799 9th Street NW
Suite 210
Washington, DC 20001

T (202) 354-2600
vizientinc.com

Vizient Office of Public Policy and Government Relations

American Health Care Act – Legislative Summary

March 14, 2017

Overview:

On March 8-9, the House Ways and Means Committee and House Energy and Commerce Committee debated the long-awaited replacement proposal to the Affordable Care Act (ACA), called The American Health Care Act (AHCA). After more than 20 hours of debate in each committee, no changes were made to the draft legislation. The bill will now go to the House Budget Committee, then the House Rules Committee, before being considered by the full House, potentially during the last week in March.

The American Health Care Act Key Provisions:

Medicaid – The bill repeals the ACA's expansion of the Medicaid program and ends enhanced funding for expansion adults by 2020. For states that did not expand their Medicaid programs, it would provide $10 billion in safety net funding over five years; these funds are expected to go to providers who serve Medicaid patients. The AHCA shifts Medicaid to a "Per-Capita Allotment" (PCA) funding mechanism that will provide states with capped funding levels per Medicaid beneficiary, with differing funding levels based on a number of factors, including elderly, childless adults and pregnant women. FY2016 would be used at the baseline for calculating the PCA amounts and then these amounts would be used to calculate the federal medical assistance percentage (FMAP). The PCA is indexed to the medical component of the consumer price index, or CPI. Beginning in 2020, state Medicaid programs would no longer be required to provide essential health benefits coverage. Notable for providers, the AHCA repeals the requirement that states allow hospitals to make presumptive eligibility determinations.

DSH Payment Reductions – The AHCA repeals the Medicaid disproportionate share payments (DSH) cuts in 2018 and 2020 for non-expansion states and expansion states respectively.

Insurance Market Reforms – The AHCA maintains several of the ACA's insurance market reforms including the prohibition on lifetime and annual insurance limits, no health status rating, requiring insurance products to provide essential health benefits, and allowing children to stay on their parents' insurance plans until the age of 26. The bill also provides protections for those with preexisting conditions as long as an individual maintains continuous coverage. If coverage lapsed, preexisting conditions would still be covered, but insurers could assess a 30% premium penalty for one year. Finally, the legislation increases the ratio that insurers can charge older Americans to 5 to 1.

Notable Repealed Provisions – Among other provisions, the legislation repeals: the individual and employer mandates, the taxes on medical devices, indoor tanning, pharmaceuticals, insurers, and the additional tax on Medicare for high-earners. It delays, but does not repeal, the effective date on the excise tax on high-value insurance plans until 2025 (otherwise known as the Cadillac tax).

Value-based Delivery System Reforms – The AHCA does not make any changes to the ACA provisions designed to enhance value-based payments and transition away from fee-for-service

payments. In addition, the proposed bill does not include any changes to the Center for Medicare and Medicaid Innovation (CMMI).

Subsidies/Tax Credits to Purchase Insurance – The cost-sharing subsidies provided by the ACA for low income individuals are repealed, effective December 31, 2019 (although not appropriated in 2017 or 2018). The premium subsidies will continue until 2020. At that time, the bill repeals the premium subsidies and instead provides less generous, advanceable and refundable tax credits. The total credit available would range from $2,000 to $4,000 per person (based on age), capped at $14,000 for a family. These tax credits would be means-tested, and phase down for individuals earning more than $75,000 (or $150,000 for married couples). The credits are indexed to CPI plus one percent.

Other Provisions – The legislation prohibits federal funding to Planned Parenthood for one year. It also permits a higher contribution limit to Health Savings Accounts. $100 billion is provided to states and expected to assist with insurance market stabilization and cost-sharing for high cost individuals (Patient and State Stability Fund). The Prevention and Public Health Fund is repealed and Community Health Center funding is increased in FY2017.

CBO Analysis:

On March 13, the Congressional Budget Office (CBO) released the estimate of the impact of the AHCA on health insurance coverage and federal spending. The CBO found that the legislation would increase the number of uninsured Americans by 14 million in 2018 and 24 million in 2026 (compared to current law), increasing the total number of uninsured to 52 million versus 28 million under current law. Much of the initial drop-off in coverage is due to individuals choosing to forego insurance because the penalty associated with the individual mandate would no longer apply. The longer term rise in the uninsured is largely a result of the changes to the Medicaid program including states discontinuing their eligibility expansions and capped per-enrollee spending.

With regard to premiums, the CBO predicts that average premiums in the nongroup market will increase prior to 2020, and decrease after that date, compared to current law. In the short-term, the increase is a result of healthy individuals being dissuaded from signing up for coverage, due to the elimination of the individual mandate penalties. After 2020, however, a mix of provisions in the AHCA would lead to lower premiums, including the Patient and State Stability Fund and a younger mix of enrollees. However, these lower premiums would largely be enjoyed by younger individuals due to the increase in age band ratings, which would substantially raise premiums for older Americans.

Finally, the CBO estimates that the legislation would reduce the deficit by $337 billion over ten years. These savings are largely attributed to the reduction in federal costs for the Medicaid program as well as the elimination of the cost-sharing and premium subsidies. Savings would be greater had the AHCA not repealed several of the taxes created by the ACA.

Hospital Implications:

The AHCA would likely have a negative impact on hospital finances across the country, though the current bill provides some limited relief from ACA payment cuts (via the Medicaid DSH cut repeal). According to the CBO, the reduced subsidies and end to the Medicaid expansion would result in a significant increase in the number of uninsured Americans as compared to the ACA. The transition to a Medicaid per-capita cap system would also have the impact of reducing overall funding for state Medicaid programs, particularly in the 31 ACA expansion states. In

response to this decrease, the CBO anticipates that states could, among other actions, cut payments to health care providers and restrict eligibility for enrollment. Both of these outcomes would result in reduced reimbursements to hospitals, either directly via the Medicaid program or from an overall rise in the uninsured and uncompensated care.

The CBO does acknowledge the uncertainty around their estimates and that the ways in which affected parties, including federal agencies, states, employers, individuals, hospitals, and others may respond are difficult to predict. However, their estimates fall in the middle of the distribution of potential outcomes and they are confident in their predictions around both a decrease in Medicaid spending and an increase in the uninsured, both of which would negatively impact providers.

Process:

If the House approves the bill, it will likely go for consideration before the full Senate. In the Senate, however, there is still the risk that provisions may be stripped from the AHCA for not complying with the "Byrd Rule" that prohibits provisions unrelated to federal spending. If the Senate makes additional changes to what the House passed, the House and Senate will hold a conference committee to reconcile the differences in the legislation and produce an identical bill. The conference committee bill would then be voted on by both chambers, and the bill would be sent to the White House for the President's signature.

There is still significant opposition within the Republican party to this draft legislation – and complete opposition by the Democratic party at this time – making passage not necessarily a done deal. Prior to the release of the CBO analysis, many Republicans in Congress and the Administration began to discount the reliability of CBO itself, although others in the party have expressed serious concerns with the outlook.

Vizient has expressed opposition to the AHCA in its current form, largely due to the concerns now raised by the CBO and the impact the legislation would have on providers. We will continue to monitor the developments as the legislation makes its way through Congress.