House Votes on Defunding Planned Parenthood; Subcommittee Continues Review of Medicaid Program; ONC Names Chief Nursing Officer; MedPAC Considers Unified PPS for Post-Acute Care; ACA Lawsuit to Proceed

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Legislative Activity

House Votes on Defunding Planned Parenthood

With the fiscal year quickly coming to an end, the government spending fight will ramp up as the House of Representatives continues its response to the controversial Planned Parenthood videos which were released this summer. As early as Thursday, September 17, the House is expected to vote on H.R. 3134, the Defund Planned Parenthood Act of 2015. This legislation, championed by Rep. Diane Black (R-TN), would prohibit federal funding to Planned Parenthood for one year, unless Planned Parenthood certifies that it will not perform or provide funds to an entity that performs an abortion during that year. The House is also scheduled to vote on H.R. ____, the Born Alive Abortion Survivors Protection Act, which would add criminal penalties to persons who violate the Born Alive Act. On Thursday, September 17, the House Energy and Commerce Subcommittee on Health will convene to review legislation introduced by Rep. Marsha Blackburn (R-TN) and Rep. Renee Ellmers (R-NC), respectively, that would strengthen enforcement against providers who violate the Born-Alive Infants Protection Act of 2002 and the Partial-Birth Abortion Ban Act of 2003: H.R. ____, the Protecting Infants Born Alive Act; and H.R. ____, the Protecting Infants from Partial-Birth Abortion Act.

Subcommittee Continues Review of Medicaid Program

On Friday, September 18, the House Energy and Commerce Subcommittee on Health will continue its effort to strengthen the Medicaid program with a hearing to review four additional bills aimed at “Improving the Medicaid Program for Beneficiaries.” Last Friday, September 11, the subcommittee reviewed six bills that were aimed at boosting program integrity and reducing fraud in Medicaid. At the upcoming hearing, the subcommittee will discuss: H.R. 209, the Ensuring Access to Clinical Trials Act of 2015, which would allow for a permanent exclusion under Medicaid and the Supplemental Security Income programs for compensation provided to individuals who participate in clinical trials for rare diseases or conditions; H.R. 670, the Special Needs Trust Fairness Act of 2015, which would extend the Medicaid rules regarding supplemental needs trusts for Medicaid beneficiaries to trusts established by Medicaid beneficiaries; H.R. 3243, which would clarify waiver authority regarding programs of all-inclusive care for the elderly (PACE); and H.R. ___ the Medicaid Directory of Caregivers (DOC) Act, which would require a published provider directory in states that provide medical assistance on a fee-for-service basis or through a primary care case management system.

This Week’s Hearings:
Monday, September 14: The Senate Homeland and Governmental Affairs Committee will hold a hearing titled “All Hands on Deck: Working Together to End the Trafficking and Abuse of Prescription Opioids, Heroin, and Fentanyl.”

Wednesday, September 16: The Senate Health, Education, Labor, and Pensions Committee will hold a hearing titled “Achieving the Promise of Health Information Technology: Improving Care Through Patient Access to Their Records.”

Wednesday, September 16: The Senate Committee on Veterans’ Affairs will hold a hearing focused on health care legislation titled “S. 563, Physician Ambassadors Helping Veterans Act; S. 564, Veterans Hearing Aid Access and Assistance Act; S. 1450, Department of Veterans Affairs Emergency Medical Staffing Recruitment and Retention Act; S. 1693; and S. 1856.

Thursday, September 17: The Senate Committee on Health, Education, Labor, and Pensions Subcommittee on Primary Health and Retirement Security will hold a hearing titled “Biosimilar Implementation: A Progress Report from FDA.”

Thursday, September 17: The House Energy and Commerce Subcommittee on Health will hold a hearing titled “Protecting Infants: Ending Taxpayer Funding for Abortion Providers Who Violate the Law.”

Friday, September 18: The House Energy and Commerce Subcommittee on Health will hold a hearing titled “Improving the Medicaid Program for Beneficiaries.”

Regulatory Activity

ONC Names Freeman as Chief Nursing Officer

On Thursday, September 10, the Office of the National Coordinator for Health IT (ONC) announced that Rebecca Freeman will join the Office of Clinical Quality and Safety as the Chief Nursing Officer. In addition to serving as a liaison to the nursing community, Dr. Freeman will lead initiatives to support health IT-enabled patient care. Freeman previously held roles at the Hospital Corporation of America and the Medical University of South Carolina.

Other Activity

MedPAC Begins Considering Unified PPS for Post-Acute Care

On Thursday, September 10, and Friday, September 11, the Medicare Payment Advisory Commission (MedPAC) held public meetings to discuss a variety of Medicare issues and policy questions, including Medicare drug spending, emergency department services provided at stand-alone facilities, and developing a unified payment system for post-acute care.

Of note, by June 30, 2016, MedPAC is statutorily required to complete a report that evaluates and recommends features of a unified post-acute care prospective payment system (PPS). This payment system would span long-term care hospitals (LTCHs), inpatient rehabilitation facilities (IRFs), skilled nursing facilities (SNFs), and home health agencies (HHAs). During the meeting, the Commissioners discussed developing two payment models. The first – for SNFs, IRFs, and LTCHs – would include a payment for routine and therapy services as well as non-therapy ancillary services. The second model, for patients admitted to HHAs, would include a lower payment to account for HHAs’ much lower costs. In future meetings, MedPAC will consider additional post-acute care PPS design features, estimate the impacts of a unified post-acute care PPS, and provide draft recommendations.

Judicial Activity

District Court Allows ACA Lawsuit to Proceed

On Wednesday, September 9, the United States District Court for the District of Columbia held that the House has standing to sue the Obama Administration over its distribution of cost sharing payments under the Affordable Care Act (ACA). In United States House of Representatives v. Burwell, the House alleges that Department of Health and Human Services (HHS) Secretary Sylvia Mathews Burwell and Department of Treasury Secretary Jacob Lew have spent unappropriated funds to support the ACA. Upon the Secretaries’ motion to dismiss, the court held that the House had standing to sue because “[t]he House of Representatives as an institution would suffer a concrete, particularized injury if the Executive were able to draw funds from the Treasury without a valid appropriation.”
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