



HEALTH REFORM ADVISORY PRACTICE

Weekly Legislative Update



September 15, 2017

Graham-Cassidy Gains Momentum, Repeal and Replace Back in Play One Last Time

"Health-care reform is like one of those ill people in a Victorian novel. They are pronounced close to death, with no possibility of a cure ... and then they linger on for hundreds of pages of breathless plotting, while the reader wonders: 'Is this it? Could they possibly live after all that suffering?'"

-- Megan McArdle, *Bloomberg View*

As incredible as it may seem, the last-ditch effort by Senators Bill Cassidy (R-LA) and Lindsey Graham (R-SC) to repeal large sections of the Affordable Care Act (ACA) is not only still breathing, but has a legitimate shot at clearing the Senate by month's end.

Yes, you read that correctly. ACA repeal and replace is still in play as the game clock winds down toward the Senate's September 30 deadline for passing a repeal and replace bill using the filibuster-proof budget reconciliation process.

The two lawmakers have been working feverishly to line up the minimum 50 votes needed to move their bill through the Senate, and this morning Sen. Cassidy announced they were very close, just a vote or two shy of the magic number.

Lockton comment: A 50-50 tie in the Senate could be broken by Vice President Mike Pence, who would be expected to vote with the Republican bloc.

The initiative received a boost late this week when Senate Majority Leader Mitch McConnell (R-KY) endorsed the effort, and the Congressional Budget Office said it could actually have an adequate score of the bill's effect on coverage and federal spending sometime next week. That would give the Senate the last week of the month to bring the bill to the floor of the Senate for a vote.

The Graham-Cassidy bill is very similar to the Senate's Better Care Reconciliation Act, which failed to garner enough votes in July to even open debate. The Graham-Cassidy bill would reduce the ACA employer and individual mandate penalties to zero, repeal some ACA-imposed taxes, and turbocharge health savings accounts.

Most notably, the bill would convert federal payments for the ACA's Medicaid expansion and marketplace subsidies into block grants to the states, and allow states to define their own "essential health benefits," giving the states greater flexibility to address health insurance coverage than they currently have under the ACA.

Lockton comment: The ACA defines 10 broad categories of medical care as essential health benefits. States are permitted to add to the list, and to some extent interpret what's included in the 10 categories. Graham-Cassidy would give states the discretion to not treat one or more of the 10 broad categories as essential.

It's difficult to handicap the bill's prospects; many Washington insiders still consider it something of a long shot. Its fate, and with it the fate of the ACA repeal and replace effort, will likely not be decided until the clock strikes midnight on September 30.

Sanders and Single Payer

Sen. Bernie Sanders (D-VT) introduced this week his single payer healthcare proposal. The measure would essentially combine Medicare Parts A (hospitalization), B (physician and related services) and D (prescription drugs) into a single program, and transition nearly all Americans' health coverage to that program over a four-year period.

Sanders' bill is co-sponsored by 16 other Senate Democrats, many of whom have signaled aspirations for the Democrat nomination for president in 2020.

Sanders outlined ideas for raising revenue to pay for his initiative, including a plethora of new federal taxes:

- Increasing payroll taxes on employers by 7.5 percent
- Increasing income taxes on individuals at least 4 percent
- Taxing investment gains as ordinary income
- Limiting tax deductions for, and raising marginal tax brackets on, higher wage earners, so that marginal federal tax rates would be:
 - 40 percent on income between \$250,000 and \$500,000
 - 45 percent on income between \$500,000 and \$2 million
 - 50 percent on income between \$2 million and \$10 million
 - 52 percent on income above \$10 million

Lockton comment: With Republicans controlling both chambers of Congress, Sen. Sanders knows his bill has no chance of proceeding, but it keeps the issue of single payer in the news and sets it up as an ideological battle for the 2018 midterm and 2020 presidential elections. Democrat Congressional leadership does not currently endorse Sanders' proposal, preferring instead to work to save and improve the ACA. Time will tell whether leadership will view the proposal differently, especially if Republicans succeed in their ACA repeal and replace effort.

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