The Funding Outlook For Soon-To-Expire Health Programs

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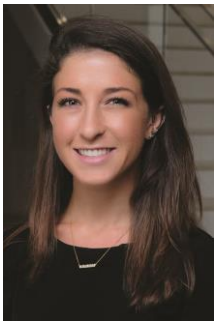

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Funding for two dozen federal health programs will run out in the coming months, and the fate of these programs will remain in balance until President Donald Trump signs legislation to fund the government through the next year. These programs, known as health extenders, are tied to the larger debate over federal government funding as a whole, since government funding legislation will likely be the only bill to pass through Congress before these programs expire.

On Sept. 27, three days before funding for all federal programs expired, Trump signed a continuing resolution to maintain level funding for the federal government through Nov. 21, averting a government shutdown. By the November deadline, congressional leaders need to agree on funding levels for all government programs, and reach policy agreements on extending health programs, repealing some health care taxes and delaying cuts to hospitals that are set to go into effect before the end of the year.

Right now, there is little hope Congress will reach a deal to fund the government in the coming weeks. Rep. Tom Cole, R-Okla., a senior member of the House Appropriations Committee, has expressed that he is very concerned that Congress will not reach a deal, and House Minority Whip Steve Scalise, R-La., has suggested it might be helpful if the top four congressional leaders "went and got in a room and agreed to not leave until they come up with an agreement." If no deal is reached, Congress will pass another short-term CR to continue funding through December or perhaps January.

This article describes the health programs that are set to expire, the funding cuts that are scheduled to go into effect and legislation that Congress will consider to pay for these health extenders.

Overview

In discussing health care extenders, we are referring to the extension of time-limited public health programs that will lapse once a statutory deadline is reached, unless there is further legislative action. These include programs for community health centers, safety net hospitals, juvenile diabetes programs, mental health and addiction treatment facilities, and several others, which will be discussed in more detail below.

The programs are related to Medicare, Medicaid, the Children's Health Insurance Program and private health insurance programs and activities, or health care-related provisions that were enacted in the Patient Protection and Affordable Care Act or last extended under the Bipartisan Budget Act of 2018.

Though many of these programs enjoy bipartisan support, there are concerns about what measures Congress might pass to offset the cost of these programs, estimated from $20 billion to $40 billion, depending on how long some of the programs are extended (2 years

versus 5 years).

One of the key issues to solve is Medicaid funding for the territories. Unlike Medicaid funding for the 50 states and D.C., Medicaid financing for the territories (American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the U.S. Virgin Islands) is subject to a set cap, and funding must be expressly allotted by Congress.

Medicaid funding for all five territories is set to run out between December of 2019 and September of 2020, including allotments for disaster relief funds. While the House has proposed eliminating the funding cap and boosting funding levels for the territories, they have not been able to reach an agreement with the Senate.

Another top concern is the reauthorization of the Community Health Center Fund, which provides mandatory funding for federal health centers located in medically underserved areas that provide primary care, dental care and other supportive services to low-income individuals. This program is projected to cost $4 billion per year if programs are funded through 2024. Like most of these programs, there is strong bipartisan support for a long-term, five-year reauthorization, though parties need to agree on how to offset the roughly $20 billion cost of the program.

Of major concern to rural health care providers is the National Health Service Corps, which provides scholarships and loan repayments to certain health professionals in exchange for providing care in a health professional shortage area. The Congressional Budget Office estimates the program will cost $385 million per year if programs are funded through fiscal year 2024.

The Teaching Health Center program, which provides direct and indirect graduate medical education funding to support medical and dental residents who are training at qualified teaching health centers, is also a critical program relied upon by health care providers; it would cost $126.6 million per year to extend the programs if they are funded through fiscal year 2024.

There are a number of significant health care taxes from the ACA that are set to go into effect if Congress does not act, including the Health Insurance Tax and the Medical Device Tax. These taxes, if they go into effect, would raise billions over the next decade, but could have a harmful effect on the health care industry as a whole. Several bipartisan bills to further delay or fully repeal these taxes have been introduced this Congress, and it is expected Congress will at least delay these taxes for another few years.

