

NEWSSTAND

Healthcare Update: Last Week in D.C.: The Healthcare Reform Debate

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With Congress in recess last week, the White House worked behind the scenes to craft a healthcare reform bill that will be used as a basis for moving forward during the bipartisan healthcare summit scheduled for this week. Meanwhile, more and more Democratic Senators formally voiced their support for reviving the controversial public option and using the budget reconciliation process to pass a final bill.

WHITE HOUSE PREPARES HEALTHCARE BILL:

After a year of pushing for comprehensive healthcare reform while leaving the majority of the details in the hands of Congress, the White House appears ready to release its own legislation today. While exact details have been kept under wraps, it appears the bill will be a merged version of the House-passed healthcare reform legislation (H.R. 3962) and the Senate-passed bill (H.R. 3590). Compromises that were being negotiated before the process broke down following the January special election upset in Massachusetts are expected to be included – such as the language negotiated with labor unions regarding the Senate bill’s excise tax on so-called “Cadillac” health plans.

The White House plans to have its legislation publically available by today, in preparation for the bipartisan healthcare summit President Obama is holding on Thursday. That said, Congressional Democrats were quick to point out that House and Senate leaders were not directly involved in the assembling of the White House bill, and that it should not be automatically viewed as a done deal.

On the other side of the aisle, Republicans remain skeptical of the summit, concerned that it will simply allow Democrats a chance to paint the minority party as obstructionists on national television without achieving any real bipartisan results. Nevertheless, Republicans have indicated they will attend the summit, where they will continue their calls to start the process over and to enact a variety of bipartisan, incremental steps to reform the nation’s healthcare system.

SUPPORT FOR PUBLIC OPTION REEMERGES:

Despite the fact that the White House has repeatedly stated that the controversial public health insurance option remains a non-starter for President Obama, Senate Democrats began a concentrated push to revive the stalled proposal last week. The public option was included in the House healthcare reform bill but was removed from the Senate version due to strong opposition from moderate Democrats, and to the dismay of most liberal Democrats.

By the end of the week, up to 17 Democrats were urging Senate Majority Leader Harry Reid (D-NV) to not only employ the budget reconciliation process to overcome filibuster threats and pass healthcare reform, but also to use that opportunity to include public option language in the final bill. Given that reconciliation rules protect against filibusters and would allow a final bill to pass with only 51 votes – as opposed to the 60 votes necessary to overcome a filibuster – this strategy would theoretically allow Senate leaders to lose up to 8 moderate Democrats opposed to the public option and still pass healthcare reform. Despite the numbers, however, it remains unclear whether Majority Leader Reid would choose to embrace such a politically risky maneuver, particularly given current White House opposition to the public option.

NEXT STEPS:

Congress returns to session this week, at which time the House will begin its piecemeal healthcare reform strategy that was put on hold during the recent Washington, DC snowstorms, by taking up a stand-alone bill to end the longstanding antitrust exemption for health insurance companies. On Thursday, House, Senate and Administration leaders will meet at the White House for the President's bipartisan healthcare summit, though it is unclear what, if any, progress will be made during this televised event. We continue to closely monitor this fluid situation and will continue to bring you relevant updates as new developments occur.

The Healthcare Reform Legislation ultimately adopted may affect many segments of the healthcare industry, including providers and suppliers, insurers, educational institutions, pharmaceutical and medical device companies, as well as employers and other constituencies within the healthcare industry at large. We will be releasing further advisories addressing the impact of the legislation on specific practice areas and industries when it becomes final.

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Should you have any questions on the content of this advisory, or wish to discuss any other healthcare related issue, please contact those listed below or call the Edwards Angell Palmer & Dodge LLP attorney responsible for your affairs.

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