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GOP Tax Legislation Poses Challenges to the Health Care Industry

by Robert F. Atlas

The U.S. Senate and House of Representatives have both passed their tax reform bills and will now confer toward creating a unified bill that both chambers can support, and that President Trump will sign. The two bills differ in some key respects, but their implications for health care are already rather clear. Some aspects of the legislation explicitly touch health care, while other effects would be indirect. Overall, it appears that most of the changes would adversely affect many health care industry participants, especially those in the nonprofit sector that would not gain from the reduction in the corporate tax rate that is the central feature of the legislation.

Individual Mandate. The Senate's bill does away with the Affordable Care Act's (ACA's) penalty on individuals who do not purchase health insurance. The House bill lacks a parallel provision, but it is highly likely that the repeal of the individual mandate will survive in the joint bill. The Congressional Budget Office (CBO) has estimated that this change will save the federal government $338 billion over 10 years, as some 13 million individuals, most of whom would have received federal subsidies to pay their premiums, would decline to take up coverage and thus become uninsured. Moreover, since the people most

> **Market Stabilization Prospects.** To win the vote of Senator Susan Collins (R-ME) for the tax reform bill, Senate Majority Leader Mitch McConnell (R-KY) said that he would support separate measures to restore ACA cost-sharing reductions and to help states set up reinsurance pools to undergird plans selling individual policies. It is not clear, though, that the House would agree to such legislation or that the president would sign it. And even if such legislation is enacted, without the individual mandate, it is uncertain whether the intended benefits would become realized.

likely to elect not to purchase health insurance would be younger and healthier, this change could further destabilize the non-group market and possibly lead to higher premiums and fewer choices of plans and providers for those wanting to stay covered.

Medical Expense Tax Deduction. Current tax law allows filers who itemize deductions to deduct medical expenses that exceed 10 percent of income. The House bill would eliminate this deduction, though the Senate bill not only keeps the deduction but temporarily lowers it to 7.5 percent of income for 2017 and 2018. If the medical expense deduction is eliminated in the joint legislation, the effect could be quite costly for middle class families experiencing high out-of-pocket spending due to expensive chronic conditions, catastrophic health episodes, major outlays for long-term care, or even just the up-front costs associated with high-deductible health plans. All types of health care providers, as well as pharmaceutical manufacturers, may see more patients unable to afford the services and the medicines they need.

PAYGO Ramifications. Because the House and Senate bills would both grow the deficit significantly, the "pay as you go" law enacted in 2010 would force mandatory cuts to many programs, called sequestration. The CBO has projected that Medicare would immediately have to reduce spending by 4 percent yearly, taking $25 billion out of the health care system in the first year alone. Such cuts would be felt across the industry. Congress could waive sequestration cuts to Medicare, but doing so with the current makeup of the Senate would require at least some Democrats to agree, and there is no reason to expect them to bail Republicans out of a political predicament in the current climate.

Private Activity Bonds. Many nonprofit hospitals benefit from low-cost financing whereby state and local governments issue tax-free bonds and lend the money to nonprofit entities for capital projects. Such bonds are especially popular among investors in states having high state income taxes. The House tax bill would remove the opportunity for non-governmental entities to take advantage of such financing, though the Senate bill does not. If the House's provision survives in jointly passed legislation, nonprofit hospitals would face higher borrowing costs and they might not invest as readily in new facilities and technology.

State Budget Implications. State governments may see downstream challenges affecting health programs. While the House and Senate bills both preserve the tax deductibility of residential property taxes—though capping the amount that can be deducted at $10,000—the bills eliminate the federal tax deductibility of state and local income taxes. Consequently, states with higher income tax rates will feel intense pressure from taxpayers to lower such taxes. As has been widely reported, these are mostly "blue" states. However, "red" states may not escape similar pain. Those states tend to be net positive recipients of federal tax dollars—that is, they receive more in federal outlays than their residents send to the federal government in taxes—so expected cuts to federal spending will affect them, too. Whenever states feel budget pressure, they often curtail Medicaid payments and public health outlays. Health care providers that rely on Medicaid and other state funding, such as mental health and substance abuse providers and nursing facilities, will likely feel the brunt of such cuts.

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