Medicaid Disproportionate Share Hospital Cuts

The Medicaid DSH program is designed to give safety-net hospitals, which serve a large share of low-income and uninsured patients, more financial flexibility by requiring Medicaid to make payments to qualifying hospitals using both state and federal funds. Under the ACA, Congress should have reduced federal DSH allotments beginning in 2014 to account for the anticipated decrease in uncompensated care; however, Congress has delayed the cuts every year since.

On Sept. 23, the Centers for Medicare and Medicaid Services published a final rule for

calculating $4 billion in state Medicaid DSH cuts for fiscal year 2020 and $8 billion each subsequent year through 2025. These cuts were set to go into effect on Oct. 1, but were delayed to Nov. 21 through legislation attached to the CR signed on Sept. 27.

Members of Congress on both sides of the aisle are seeking a fix for DSH cuts, though they have disagreed on whether to repeal the reductions in allotments, continue to delay them or have the reductions go into effect with changes to the formula for reductions. While Republicans do not support the DSH cuts imposed by the ACA, some would like to see legislation that changes the underlying formula, which they see as flawed.

Potential Offsets

Before the next round of funding expires, Congress will need to determine how to pay for the health care extenders and a repeal or further delay of the DSH cuts. Members have been considering several different options for reducing health costs, including through legislation addressing surprise medical bills and prescription drug prices. It is likely that Congress will pick and choose from a menu of bipartisan legislation that is projected to save money.

The Creating and Restoring Equal Access to Equivalent Samples Act of 2019 is a bipartisan bill that is likely to pass by the end of the year and would pay for some of the health programs. It would allow a biosimilar or generic developer to bring a civil action against an innovator drug company if the latter refuses to make enough samples of a product available for testing. This legislation is projected to reduce spending by $3.3 billion over 10 years.

The Preserve Access to Affordable Generics and Biosimilars Act is also being considered as a pay-for. This bill would prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic in the market, or pay-for-delay. It is projected to save an estimated $100 million over 10 years.

The Senate Finance Committee's bipartisan drug pricing package, the Prescription Drug Cost Reduction Act (PDPRA) of 2019, includes a number of potential off-sets. Of all the policies in the package, the modification of the maximum rebate amount under the Medicaid drug rebate program is most likely to be used as an offset because it has bipartisan support. This policy alone would reduce spending by $1.377 billion over five years, and $12.488 billion over 10 years.

The Senate Health, Education, Labor and Pensions Committee also released their health care package, the Lower Health Care Costs Act. Of the proposals in this package, the legislation that sets a benchmark rate for health care services in order to avoid surprise billing has the most potential for savings. This policy alone is projected to save $24.9 billion over 10 years. However, the legislation differs from the House version, which contains an arbitration provision and saves far less money.

Outlook

Over the summer, the House Committee on Energy and Commerce passed the bipartisan Reauthorizing and Extending America's Community Health Act, which would eliminate the scheduled reductions to Medicaid DSH funding for fiscal year 2020 and fiscal year 2021,

and reduce the cuts by half in fiscal year 2022, for a total of $16 billion in relief.

The legislation would also provide new funding for community health centers, the National Health Services Corps and several other expiring health care programs, and enact a legislative fix for surprise medical bills. While this bill is a starting point for negotiations with the Senate, there is disagreement about the levels of funding for the programs and the length of time for program authorization. Given the short time frame to reach an agreement, the Senate may ultimately agree to certain provisions of the House bill.

The House and Senate must also agree on the legislation they will pass to offset the cost of the health extenders, and it is likely Congress will pick bipartisan drug bills like CREATES, Pay-for-Delay, and capping the maximum Medicaid drug rebate. Congress had initially eyed surprise billing legislation as a potential offset, since the Senate proposal that passed out of committee was projected to save more than $20 billion over 10 years.

However, there is disagreement between the House and Senate over the policy direction for surprise billing legislation, and it is unknown whether a compromise can be struck before the end of the year.

Though the short-term funding extensions delay the expiration of these programs, community health centers and other groups that depend on the funding are unable to plan ahead due to the uncertainty. The good news is that Congress is largely committed to funding these programs and delaying hospital cuts, but the uncertainty will continue as the government funding debate lurches along.

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