



Outlook for Aging Services Programs November 14, 2016

The election of Donald Trump as President of the United States with a Republican majority in both houses of Congress will change the direction of a number of federal policies affecting aging services, those who provide them and those who receive them. Following is an initial analysis of policy changes that may affect our field in the coming months.

Overview

Based on President-elect Trump's [Contract with the American Voter](#) and on [A Better Way](#), the House policy blueprint issued by Speaker Paul Ryan in 2015, these are the policy directions we would expect early in the Congress that will begin January 3, 2017:

- Partial repeal of the Affordable Care Act
- No immediate changes in Medicare coverage or benefits
- Repeal of Medicaid expansion and transformation of the program into block grants
- Far tighter funding for senior housing and Older Americans Act programs
- Regulatory changes, especially in labor-related areas
- Tax reform that could provide opportunity for improvements in the Low-Income Housing tax credit and in incentives for charitable giving

Dynamics

Many items on the incoming President's policy agenda will require legislation. Most of these items do not have details spelled out.

Congressional Republicans have their own agenda in [A Better Way](#), and as discussed in that document, many measures already have been written to carry it out. The new Congress could pass legislation to implement the congressional Republican agenda soon after convening in January and send the measures to the new President for signature.

While the President-elect and the congressional majority all belong to the same party, their agendas may not coincide 100% and their timetables for action may differ.

Discussion

Affordable Care Act partial repeal

While the House of Representatives has passed numerous measures in the past few years to completely repeal the ACA, most observers now expect that only the more controversial parts of the measure will be repealed. Other sections of the law, which have actually improved health care delivery and reduced costs, likely will continue in effect.

However, any ACA initiatives dependent on annual appropriations, like the Center for Medicare and Medicaid Innovation (CMMI) or workforce training programs, may be compromised by budgetary activity in the new Congress. In addition, the House Republican blueprint for healthcare reform, [A Better Way](#), calls for repeal of CMMI.

Leaders of the committees with jurisdiction over health issues are drafting ACA repeal legislation and determining the legislative procedures for its passage. Many members of the incoming Congress ran on platforms promising immediate ACA repeal. Repeal legislation probably will come up early in the new Congress.

ACA provisions likely to be repealed:

- Individual mandate
- Employer mandate
- Health insurance exchanges and subsidies for the purchase of coverage
- Medicaid expansion and subsidies to states
- Reduced payments to Medicare Advantage plans (restoring reimbursement to levels up to 105% of comparable fee-for-service Medicare)
- Medicare Independent Payment Advisory Board (never activated)

Right now it is uncertain how the more “popular” provisions of the ACA will fare. The ACA provided for guaranteed issue of coverage without underwriting, eliminated lifetime maximums, limited insurance premium differentials based on age and gender, and allowed for coverage of young adults under a parent’s policy.

While these provisions have broad public support, the ACA offset their cost to insurance companies with the individual and employer mandates that will almost certainly be repealed. In [A Better Way](#), House Speaker Paul Ryan discussed retention of protections against exclusion for pre-existing conditions, ending lifetime limits on coverage and keeping young adults on their parents’ coverage. President-elect Trump has also indicated he would like to retain these provisions. If this expansion of coverage is not offset by mandates or government subsidies, the result could be higher insurance premiums.

The timeframe for transitioning the 20 million people who now have health coverage through the exchanges or Medicaid expansion to some new form of coverage has not yet been determined. It may become a contract matter, as people are now enrolling in plans for 2017 that should commit both the participating insurance companies and the consumers to a year’s participation.

President-elect Trump has said that he favors a seamless transition to a better plan of healthcare with no gaps in coverage. The new Administration has not yet spelled out most of the details of its health plan. The President-elect has said that he wants ACA replacement legislation passed simultaneously with ACA repeal legislation. With repeal legislation ready to go and replacement legislation a little farther down the road, this may be an example of the Administration’s timetable not syncing with Congress’s.

