

Federal Legislative Update

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Agenda

- Republican Efforts to Repeal and Replace the ACA
- Trump Administration and the ACA
- Unresolved Issues
- Hall Render Stark Law Coalition
- Questions



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HOUSE *of* CARDS



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How Did We Get Here?

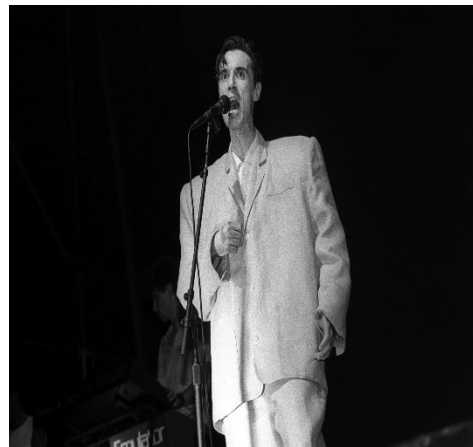
And you may ask yourself

Where does that highway go to?

And you may ask yourself

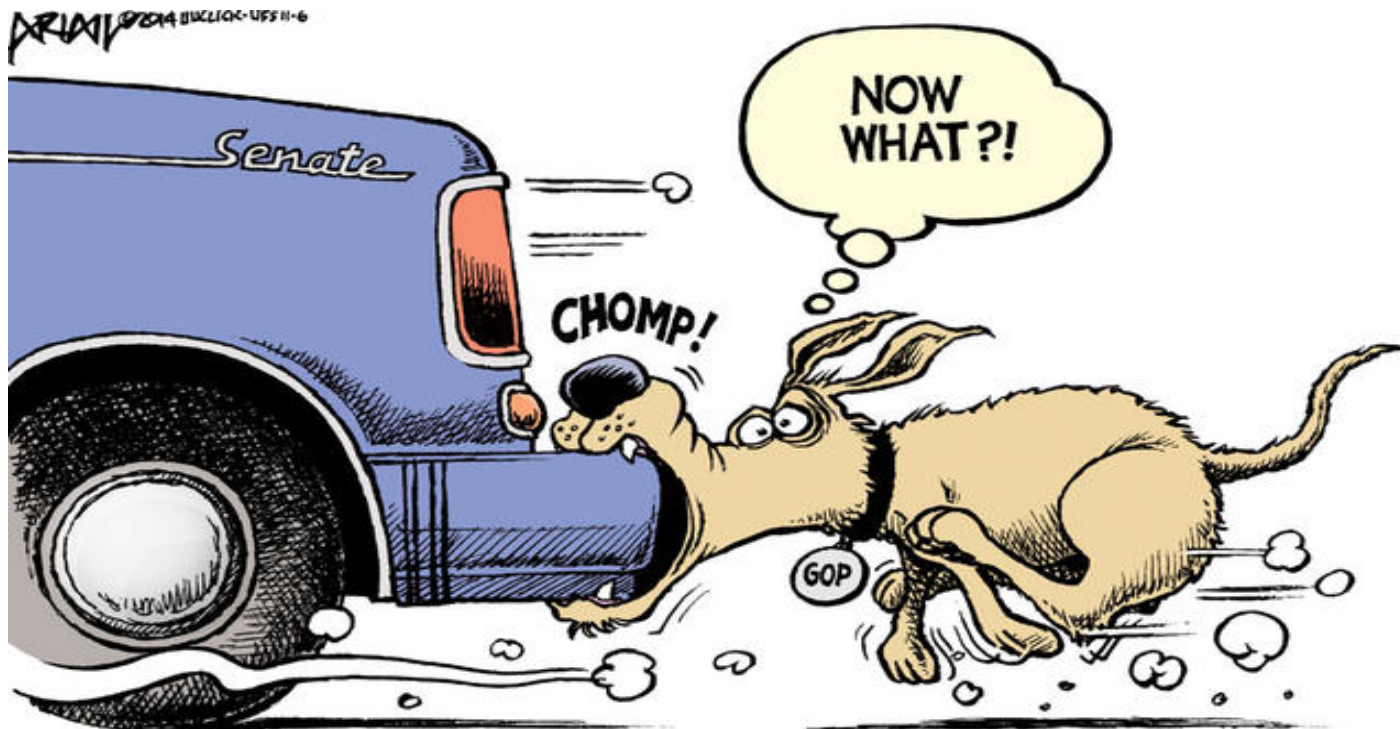
Am I right? Am I wrong?

