLANNING FUNDS RULE

Feb. 16, 2017–The House approved in a 230–188 vote, H.J.Res. 43, to nullify the [rule](#) issued on Dec. 19, 2016 by the Obama administration that related to Title X family planning funds, and blocked states from restricting Title X family planning funds to abortion providers.

HEALTH AND HUMAN SERVICES SECRETARY PRICE CONFIRMED

Feb. 10 2017–In a 52-47 vote, the U.S. Senate confirmed Rep. Tom E. Price (R-GA) as Secretary of the U.S. Department of Health and Human Services (HHS) Feb. 10, 2017. Later that day Secretary Price was sworn in to serve as the 23rd Secretary of HHS. Secretary Price is a third generation physician who worked as an orthopedic surgeon in the Atlanta area for 20 years before being elected to the Georgia State Senate. He was elected to the U.S. House of Representative in 2005 and since has held a number of leadership roles including Chairman of the House Budget Committee.

While in Congress, Secretary Price sponsored legislation to repeal the Affordable Care Act (ACA) in 2015. [HR. 3762, Restoring American’s Healthcare Freedom Reconciliation Act of 2015](#). This legislation is looked upon as being as a blueprint document for action that may be taken in the 115th Congress.

HR 3762--Restoring Americans’ Healthcare Freedom Reconciliation Act of 2015.

- Passed the House by vote of 240-189 on Oct. 23, 2015.
- As originally passed by the House, the bill would have repealed the following ACA provisions: individual mandate; employer mandate; Cadillac tax; medical device tax; automatic enrollment requirement for large employers; and PPHF.
- It also would have appropriated an additional \$235 million to the CHCF in each of FY2016 and FY2017 for health center operations.
- The Senate took up H.R. 3762 and substituted its own more extensive set of ACA repeal provisions.
- The amended bill passed the Senate by a vote of 52-47 on Dec. 3, 2015, and passed the House by a vote of 240-181 on Jan. 6, 2016.
- H.R. 3762 was sent to the President, who vetoed it on Jan. 8, 2016.
- The House failed to override the veto in a vote taken on Feb. 2, 2016.

Secretary Price was also a member of the *Task Force on Poverty, Opportunity, & Upward Mobility* who developed [a set of proposals](#) to fight poverty and improve the nation’s safety-net as part of the House Republicans’ [A Better Way](#) agenda.

Before administering the oath of office, Vice President Mike Pence [commented](#) that “Dr. Price is uniquely qualified to step into this leading role during this time of reform in the life of health care in America. . . .as Secretary, we're both confident that you will bring that experience as a physician, that experience at the state level, and that singular experience at the national level to ensure that President Trump’s vision for a health care system in this country that works for every American will become a reality in the years ahead.”

Federal Regulatory Activity

CMS ISSUES PROPOSED RULE TO INCREASE PATIENTS’ HEALTH INSURANCE CHOICES FOR 2018

Feb. 15, 2017–The Centers for Medicare & Medicaid Services (CMS) issued a proposed rule for 2018, which recommends new reforms for stabilizing the individual and small group health insurance markets. The proposed rule would make changes to special enrollment periods, the annual open enrollment period, guaranteed availability, network adequacy rules, essential community providers, and actuarial value requirements; and announces upcoming changes to the qualified health plan certification timeline.

The rule proposes a variety of policy and operational changes to stabilize the marketplace, including:

- **Special Enrollment Period Pre-Enrollment Verification:** Expands pre-enrollment verification of eligibility to individuals who newly enroll through special enrollment periods in marketplaces using the HealthCare.gov platform. This would help make sure that special enrollment periods are available to all who are eligible for them, but will require individuals to submit supporting documentation, a common practice in the employer health insurance market. This will help place downward pressure on premiums, curb abuses, and encourage year-round enrollment.
- **Guaranteed Availability:** Allows an issuer to collect premiums for prior unpaid coverage, before enrolling a patient in the next year's plan with the same issuer. This will incentivize patients to avoid coverage lapses.
- **Determining the Level of Coverage:** Makes adjustments to the de minimis range used for determining the level of coverage by providing greater flexibility to issuers to provide patients with more coverage options.
- **Network Adequacy:** In the review of qualified health plans, CMS proposes to defer to the states' reviews in states with the authority and means to assess issuer network adequacy. States are best positioned to ensure that their residents have access to high quality care networks.
- **Qualified Health Plan (QHP) Certification Calendar:** In the rule, CMS announces its intention to release a revised proposed timeline for the QHP certification and rate review process for plan year 2018. The revised timeline would provide issuers with additional time to implement proposed changes that are finalized prior to the 2018 coverage year. These changes will give issuers flexibility to incorporate benefit changes and maximize the number of coverage options available to patients.
- **Open Enrollment Period:** Shortens the upcoming annual open enrollment period for the individual market for the 2018 coverage year. The open enrollment period will begin Nov. 1, 2017, to Dec. 15, 2017. This change will align the marketplaces with the Employer-Sponsored Insurance Market and Medicare, and help lower prices for Americans by reducing adverse selection.

