

9/18/2020

Good Afternoon REDC Members,

Here's your policy update for the week!

Telehealth:

- The REDC Board has flagged that many Commercial plans will end IOP and PHP telehealth coverage as early as September 30th, and some along the October 24th PHE deadline.
- We have had calls with Senate and House telehealth leads as well as Committee (Energy & Commerce and Ways & Means) who are investigating further with plans.
- Additionally, we're working with Jillian and the Board on a strategy to influence an extension of these telehealth deadlines, more open communications from plans to providers and their beneficiaries, etc., so please be on the lookout next week for some more communications and next steps.
- **Please Share with your Staff/Team:** Lastly as a reminder, Advocacy Day is next Wednesday which includes telehealth extension bills in the House & Senate. There is a toolkit to share with your staff to make calls on September 23rd, and it is attached. We'd encourage your staff who aren't participating in the full virtual advocacy day to make calls/send emails!

SERVE Act:

- House Armed Services Committee recently confirmed that the NDAA won't be passed until after elections.
- The conference committee has not yet been named, but will be in October.

COVID-19 Relief Package Information

I. COVID Relief Talks Remain Stalled

- i. Discussions have shifted on the impending fiscal year deadline at the end of the month with House Democrats aiming for a continuing resolution (CR) to keep the government funded to February 26 and Senate Republicans aiming for a funding extension until December 18.

- ii. Both sides are still far apart, but initial bill text could be revealed by next week with a vote in the House by mid-week.
- iii. Speaker Pelosi has been adamant to not have any COVID-related provisions added to the funding bill to keep the CR as clean as possible.

II. Bipartisan House Problem Solvers Caucus Releases COVID Relief Plan

- i. A bipartisan group of lawmakers assembled a roughly \$2 trillion plan that includes a second round of stimulus checks, unemployment aid and small business loans that they say would last through at least next spring.
- ii. Lawmakers described the plan as a final attempt to pry loose some kind of bipartisan relief deal before Congress leaves Washington for the election season.
- iii. The plan is likely to meet sharp resistance in the Senate, where Republicans are expected to balk at the price tag.

III. Senators Warren (D-MA) and Cassidy (R-LA) Call for Student Mental Health Guidance (*full letter attached*)

- i. The senators sent a letter to HHS Secretary Azar and Education Secretary DeVos on how schools and colleges should use federal funds to support students' mental health needs, with a particular focus on minorities or those from tribal national, students with disabilities, and students experiencing homelessness.
- ii. **Excitedly, the letter includes a mention of eating disorders stating, "Rates of mental health conditions such as depression and eating disorders have increased amongst college students since fall 2019."**

Telehealth

- II. **Taskforce on Telehealth Policy Releases Findings and Recommendations (*full report and webinar slide deck attached*)**
 - i. Policy suggestions include:

1. Congress lifting geographic restrictions on reimbursements for telehealth
2. Allow more types of providers to offer the service
3. Make it easier to practice across state lines
4. HHS should resume full enforcement of HIPPA privacy measures when the public health emergency ends

ii. It was also recommended that virtual care “be held to the same standards and quality measures as in-person care” whenever possible. In situations where telehealth requires a different quality measure, “it should be adapted, rather than reinvented or developed from scratch.”

ACA Watch

I. 2 Million Newly Uninsured from the Pandemic

- a. New data from the U.S. Census Bureau projects roughly 2 million Americans lost health coverage as a result of the pandemic.
- b. Analysts found no significant surge in ACA coverage, signaling that Medicaid and other public coverage has served as the main safety net.

i. Latinos made up half of adults who lost workplace coverage, a group that doubles as a high-risk demographic for contracting COVID-19.

ii. The analysis also found that nearly all workers who lost their job-based coverage were men, with well over half of those affected also not having attended college.

1. Nearly half, live in states that didn’t expand Medicaid.
- c. Nineteen states saw a statistically significant decline in coverage last year. Meanwhile, only one state, Virginia recorded an increase in the number of people with insurance, which is largely explained by its expansion of Medicaid under the ACA taking effect.

II. Government Accountability Office Undercover Audit Finds Brokers Misled Customers

- a. Some health insurance brokers provided misleading or false information to potential customers about whether their plans covered preexisting conditions.
- b. The audit, requested by Senate Democrats, sought to determine whether companies selling health plans exempt from the ACA coverage requirements (e.g. short-term plans) were being honest about the limitations of the plans.

i. In 31 “undercover phone calls” in which GAO employees posed as customers looking for health insurance that covered their preexisting conditions, 8 of the sales representatives “engaged in potentially deceptive marketing practices.”

1. The brokers GAO called were based in Alabama, Florida, Kansas, Pennsylvania and Wyoming, which allow the sale of limited benefit plans.

ii. In those instances, reps sold GAO employees limited benefit plans that don’t cover preexisting conditions, including memberships to health care discount programs that don’t actually qualify as insurance.

c. Insurance brokers can be paid higher commissions for selling limited benefit plans, while they earn a flat dollar amount for ACA-compliant plans.

d. The report was sent to HHS, which stated that it plans to conduct a review of the sales reps who were identified as misleading customers and “take action as appropriate.”

