



HEALTH REFORM ADVISORY PRACTICE

Weekly Legislative Update



May 12, 2017

Senate Review of Healthcare Reform Begins in Earnest, No Immediate Action Expected

Other events of the week have drawn media attention away from the healthcare debate currently underway in the Senate. Nevertheless, the Senate continues to consider the House version of the American Health Care Act (AHCA), with Republicans hoping to reform the current proposal before the month-long August recess.

A work group of 13 Republican senators continues to hold bi-weekly meetings to discuss ways to amend the House bill and ensure passage in the Senate. Little is known about the specific modifications being discussed by the work group, but one work group member, Orrin Hatch (R-UT), confirmed earlier this week that everything is on the table, including the taxing of employees, retirees and employers on at least a portion of their group health plan values.

Lockton comment: Like the House, a significant challenge in the Senate will be to find a compromise between those on the far right flank of the Republican caucus, like Rand Paul (R-KY), Ted Cruz (R-TX) and Mike Lee (R-UT), and more moderate members like Susan Collins (R-ME), Lisa Murkowski (R-AK) and Dean Heller (R-NV). Assuming no Democrat support, the legislation cannot clear the Senate if three or more Senate Republicans vote “no.”

That being said, it is likely the House bill will serve as the foundation for any proposal that moves forward in the Senate. Key elements of the House version of the AHCA are widely accepted by Republicans in the Senate—for example, there is broad support for the elimination of the employer and individual mandates and most of the taxes imposed by the Affordable Care Act (ACA).

The real fight in the Senate, as it was in the House, will be over how to structure subsidies for people to purchase health insurance in the individual market, fund Medicaid and state high risk pools and ensure affordable coverage for those with preexisting conditions.

Senate Waits for CBO Score, Specific Timeline for Legislation Remains Unknown

Reports indicate Republican leaders in the Senate hope to pass their version of the AHCA by the August recess, but they have been hesitant to commit to any hard deadlines. Currently, the Senate is awaiting the AHCA’s official score from the Congressional Budget Office (CBO).

The CBO announced it expects to release its score during the week of May 22. The CBO analysis will detail the budgetary impact of the AHCA as passed by the House and indicate the extent to which the AHCA would impact the number of people covered by health insurance over the course of 10 years.

Obtaining this score is important for numerous reasons, one of which is that it is a necessary part of the budget reconciliation process—the procedural rule being used to advance the legislation through the Senate without the need to overcome a Democrat-led filibuster. Only legislation that has a sufficient impact on the budget (taxes or spending) can be passed through reconciliation, and there are provisions in the House version of the AHCA that may not meet this requirement. Once the CBO completes its score, the Senate parliamentarian (a referee, of sorts) will be able to evaluate whether any provisions currently in the AHCA must be removed in order for the legislation to advance through reconciliation.

Lockton comment: We expect the parliamentarian will closely scrutinize the AHCA provision that would allow insurers to charge higher premiums to individuals with pre-existing conditions if those individuals do not maintain continuous coverage. This provision, which has been the topic of intense debate, does not appear to have a direct budgetary impact on its own; however, some Republicans have argued its interaction with other provisions in the AHCA is sufficient.

The CBO score is also important because reconciliation rules require that the bill reduce the deficit. It is expected that the AHCA as passed by the House will meet this requirement, but the amount of the reduction is significant, because the Senate’s version of the bill must reduce the deficit as much or more than the House version. This means, for instance, if the Senate wants to delay changes to Medicaid expansion or increase the amount of subsidies for purchase of individual health insurance policies, it will need to find funds from other sources to offset the costs associated with those changes.

Lockton comment: It is this potential need to find more revenue that has reignited concerns that the Senate bill might vote to include a provision to begin taxing employees, retirees and employers on the value of employer provided health coverage.

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