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**The Trusted Voice  
for Aging**

**LeadingAge.org**



## **ORANJ Fall 2017 Plenary**

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VP Health Legislation

# Big Year! Big Issues!

- Easy:
  - Congressional Review Act: repeal, repeal, repeal...
  - Executive Orders: repeal, repeal, repeal...
- Not so easy:
  - Health Care: repeal and replace ACA... or not
  - Medicaid: eliminate federal commitment... or not
  - Medicare: improve the program... or not
  - Tax Reform: simplify and eliminate deductions... or not

# Tax Reform

- “Unified Framework for Fixing Our Broken Tax Code”
- Budget FY 2018 reconciliation expected vehicle
- Tension point – “simplification” vs. popular tax benefits
  - Double standard deduction:
    - Individual = \$12,000
    - Joint = \$24,000
  - Consolidate tax brackets:
    - 12%, 25%, 35%, +?
  - Repeal AMT

# Tax Reform, cont'd.

- Itemized Deductions
  - Keeps:
    - Mortgage Interest
    - Charitable Contributions
  - Eliminates:
    - State and local property (SALT)
    - Medical deduction
    - Everything else
- Middle Class Tax Relief=credits
  - \$500 tax credit for caring for non-child dependents

# Tax Reform, cont'd.

- Retirement
  - Unspecified – aim is to maintain or raise retirement plan participation and resources available for retirement
- Estate and generation-skipping taxes repealed
- Corporate tax reform
  - Rates reduced, some deductions and credits axed
  - Low income housing tax credit retained

# Tax Reform, cont'd.

- Impact on individuals
  - Medical deduction eliminated
  - SALT eliminated
  - Mortgage deduction retained
  - Charitable contribution deduction retained; impact lessened?

# Reaction

- Mixed
  - Some say, taxes will be lowered and all benefit;
  - Others say, the rich will benefit the most and lower and middle classes not so much if at all;
  - Concern about economic predictions--fear that adding \$1.5 trillion to the deficit could lead to cuts to Social Security, Medicare and Medicaid.
- Opposition to eliminating deductions
  - Who itemizes now: 39% AGI \$50,000 to \$75,000; 56% \$75,000 to \$100,000, and close to 77% \$100,000 and \$200,000.
  - Medical deduction
    - 4% of filers take
    - Retirees pay 18% of total income on medical expenses
  - SALT

# LeadingAge Policy Position

- Protect the medical deduction – Action Alert
- Retain income tax deduction for charitable contributions
  - Charitable giving one of the three legs of the stool that supports our members' work
  - Philanthropy bridges the gap between public programs and individual/family resources
- Monitor to protect both mandatory (SSA, M/M) and discretionary (housing, transportation) programs from cuts to pay for deficit



# Timing and Process

- FY 2018 budget resolutions required
  - Need reconciliation instructions
  - Passed House
  - Passed Senate Budget Committee; teed up!
- Committees (Senate Finance and House Ways & Means) charge: mid-November
- Committee hearings? Unknown
- Vote by December \_\_\_\_?

# Predictions

- Intense pressure to produce results
  - Reconciliation allows one party to control results
- Greater level of unification than on health reform but narrow road in the Senate
- Open questions about process, need to see bill, timing, consequences, tax payer responses, etc.
- Complication: government only funded through 12/8/17; hostages?

# 2017: The Year of Health Care

- Affordable Care Act Repeal/Replace
- Medicaid
  - See, ACA repeal/replace
  - LTSS financing
- Medicare
  - Old friends (therapy caps; observation days)
  - Home Health

# ACA Repeal and Replace

Two paths to Affordable Care Act reform

- Congressional majority and the Administration could work with the minority on bipartisan solutions

OR

- Majority can use budget reconciliation to allow bill passage by simple majority in the Senate