III. Cigna Offer Coverage to 200 More Counties in 2021 Plan Year

a. Cigna will increase the number of counties it will offer individual coverage under the ACA to more than 200 counties across 10 states next year.

i. The 10 states include: California, Florida, Illinois, Kansas, Missouri, North Carolina, Tennessee, Utah and Virginia.

ii. The company is the latest health insurer to increase its individual product offerings to more states, joining companies Centene, Oscar Health and several Blue Cross Blue Shield plans that have been expanding their individual coverage under the ACA.

iii. Cigna said the plans will include new features such as “\$0 virtual care that now includes behavioral health providers for most plans” as well as a new diabetes plan that includes several benefits at no cost to the health plan subscriber.

2020 Election Watch

I. Under a Biden Administration, it is unlikely the changes to the ACA made under the Trump Administration can all be reversed.

i. Trump's expansion of short-term plans, curbs on reproductive health funding and contraceptive coverage have been upheld in courts.

ii. Efforts to reverse these policies are likely to draw legal battles in a court system that will bear the imprint of Trump's conservative appointees for years.

II. Additionally, it is unclear if Biden's plan to build on the ACA has a clear path in Congress—especially if Republicans hold on to the Senate.

i. Powerful health care lobbies, despite backing Biden's call for more ACA funding, have been preparing a ferocious assault against the public option, a centerpiece of Biden's health plan.

III. Here is how experts think Biden could push forward his health agenda without Congress—and where he may have trouble reversing Trump's policies:

i. Bolstering the ACA

1. Biden could take emergency action, like broadly reopening ACA's insurance marketplaces to the uninsured and restoring fund for enrollment outreach that Trump gutted.
 - a. It is also possible he may be able to use emergency powers to temporarily fund more subsidies to help make health insurance more affordable.
2. Cutting off short-term health plans may be more difficult.
 - a. A federal appeals court this summer upheld Trump's short-term plan rules, finding that the policy didn't conflict with the ACA.
 - b. Biden's efforts to reverse Trump's expansion would likely draw a legal challenge. Hundreds of thousands of people are believed to have enrolled in the expanded short-term plans.
 - c. Congressional Democrats may look to curtail short-term plans through legislation.
3. The biggest wild card remains the Supreme Court case involving the GOP-backed challenge to the ACA.
 - a. The justices will hear the case exactly one week after Election Day, and aren't likely to throw out the entire law when they render their verdict early next year.

- b. Legal observers say it's possible the conservative-leaning court could pick apart coverage protections for preexisting conditions, which could force a major scramble to shore up the insurance markets.

ii. Medicaid work rules

1. Trump's approval of the first-ever Medicaid rules requiring some people to work or volunteer as a condition of coverage was a major victory for conservatives who opposed the ACA's massive expansion of the program.
 - a. However, the court rulings against work rules, the policies have been on hold in roughly 12 predominately GOP-led states that have received permission from the Trump Administration.
 - b. The Supreme Court is expected to soon decide whether to hear the administration's request to revive them. Legal experts are skeptical the justices will take the case, given the strong decisions against the work rules in lower courts.
2. Meanwhile, Biden is resolved to extend coverage to millions for poor adults who have shut out of Medicaid expansion in the dozen states that have refused the program. His public option would automatically provide zero-premium coverage to poor adults in those Medicaid expansion holdout states.

iii. Culture wars

1. A Biden Administration would face pressure from Democratic-aligned groups to eradicate a slate of socially conservative health care policies advanced by the Trump Administration.
 - a. The Supreme Court this summer upheld the Trump administration's sweeping exemption from the contraceptive coverage mandate under Obamacare. The decision, which lets employers broadly claim a religious or moral exemption to providing free birth control to female employees, could result in 126,000 women losing contraceptive coverage.

i.

The case was the third time the coverage mandate came before the Supreme Court since 2014, and its liberal wing suggested the matter hasn't been entirely settled.

- b. Biden will also seek to reverse Trump's decision to cut out Planned Parenthood and other abortion providers from the \$250 million-plus Title X family planning program.
- c. Trump's rollback of anti-discrimination rules for transgender patients—as well as his broad protections for doctors, hospitals and others who refuse to perform abortions, gender transitions or other services that violate their conscience are all embroiled in litigation that will drag out for years.

iv. Immigration

- 1. Biden plans to wipe away Trump's public chare rule, which makes it harder for immigrants who rely on Medicaid, food stamps, and other programs to get permanent residency status.
 - a. It is unclear how many people may be affected by the rule, but advocates said it discouraged some immigrants to seek out benefits even before it took effect.
 - b. About 20% of immigrants with children said t hey had skipped food stamps, Medicaid or housing subsidies because they feared losing out on a green card according to an analysis last year.

Katrina Velasquez, Esq., M.A.

Managing Principal

Center Road Solutions, L.L.C.