

Healthcare Update: Mid-Recess Healthcare Reform Update

Bipartisan Agreement on Healthcare Reform Remains Elusive; Democrats Considering Splitting Bill into Two Pieces

August 24, 2009
Leslie J. Levinson

Bipartisan Agreement on Healthcare Reform Remains Elusive; Democrats Considering Splitting Bill into Two Pieces

The first half of the month-long congressional recess has significantly dimmed hopes for a bipartisan agreement on healthcare reform in the Senate, due to contentious, rancorous town hall meetings and new polls suggesting eroding public support for the Democrats' healthcare reform proposals.

Should a bipartisan agreement remain elusive, the White House and Senate Leaders appear to be considering a strategy to split their healthcare overhaul into two legislative pieces in order to get the measure through the Senate, where 60 votes are needed to overcome the threat of a filibuster. Under this strategy, the controversial provisions that are unlikely to garner 60 votes – namely, the creation of a government-run public health insurance plan and other budget-related measures – would move to the Senate floor via the budget reconciliation process. This parliamentary procedure only requires 51 votes for passage, effectively negating the need for any Republican votes and allowing for the defections of several moderate Democrats as well.

The other portion of the split bill would contain the healthcare reform provisions that tend to enjoy significant bipartisan support, such as regulations on insurers to prevent the denial of coverage based on pre-existing conditions. The widespread support these provisions are believed to have would allow this portion of the legislation to move to the Senate floor under regular order, where receiving 60 votes would likely not be a problem.

As the August recess winds down, it remains unclear what path healthcare reform will take when Congress returns to session in September. The Senate Finance Committee continues to meet, in hopes of hammering out a bipartisan agreement, but its chances appear to be fading by the day. Even if a breakthrough is reached, it would almost certainly not include the government-run public option, which would create a new set of problems in reaching a final agreement with the House, where Speaker Nancy Pelosi has emphatically stated that she does not have the votes to pass a bill without the public option.

Healthcare reform news, predictions and strategies have been evolving frequently, as Democrats seek to enact legislation this year. We continue to follow this important issue closely, and will resume our regular weekly advisory when Congress returns to session the week of September 8.

Edwards Angell Palmer & Dodge LLP is pleased to provide regular updates on issues affecting the Healthcare Industry. Our lawyers not only provide sophisticated legal services to a broad array of clients in the healthcare industry, we also monitor and analyze federal and state legislative and regulatory processes to ensure that our clients are informed of governmental actions and initiatives.

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.

Les Levinson, Partner, Chair, Healthcare
Practice

212.912.2772

llevinson@eaplaw.com

Teddy Eynon, Partner, Public Policy & Government Relations

202.478.7379

teynon@eapdlaw.com