# Why Reconciliation?

- Streamlines consideration, especially in the Senate (legislation only needs majority)
- Limits provisions to those affecting spending and revenue
- Other issues, like sale of insurance across state lines, tort reform, would require additional legislation...or does it?
- Budget FY 2017 contains reconciliation instructions for health care
  - Committees of jurisdiction directed to cut \$\$

# H.R. 1628 – American Health Care Act

- Eliminates tax penalties for failure to obtain or provide health insurance coverage
- Eliminates community rating for premiums
- Allows states to play with essential health benefits
  - Provides \$8 billion to states for high-risk pools
- Funds Medicaid by per capita cap system
- Repeals Medicaid expansion (non-expansion states get additional \$ through 2022)
  - Restores Medicaid DSH payments to hospitals
- No change in ACA's efforts to reduce Medicare costs by improving delivery system and pay based on value

# Medicaid Per Capita Caps

- To begin in fiscal year 2020 (October 1, 2019)
- Each state gets an annual targeted spending amount for each enrollee category – elderly, disabled, children, non-expansion adults, expansion adults
- Targeted spending amounts based on what state spent in each category in fiscal 2016
- Annual adjustments: CPI-M+1?2?; CPI-U
- States spending more than their target amount would lose federal funding in the subsequent year.

# LeadingAge Concerns Medicaid Provisions

- Medicaid default payer for long-term services and supports
- Every state loses money. Losses increase (\$800B+ over 10)
- Unclear if mandated nursing home coverage survives
- Would optional coverage like medically-needy, HCBS survive?
- Allocation for elderly category not reflect state's population aging from young-old to oldest-old.
- Medicaid expansion (and exchanges) important coverage for direct care workers and some senior housing residents



# Results—House

- House narrowly passes H.R. 1628 May 4
- Next move – Senate
- “The Senate Will Fix It”:
  - Reluctant House members: final bill likely to be substantially different from House bill

# The Senate

- Normal committee process abandoned and the bill is drafted in secret (as was House)
- “Rump” groups
  - Medicaid expansion state senators
  - Non-expansion state senators (“me, too, we want money if They are getting money”)

# Action and Reaction

- Better Care Reconciliation Act (BCRA) (June)
  - HR 1628 is base bill
  - Worse for Medicaid/caps/blocks/bad update
  - Pulled
- ORRA (2015 r/r) floated, briefly
- Motion to Proceed finally passes 7/25; debate!
- “Skinny Repeal” (defeated 1:40 a.m., 7/28)
  - Drama!
    - 5 o’clock press conference (“we hate it but we’ll vote for it if the House guarantees to go to conference”)
    - Suspense!
      - Collins/Murkowski/McCain thumbs down

# And the Beat Goes On!

- Graham-Cassidy: September flirtation...
  - Similar structure
  - Worse for expansion states and exchanges:
    - Block grant/both end
  - Same outcome – pulled before vote
- Sponsors promise to come back in 2018
- FY 19 Budget Resolution?

# Why Did Senate Bills Fail?

- Risk shift dooms Republican state support
  - Bad news for states
  - Medicaid expansion state senators and governors especially unhappy
- Senate more sensitive to downside of repeal
  - Millions lose insurance
  - Premiums may go down but deductibles and copays up
- Very small margin for victory
  - “I hate this bill but it will get better when we conference with the House.”
  - Planned Parenthood defunding lost 2 votes upfront

# Power of Advocacy

- Unified opposition all or part
  - Consumer groups
  - Disability coalitions
  - Disease-specific organizations
  - Healthcare provider groups
  - State Medicaid Directors
  - Health insurers
- Supporters luke-warm

# The Administration Steps In

- End subsidies to insurance companies that help low-income pay out of pocket expenses (CSR)
- Allow less expensive plans w/fewer benefits and fewer protections
- Make it harder to get help enrolling:
  - Not joining states to publicize
  - Shut down website on Sundays
  - Cut funding to outside groups, slashing advertising, removing consumer info from HHS website
  - Videos and tweets attacking the law
  - Tax credits are less generous
  - Individual mandate not enforced

# What Next: The Spector of Bi-Partisanship?

- Alexander-Murray bi-partisan effort to stabilize the individual market
  - Impact of Administration's directions?
  - Who wants to “own” the demise of the law?
- HR 4004 – introduced by Republican from Florida – requires White House staff to buy their health insurance from the exchanges.
  - Tongue in cheek? Revenge? What!