And you may say to yourself, "My God! What have I done?"



Once in a Lifetime

Talking Heads



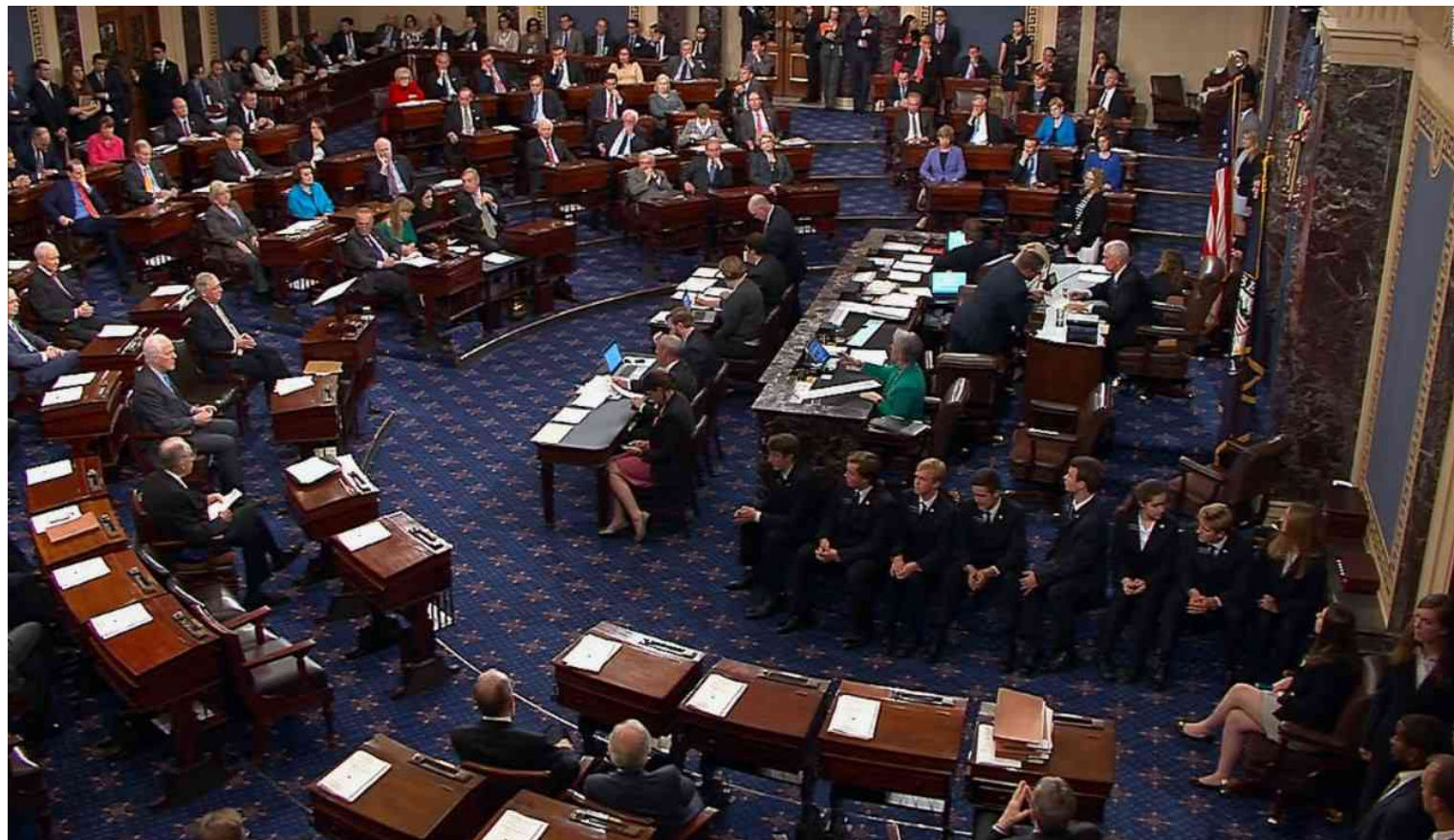
American Health Care Act (H.R. 1628)

