



ML Strategies Update

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Health Care Update

Congress Expected to Vote on Opioid Legislation

This week, Congress will consider the Comprehensive Addiction and Recovery Act (CARA). CARA would be the first step the Senate has taken in 2016 to address the opioid drug crisis, although it faces uncertain terrain in the face of \$600 million floor amendment likely to be brought up by Senator Jeanne Shaheen (D-NH), which some Republican members are balking at absent an offset. The omnibus funding bill passed late last year included \$78 million in grants to address the opioid and heroin crises, which some Republican members maintain is enough. Still, Majority Leader Mitch McConnell (R-KY) filed a cloture on a motion to proceed to the legislation, setting up a procedural vote for this afternoon – and the Senate is expected to consider CARA for the balance of this week.

CARA would authorize the Attorney General to award grants to states and local agencies to address the prescription opioid and heroin abuse. While the legislation is bipartisan, the added funding request from Senate Democrats is ruffling some Republican feathers in an increasingly polarized chamber. The numbers game wages on as Democrats would need 60 votes to pass the amendment for additional funding, or block the legislation until they can secure some, if not all, funds. One idea floated, if the measure does not secure 60 votes, would be to pass the measure without additional funding and look for ways to secure funding elsewhere.

One potential route for Democrats would be to allow for Senator Toomey's legislation on opioid abuse in Medicare, the Stopping Medication Abuse and Protecting Seniors Act of 2015, to come to the floor and attach the amendment that way. As noted in more detail in the update that follows, Finance Chairman Orrin Hatch (R-UT) wants to advance this measure for his colleague facing a tough reelection battle, and the legislation also have bipartisan support. His legislation would establish programs under Medicare to lock-in patients to one doctor or pharmacy if they are being prescribed opioid-related medications.

Congress is not short on proposals to address the opioid crisis. Whether or not they have the will to see them across the finish line remains to be seen.

ML Strategies will continue to closely monitor this issue.

All Things ACA

A.M. Best Downgrades Outlook of Insurers: A.M. Best, a rating system focused on the insurance industry, downgraded its outlook for health insurers, citing poor financial results on the exchanges as a result of the funding shortfall in risk corridor payments and the number of special enrollment periods, among other factors. As the general election approaches, so do insurer's analytics about the makeup of their populations which, as this study forecasts, will highlight these issues. It remains to be seen whether it will lead to further reforms of the ACA and what those reforms would look like.

More on Special Enrollments: A study conducted by America's Health Insurance Plans and the Blue Cross Blue Shield Association found that nearly one-third of ACA signups came through special enrollment periods, and those customers accounted for 24 percent more in medical claims in their first three months. Insurers have been critical for loose special enrollment rules, calling on lawmakers to tighten the rules to stabilize the marketplaces.

Hospitals Still Struggle with Bad Debt: Despite ACA assurances that the law would expand patient rolls, hospitals still struggle to collect on hospital bills. This could in part be a result of the increase in high deductible health plans and cost sharing, which one hospital executive likening individuals with a high deductible to essentially still being uninsured.

Co-Ops Still Struggling to Stay Afloat: CMS Chief Operating Officer Mandy Cohen told the House Energy and Commerce Oversight Subcommittee that of the eleven remaining co-ops, eight have been placed on "corrective action," signaling potential future financial trouble. It's hard to see where, in the waning days of the Obama Administration, this Congress and the Administration finding a solution related to the co-op program.

Pennsylvania Health Plan to Cut Rates for Doctors: A Pennsylvania-based health plan, citing losses of up to \$500 million on the exchanges, will reduce participating doctor's rates by 4.5 percent. The ripples around this issue if it snowballs into other plans would have to be addressed.

Hillary Tweaks, Supports Public-Option for States: Hillary Clinton has supported a public option in the past, but this election cycle she is modifying her stance to enable states, through the ACA's 1332 waivers, to establish a public option choice if they so choose. This idea would likely have little traction in Washington, so enabling states to test it out could help inform federal policy.

News from the Hill

IT Groups Pushing HELP Committee on Health IT Law: A coalition of patient and industry groups are pushing the leaders of the Senate HELP Committee to support S.1101, the MEDTECH Act, which they say would outline what kind of IT will be regulated by the FDA.

User-Fee Reauthorization a 2017 Priority: An agreement between the drug industry and the FDA over user fees has been submitted to HHS for clearance and then it will go to OMB for final approval. This will set the stage for the proposal to be put forth to Congress, who will then draft a reauthorization package before the last reauthorization expires September 30, 2017. Given all that is going on with FDA reform in 2016, next year the user-fee legislation could become an even larger package, raising the stakes for all involved.

Providers Await Signal from Congress Over Preferred Model: While some providers are starting their own Medicare Advantage (MA) plans, large systems are in a better position to enter the market and are doing so as MA participation rates increase. Large systems have the footing to play in both the ACO and MA space, and will continue doing so until Congress or CMS signal which route they will go going forward.

Telemedicine Usage Increases Modestly: CMS confirmed last week that Medicare paid \$17.6 million for telemedicine services in 2015, an increase of 25 percent from 2014 – but still a small drop in the reimbursement bucket. That said, an analysis from [MedPAC](#) is interesting, and could signal that despite enthusiasm from policymakers and providers over telemedicine, everyday consumers, especially those over 65, are not familiar with telemedicine services just yet.

