Health Law Daily Wrap Up, TOP STORY: AHCA amendments won’t save coverage for 23M or lower premiums for unhealthy Americans, (May 25, 2017)

Health Law Daily Wrap Up

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The version of the American Health Care Act (AHCA) (H.R. 1628) that passed the House of Representatives on May 4, 2017, would reduce the federal budget by $32 billion less than an earlier draft of the bill, and would cause 14 million Americans to lose health insurance next year. The Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) issued their third cost estimate of the bill, this time taking into account the amendment from Reps. Fred Upton (R-Mich) and Billy Long (R-Mo) that ensured passage of the bill in the House (see The AHCA strikes back, May 4, 2017). Despite the Upton-Long amendment, the agencies project that the health insurance markets in one-sixth of the country would be unstable beginning in 2020, with many individuals being unable to purchase affordable coverage. Compared with the agencies' estimates of previous versions of the AHCA, the version passed by the House would cause slightly fewer people to lose their health insurance, and individuals purchasing nongroup insurance would see lower average premiums, though some people would likely purchase policies that would not cover major medical risks (CBO Report, May 24, 2017).

AHCA. Although the AHCA is often referred to as a bill to repeal and replace the Patient Protection and Affordable Care Act (ACA) (P.L. 111-148), it would not do either. Rather, the bill would eliminate many of the ACA’s tax provisions, including a tax on tanning salons and the medical device excise tax, and terminate states’ ability to expand Medicaid eligibility to nonelderly low-income adults who are not otherwise eligible for coverage. The bill would allow states to waive essential health benefits (EHBs), age rating, and community rating; create a risk-sharing program for states; and allow states that waived EHBs and ratings to access increased money in the Patient and State Stability Fund (see How the AHCA directly impacts significant parts of the ACA, May 17, 2017).

The amendments to the AHCA introduce substantial uncertainty to the cost estimate, because the various waivers available could each be implemented in many different ways. Further, although the additional money for the Patient and State Stability Fund provided by the Upton-Long amendment would increase federal spending, it would not prevent extremely high premiums for less healthy individuals.

Cost estimate. The new cost estimate overall shows the same as two previous estimates: over the next 10 years, the AHCA would reduce federal spending by $1,111 billion, mostly through cuts to Medicaid and changes to the ACA’s subsidies for nongroup health insurance, and would reduce revenues by $992 billion repealing or altering the ACA’s revenue-raising provisions. Therefore, federal spending would decrease by $119 billion overall during that period. The CBO and JCT did not just look at the effects of the bill on the federal budget, however; they also provided estimates of the effects on (1) health insurance coverage; (2) the health insurance market; and (3) premiums and out-of-pocket payments.

Health insurance coverage. For purposes of the estimate, the CBO and JCT excluded policies with limited insurance benefits, supplemental plans, fixed-dollar indemnity plans, single-service plans, and "dread disease" policies that cover only specific diseases—individuals with only these types of insurance are considered "uninsured" by the agencies. The estimate says that 14 million more people would be uninsured in 2018 if the AHCA passed than would be under the current law, and in 2026, 51 million individuals under 65—those who are ineligible for Medicare—would be uninsured, compared with 28 million who would remain uninsured under the current law. The agencies predicted that a few million people would purchase policies that do not cover major medical risks.
Health insurance market. The CBO and JCT anticipate that nongroup insurance markets in approximately five-sixths of the country would remain stable if the AHCA became law, although it believes that insurers may withdraw from or not enter the nongroup market due to uncertainty about implementation. In the remaining one-sixth of the country, however, the agencies estimate that the nongroup market would start to become unstable beginning in 2020 due to state decisions to waive EHBs or community ratings. States implementing such waivers would cause less-healthy individuals, including those with preexisting conditions, to "ultimately be unable to purchase comprehensive nongroup health insurance at premiums comparable to those under current law, if they could purchase it at all."

Premiums and out-of-pocket payments. The report projects that single policyholder premiums would increase by 20 percent in 2018 and 5 percent in 2019 compared with projected premium increases under current law. After 2020, premiums would depend in large part upon waivers granted to states and implementation of such waivers. The agencies projected that half the population of the United States resides in states that would not request any waivers, while one-third is in states that would make moderate changes to market regulations, and one-sixth in states that would obtain waivers involving both EHBs and community ratings. In states with no waivers, premiums for younger and healthier individuals would be substantially reduced, but older people would face higher premiums. In states with moderate changes, premiums would go down because insurers would provide fewer benefits; again, younger individuals would save substantially more than the elderly. The agencies did not estimate how much lower premiums would be in states making significant use of waivers because the types of benefits provided could vary widely and individuals who are less healthy would be less able to obtain health insurance.

Uncertainty. The cost estimate notes that there is considerable uncertainty as to the outcomes of the AHCA, particularly with regard to state waivers. The waivers would allow states to modify the benefits provided by health insurance sold in the nongroup and small-group markets, and changes of medical underwriting for individuals who are unable to demonstrate continuous coverage. There is also uncertainty with regard to responses by states, insurers, employers, doctors, hospitals, individuals, and federal agencies. For example, if individuals participate in the marketplace at a lower rate than projected, corresponding budgetary savings would decrease. Similarly, if there were problems in determining eligibility for tax credits, or if advance payments of the credits were not made reliably, it would change the projected outcomes.

Reactions. Reactions to the updated estimate generally tracked previous views on the legislation, with most supporters of the bill citing to a May 23, 2017, HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE) report finding that premiums in the individual market increased significantly since before the ACA went into effect. HHS Secretary Tom Price, M.D., called the cost estimate "wrong" and said that the Trump Administration is committed to health care reform. House Speaker Paul Ryan (R-Wisc) said that the CBO report confirms that the AHCA "achieves our mission: lowering premiums and lowering the deficit." Sen. Susan Collins (R-Me), however, said that the AHCA would "disproportionately affect older, low-income Americans," citing an example that a 64-year old with an income of $26,500 would see an 850 percent increase in out-of-pocket premium cost. Democratic opponents of the AHCA focused on the number of people who would lose health insurance, particularly those with preexisting conditions. Industry groups' concerns about the bill remain unchanged following publication of the cost estimate. American Hospital Association President and CEO Rick Pollack said, "We cannot support legislation that the CBO clearly indicates would jeopardize that coverage for millions of Americans." The Robert Wood Johnson Foundation's president and CEO, Richard Bresser, M.D., said Americans need access to comprehensive health insurance coverage, and called the AHCA "a step in the wrong direction," urging that any solution to existing problems must, "first, do no harm."

Previous estimates. When the CBO previously scored the bill—not updated to account for the latest amendments—it found that federal deficits would be reduced but 24 million individuals would lose health insurance coverage (see CBO: Republican plan saves billions as 24M lose coverage, March 14, 2017; Revised AHCA costlier with same number of uninsured, March 24, 2017). Those earlier versions of the AHCA were not brought to a vote before the House due to Republican concerns that the bill would not pass (see Short-lived...
AHCA yanked by GOP without a vote, March 24, 2017); three amendments—in particular, the Upton-Long amendment—earned sufficient support for the bill. After House passage, the bill was not delivered to the Senate; there has been speculation that the House would need to take a second vote on the bill after the CBO and JCT released their cost estimate, but Speaker Ryan called it a "technical non-issue" and said the delay was merely "an abundance of caution." Multiple groups of senators are working on altering the House bill or creating their own version of a health care reform bill that could pass under the budget reconciliation process, which only requires a bare majority.