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FEDERAL UPDATE: GOP Skinny Reform Bill Defeated

Senator John McCain cast the third GOP “no” vote for the Health Care Freedom Act, otherwise known as the skinny bill, and put an end, at least for now, to further debate about Affordable Care Act (ACA) repeal and replacement. The skinny bill would have eliminated the ACA’s individual and employer mandates and the medical device tax. More than anything else, it would have paved the way for a conference committee to consider this bill and the House version passed in May in an attempt to craft final legislation. The House version went much further than the skinny bill and would have caused about 22 million Americans to lose their insurance. And more importantly, that version sought to re-structure the Medicaid program into a block-grant funding mechanism wherein states would receive a limited pot of money to care for their Medicaid recipients. It would have also curtailed Medicaid expansion and matching funds states receive to operate expanded eligibility. In New York, six million Medicaid recipients – mostly frail elderly in nursing homes, disabled children and adults, and the very poor – depend upon the program for healthcare access. The issue of Medicaid reform on the federal level is unlikely to go away, even in the absence of health care reform legislation. Hospitals remain concerned about such an effort, as changes to the program may very well result in provider Medicaid reimbursement reductions, elimination of services for beneficiaries, and more stringent eligibility thresholds.

However, with the ACA still in place, planned payment reductions to hospitals in the form of Medicaid Disproportionate Share Hospital allotments, otherwise known as DSH payments, will continue. These cuts were originally put in place by the ACA with the expectation that more people would gain insurance and the fiscal strain on hospitals to cover the cost of the uninsured would lessen. DSH payments help cover the cost of care at hospitals that serve a disproportionate number of uninsured. In all of the proposed reform bills, which would have increased the number of uninsured Americans, there have been no measures to scale back the DSH cuts.

Given this legislative setback, the White House could make it difficult for the insurance marketplaces to function in the coming months. Not enforcing the mandates, not sending insurers subsidy payments, and not encouraging sign ups during the next open enrollment could chip away at the marketplaces. Insurers have expressed their concern about the market’s instability due to the threatened loss of cost-sharing subsidies that help low-income Americans afford their insurance. These subsidies help offset some of the costs insurers’ incur for selling products in the marketplaces. The Trump administration only authorized release of the July subsidies last week. This uncertainty continues to disrupt the marketplace and causes insurers to rethink their participation. Insurers say they need more assurance that subsidies will continue in order to remain active in the marketplace and to competitively price their insurance products. Insurers have until September to finalize their 2018 plans for the federal marketplace. In New York, insurers submitted their rate increases to the Department of Financial Services in the spring and are waiting to hear if those rates are approved. The average increase sought for policies in the individual market is 16 percent.

STATE UPDATE: Legislative Session Ends; Mostly Positive Results for Hospitals

The New York State legislative session ended June 23, 2017 with hospitals achieving victories in key policy and legislative areas. The efforts of HANYS, the Suburban Hospital Alliance and other regional advocates were able to thwart advancement of many harmful medical malpractice bills. However, one bill, which expands the statute of limitations under which a malpractice suit can be filed for as long as 10 years, did pass both houses. The bill, known as Laverne’s Law, was reportedly intended only to cover cancer cases, but the language of the legislation is ambiguous. Suburban Hospital Alliance leaders and HANYS policy staff continue to work with the governor’s office to clarify the language to ensure it is clear about its limitation to cancer cases. Advocacy efforts were also successful in opposing harmful nurse staffing ratio bills and a physician collective bargaining bill. Legislation supported by the hospital industry and passed by both houses includes the “BSN in 10” bill (requirement that registered nurses achieve bachelor degrees within 10 years of beginning practice), and legislation ensuring that managed care plans must cover NICU bills without requiring a prior authorization.

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