HELP Committee to Mark Up Mental Health Bill: The date is March 16th, and will likely feature key bipartisan mental health and substance abuse provisions. The legislation was brokered by the Senate HELP committee and the Administration, setting the stage for a potentially contentious mark up. However, this could be the compromise of the House-stalled mental health reform bill (introduced by Rep. Tim Murphy) and the Senate's efforts.

Fetal Tissue Issue Resurfaces at Finance Hearing: During the confirmation hearing for deputy HHS secretary Mark Wakefield, Senator Chuck Grassley (R-IA) objected to the nomination citing HHS' failure to answer questions regarding Planned Parenthood's fetal tissue practices. Mary Wakefield will continue serving as Acting Deputy for now.

Opioid Crisis

NGA Holds Meeting, Calls for CDC Guidelines: The National Governors Association has called on the CDC to release its opioid prescribing guidelines as soon as possible, in addition to endorsing a proposal to providing emergency supplemental funding to help states address the issue. With a Senate vote expected on the Comprehensive Addiction and Recovery Act, it is likely that supplemental funding will be discussed.

President Obama, Governors Differ on Prescribing: President Obama decided not to endorse a proposal endorsed at the NGA meeting to limit the number of opioid prescriptions doctors can prescribe. Policymakers on both sides of the aisle are looking at this proposal, but President Obama correctly points out that this alone will not solve this crisis, and that limited prescriptions needs to be a part of a comprehensive approach.

Finance Committee Eyes "Lock-In" Bill: Senator Orrin Hatch (R-UT), Chairman of the Finance Committee, is hoping to advance a bill [authored](#) by Senator Pat Toomey (R-PA) which would require patients taking certain opioid-related drugs to get them from one doctor or pharmacy. While the bipartisan bill has garnered significant Republican support this month, Toomey is up for reelection this year, and the heightened temperature of the Senate almost guarantees this bill won't pass without a fight.

Prescription Drug Costs

Hepatitis C Drama Continues to Unfold: Several EU countries are considering coming together to buy hepatitis C drugs, using an EU mechanism to negotiate a better price. This is similar to a proposal the Administration proposed in order to help state Medicaid programs buy these drugs at a lower price through a federal-state negotiating pool. Ways to combat the high costs of drugs will continue to reach the surface as this debate unfolds.

House Members Seeking Greater Transparency with PBMs: Sixteen House members are calling on their colleagues on three committees to review the pricing of generic drug prescriptions dispensed under Medicare Part D, FEHBP, and TRICARE. The members, led by Reps. Doug Collins (R-NY) and Dave Loebsack (D-IA), also cite a bill they believe would make the system more effective. The MAC Transparency Act would require pharmacy benefit managers to update their pricing more frequently.

In Other News

Can Health Care Transparency Work?: A Boston-based think tank found that consumers surveying more than 50 hospitals in six states found it to be "[difficult and frustrating](#)" to get the price of a common standard imaging procedure. Additionally, despite prices being provided, it was sometimes found to be inaccurate. Can policymakers find a way to enable consumers to have easy access to compare hospital services and procedures, or will it continue to be a conversation mixed into the drug pricing debate.

Rural Hospitals Struggle to Maintain Volume: Rural hospitals are beginning to shutter their labor and delivery units, citing low volume. Analysis of 306 rural hospitals in nine states found that 7.2 percent closed their obstetrics units between 2010 and 2014. While labor and delivery are an early indicator of the challenges rural facilities face, they continue to provide quality and access that compliment more urban settings.

States Required to Do More Frequent Medicaid Filings: States will have to begin filing information about who is on their Medicaid and CHIP rolls every month, rather than quarterly, in an effort to identify subpar care as well as fraud and waste.

Health Sharing Ministries Continue to Grow: Health sharing ministries have enrolled over 500,000 people in recent years. These arrangements exempt people from the individual mandate, allowing members to share in the costs of care. With regulators exploring potential changes to this arrangement, this is a grassroots campaign that has significant legs.

Hearings

House of Representatives

On Tuesday, March 1st, the House Energy and Commerce subcommittee on Health will hold a hearing titled, “Examining the Financing and Delivery of Long-Term care in the U.S.” 10:15 AM – [more info](#).

On Wednesday, March 2nd, the House Energy and Commerce subcommittee on Oversight & Investigations will hold a hearing titled, “Examining the U.S. Public Health Response to the Zika Virus.” 10:00 AM – [more info](#).

United States Senate

No hearings scheduled.

The Last Word

Changes to Part B Trickling Out: A proposed rule regarding Medicare Part B has made its way over OMB for its final review. As you may recall, CMS published a notice regarding Part B earlier this month that was promptly pulled, a source of concern for providers and other stakeholders, and also an issue for members of Congress who grilled HHS Secretary Sylvia Matthews Burwell at a hearing last week over it. The document showed CMS interest in testing new payment models under Medicare Part B later this year, including trying out different methods of payment for drugs administered in a physician’s office or in the hospital outpatient department.

With the Administration juggling over 90 rules, with the possibility for more, before the new Administration steps in, how aggressive they are in getting these regulations finalized remains to be seen. Given that members in Congress seized on this hiccup from CMS, its clear there is genuine interest and concern in forthcoming regulations.

CMS will release more details on the rule being finalized at OMB and indicated that any new pricing proposals would have to go through the rulemaking process.

ML Strategies will continue to closely follow regulatory and policy changes surrounding Medicare.

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