NCSL is preparing additional material to provide further details about the proposed rule.

Other Reports of Interest

2016-2025 PROJECTIONS OF NATIONAL HEALTH EXPENDITURES DATA RELEASED

Feb. 15, 2017—National health expenditure growth is expected to average 5.6 percent annually over 2016-2025, according to a report published as a 'Web First' by Health Affairs and authored by the CMS Office of the Actuary (OACT). These projections are constructed using a current-law framework and do not assume potential legislative changes over the projection period.

National health spending growth is projected to outpace projected growth in Gross Domestic Product (GDP) by 1.2 percentage points. As a result, the report also projects the health share of GDP to rise from 17.8 percent in 2015 to 19.9 percent by 2025. Growth in national health expenditures over this period is largely influenced by projected faster growth in medical prices compared to recent historically low growth. This faster expected growth in prices is projected to be partially offset by slowing growth in the use and intensity of medical goods and services.

The OACT report may be found at: <http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html>. An article about the study also being published by Health Affairs can be found here: <http://content.healthaffairs.org/lookup/doi/10.1377/hlthaff.2016.1627>

THE CENTER FOR HEALTH POLICY AT BROOKINGS AND THE NELSON A. ROCKEFELLAR INSTITUTE OF GOVERNMENT: FIVE STATE STUDY OF ACA MARKETPLACE COMPETITION—FEB. 2017

This [study](#) sought to understand the diverse experience in five states under the ACA in order to gain insights for improving competition in the private health insurance industry and the implementation of the ACA. This project used the ACA Implementation Research Network to conduct field research in California, Michigan, Florida, North Carolina, and Texas. This focus included an effort to understand why carriers choose to enter or exit markets and the barriers they faced, how provider networks were built, and how state regulatory decisions affected decision-making. Ultimately, it sought to find where and why certain markets are successful and competitive and how less competitive markets might be improved.

RELEASE OF THE 26TH EDITION OF THE CHILD MALTREATMENT REPORT

Jan. 19, 2017—The Administration for Children and Families (ACF) [released](#) the 26th edition of the Child Maltreatment Report, which analyzes data collected by state child protective services (CPS) agencies. The [2015 Child Maltreatment Report](#) can be found at: <https://www.acf.hhs.gov/cb/resource/child-maltreatment-2015> and the full announcement with details is available at: <https://www.acf.hhs.gov/media/press/2017/child-abuse-neglect-data-released>.

The 2015 Child Maltreatment is a report series from the [National Child Abuse and Neglect Data System \(NCANDS\)](#). NCANDS is a voluntary national data collection and analysis program of state child abuse and neglect information. The 2015 national statistics are based upon data received from the 50 states, the District of Columbia and the Commonwealth of Puerto Rico.

GOVERNMENT ACCOUNTABILITY OFFICE (GAO) REPORT: CMS NEEDS BETTER DATA TO MONITOR THE PROVISION OF AND SPENDING ON PERSONAL CARE SERVICES

Jan. 2017—Given the expected increase in the demand for and spending on personal care services and risk of improper payments, GAO was asked to examine available data on personal care services and CMS’s use of the data. This [report](#): (1) describes the CMS systems that collect data on personal care services and what the data reveal, and (2) examines the extent to which data from these systems can be used for oversight. GAO reviewed information from two CMS data systems, reviewed relevant federal guidance and documents, and interviewed officials and researchers. GAO recommends that CMS improve personal care services data by: establishing standard reporting guidance for key data; ensuring linkage between data on the provision of services and reported expenditures; ensuring state compliance with reporting requirements; and developing plans to use data for oversight.

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