



HEALTH REFORM ADVISORY PRACTICE

Weekly Legislative Update



June 9, 2017

“May I Borrow Your Health Reform Bill?”

In early May, as House Republicans pushed and pulled their health reform bill, the American Health Care Act (AHCA), across the finish line, their colleagues in the Senate were quick to say, “Thanks for the effort, but we’re going to write our *own* health reform bill.”

As details about that Senate bill began to emerge this week, lo and behold the Senate’s outline looks very much like the House bill after all.

Lockton comment: This was to be expected, because it takes far less time to make tweaks to an existing bill than to write a new one. In addition, the Congressional Budget Office (CBO) had already built models to assess the AHCA, models that would need to be re-engineered if the Senate drafted its own bill, adding yet more time to the Senate’s process.

Senate leaders have not unveiled actual legislative text yet, and are only now preparing to send concepts related to their bill to the CBO for assessment. But Senate Republicans received a briefing early this week on what Senate staff was intending to draft, and the outline is essentially the AHCA with tweaks to that bill’s approach to Medicaid funding and several key issues related to the individual health insurance market.

Lockton comment: Everything we’ve heard from Senate staffers indicates the Senate has abandoned, *at least for purposes of the health reform effort*, any notion to begin taxing employees on the value of the employer-provided health insurance. That tax proposal has circulated freely on Capitol Hill the past few months because of the revenue it would generate. Nevertheless, there are hints the House and Senate may revisit that issue as part of their tax reform effort later in the year.

With few exceptions, both hard line conservatives and moderates emerged from the briefing saying they were largely in agreement on the main issues, and expressing optimism that a Senate vote might even occur before the July 4 recess.

Some of that optimism may have been manufactured for public consumption. GOP leadership in the Senate had become concerned about statements made by some members of their caucus over the weekend - statements suggesting the Senate effort was in trouble. The GOP's huddle early in the week may have included an admonition to present a united and optimistic front to the public.

Indeed, by week's end fractures began to appear around several issues, particularly the length of the phase-out period for the enhanced federal funding of the Affordable Care Act's Medicaid expansion. Moderate GOP senators want a seven-year phase out, beginning in 2020, while more conservative senators want a three-year phase out.

Senate staffers were less than optimistic that a vote is actually possible by month's end, but noted "anything is possible."

Interestingly, our sources tell us that the Senate's version of the AHCA might repeal just three of the ACA's taxes: the tax on health insurers, the Cadillac tax on high value health plans, and the tax on medical device manufacturers, leaving in place the ACA's additional Medicare and capital gains taxes on high wage earners. Of course, we won't know the particulars of the Senate proposal until its legislative text is unveiled.

Lockton comment: For those opposed to proposals to tax employees on the value of their employer-provided health insurance, the specter of more limited repeals of ACA taxes may come as a relief. The revenue Congress would generate under the proposals to tax health insurance values can be more than had by keeping in place the existing ACA-imposed Medicare and capital gains taxes. Keeping those taxes in place might diminish the chance of a tax on health insurance appearing as part of the tax reform effort.

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