# Bi-Partisanship in Action

- President and Dems agree on funding government through 12/8; lifting debt ceiling; DACA (or do they...???)
- Senate passes two bills unanimously right after Graham-Cassidy is pulled:
  - RAISE Family Caregiver Act
  - CHRONIC Care Act

# RAISE Family Caregiver Act

- S. 1028/H.R. 3759 -- Recognize, Assist, Include, Support, and Engage Family Caregivers Act of 2017
  - Directs the Administration to develop a family caregiving strategy
  - Creates a Family Caregiving Advisory Council of older adults, caregivers, professionals and state and local agencies, and federal officials
  - Annual report on implementation of the strategy and outcomes.
  - Passed Senate unanimously

# CHRONIC Care Act

- S. 870 - Creating High-Quality Results and Outcomes Necessary to Improve Chronic Care
  - Extends Independence at Home demonstration
  - Continued access to Medicare Advantage SNPs
  - Expansion of telehealth and other technological applications
  - Encourage care coordination within ACOs
  - GAO study on medication synchronization
- Passed Senate unanimously

# Bi-Partisan Medicare Issues

## Unresolved

- Observation days – H.R. 1421/S. 568
  - Count all time spent in a hospital toward the three day stay requirement (No NJ Senators; Pascrell)
- Therapy caps – H.R. 807/S. 253
  - Exceptions process expires December 31, 2017
  - Caps in 2017 - \$1,980 for outpatient physical and speech therapy; \$1,980 for occupational therapy
  - Repeal! But only a message bill
  - Bi-partisan, bi-cameral staff work on new system
  - (No NJ Senators; Pascrell, Lance, Payne, Norcross, LoBiondo, Smith)

# Home Health

- S. 445/HR 1825 – Home Health Planning Improvement Act
  - Allows non-M.D.s to authorize home health
  - Booker; Lance, Pascrell, LoBiondo, Smith, Sires, Payne, Coleman, Gottheimer, Norcross
- S. 309 - Community-Based Independence for Seniors Act
  - Demo allowing MA plans to offer HCBS to low-income seniors
- S. 353 – Preserve Access to Medicare Rural Home Health Services Act
  - Extends outlier payments for rural home health agencies

# STRATEGIC PRIORITIES

## Social Impact:

Use our voice to advance solutions so that all people can age with choice and dignity



# Big-Picture Issues

- LTSS Financing Reform
  - Current system: inadequate funding/expensive, lack of coordination and poor choices
  - Families and individuals bear burden == equity
  - Universal approach spreads risk
  - High needs == greatest need for systemic funding
  - Interim steps?

<http://www.leadingage.org/legislation/new-ltss-financing-report-released>

# GRASSROOTS



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# LeadingAge Advocacy

- Tax Reform
  - Preserve Medical Deduction
    - Focus on impact on seniors
    - Group letters to your Sens and Reps, especially Rs
    - Individual calls and letters
    - Visits to District Offices
  - Preserve Charitable Deduction

# LeadingAge Advocacy

- Protect the Medicaid program
  - Graham-Cassidy
  - Other possible cuts
  - Changing the conversation from Medicaid to LTSS financing
- Support Medicare legislation discussed
- Protect and expand low income housing
  - Focus on ensuring House and Senate THUD language included in FY 2018 appropriations
  - First increase in spending since 2011

# Working Together

- Using our website for letters to Congress:
  - <http://www.leadingage.org/grassroots>
- Information about your legislators
- Information and data
- Help with organizing visits

# Thank You!

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