ACA provisions significant to our field and likely to be retained:

- Reduction in annual Medicare payment updates by a productivity adjustment factor
- Penalties for hospitals with excessive rates of readmissions
- Value-based purchasing for post-acute care providers (also in the 2014 physician payment fix)
- ACOs and bundling
- QAPI and governance/transparency requirements

ACA Medicare provisions possibly retained

- Coverage of preventive care, including initial physical exams and cancer screening
- Closure of the “doughnut hole” in coverage of prescription drugs
- Face-to-face requirement for physicians certifying a beneficiary’s eligibility for home health care
- Home health demonstrations like Independence at Home and Money Follows the Person (based on campaign platforms calling for more long-term services and supports to be provided in home- and community-based settings)

Proposals to replace ACA (as listed in [A Better Way](#))

- Health savings accounts (expansion and increased flexibility)
- Employer health reimbursement accounts
- Universal, advanceable, refundable tax credit for individuals and families without employer-provided coverage, Medicare or Medicaid to buy private insurance.
- Cap individuals’ tax exclusion for employer-provided health insurance
- Tax deductibility of health insurance premiums (available under current law)
- Sale of health insurance across state lines
- Small business and individual health pools to buy insurance
- State high-risk pools for people with health conditions
- Employer self-insurance and stop-loss protection
- Employer-sponsored weight loss and smoking cessation programs
- Medical liability reform with caps on non-economic damages (which we have supported)
- Federal funding for state innovation grants
- Tax benefit for family caregivers

More proposals may develop as legislation to repeal the ACA develops.

Medicare – potential changes

Aside from Medicare-related provisions of the ACA, [A Better Way](#) calls for fundamental changes in the program, which may be considered in the next Congress.

[A Better Way](#) discusses the following proposals for revising Medicare:

- Increase in the Medicare eligibility age comparable to Social Security’s eligibility age
- Value-based design in Medicare Advantage programs
- Limiting Medigap coverage of beneficiary out-of-pocket spending
- Combine Medicare Parts A and B with uniform 20% cost-sharing for all services
- Balance billing as a demonstration project
- Premium support option beginning in 2024.

Medicaid – proposed changes

[A Better Way](#) discusses the following proposals for revising Medicaid:

- Per-capita allotments as the basis for a state’s federal funding, based on the number of aged, blind and disabled, children and adults in the state’s current program. The fixed allotment would grow more slowly than present funding.
- Require state waiver initiatives to be budget-neutral for the federal government
- A block grant option for states opting out of the per-capita allotment. Previous analyses of the block grant proposal have projected that every state would receive lower federal Medicaid funding than it now does.

Housing and Older Americans Act funding

Neither the *Contract with the American Voter* nor *A Better Way* specifically mentions or discusses these programs.

There are proposals to lift current caps on defense spending and to exempt the defense budget from sequestration.

If the Budget Control Act’s caps on total federal spending remain in effect, cuts to non-defense discretionary spending, like senior housing and services programs, could be severe.

In his campaign materials, President-elect Trump called for a “penny plan” that would cut federal spending on non-defense discretionary programs by one percent per year. This category of program includes senior housing and OAA programs. Funding for these programs would not increase to meet inflation and growth in the aging population; instead, they would experience continued, absolute cuts.

Regulatory revisions

The *Contract with the American Voter* calls for rescissions of executive orders President Obama has issued. These likely will include the minimum wage and paid sick leave orders applicable to federal contractors, including health care providers working with the Veterans Administration.

Legislative proposals to set the federal minimum wage at \$15/hour likely will not be considered.

We expect reexamination of other labor-related regulations, like the white collar overtime rule.

Some of the existing regulations on which we could seek relief include:

- Nursing home mega-rule recently issued by CMS (note: Phase I of the rule goes into effect November 28, 2016, before President-elect Trump assumes office)
- Loss of CNA training
- Automatic escalators of civil monetary penalties
- Reevaluation of the nursing home oversight system. Allowing states to pilot test alternative survey systems, with DHHS approval and without having to simultaneously enforce the present oversight system
- Suspension of the HCBS settings rule or modification to remove obstacles for seniors to access campus-based assisted living options.

Tax policy

President-elect Trump has called for major reductions in federal taxes.

Tax cut legislation could provide a vehicle for improvements in the low-income housing tax credit and in incentives for charitable giving.

Conclusion

Both members of the incoming Congress and President-elect Trump have issued statements and policy proposals on which we can cooperate to promote the future of aging services.

As we always have, LeadingAge will work with all parties to achieve success for our members and those they serve.