Highlights

- Repealed individual and employer mandates and most of the ACA's taxes
- Provided tax credits to buy insurance on open market
- Allowed insurers to charge older people five times more than younger
- Changed Medicaid to a per capita cap system or block grant (\$880 billion over 10 years)
- 30% surcharge on those who don't maintain "continuous coverage"
- Allowed states to opt out of ACA essential health benefits requirement
- Provided states \$138 billion over 10 years to cover pre-existing conditions or mental health care, subsidize premiums, etc.
- Prohibited federal funding to Planned Parenthood for 1 year
- Repealed cost-sharing subsidies





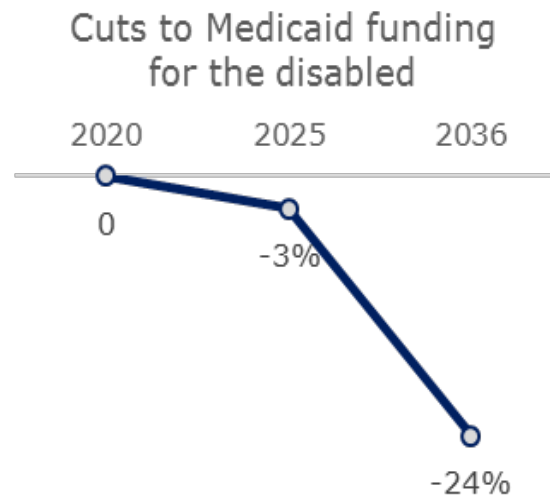
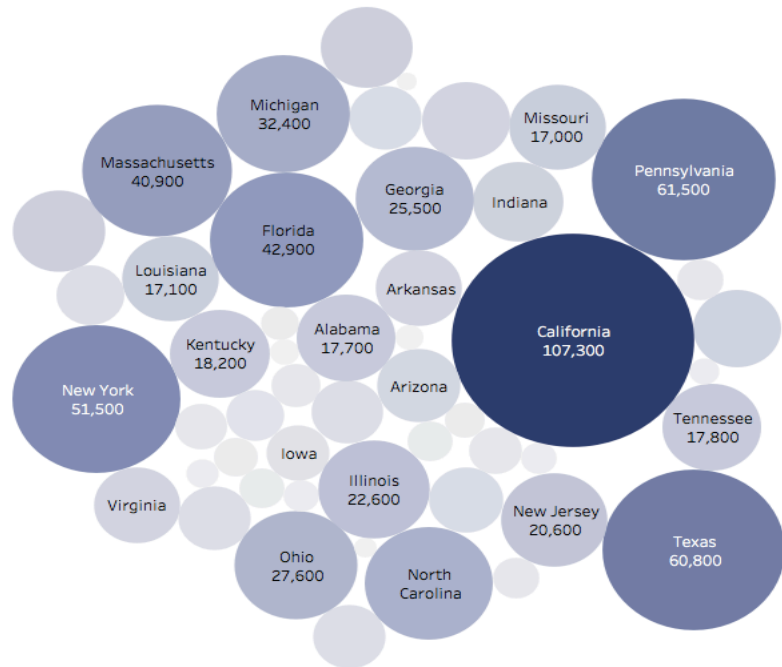


Better Care Reconciliation Act (H.R. 1628)

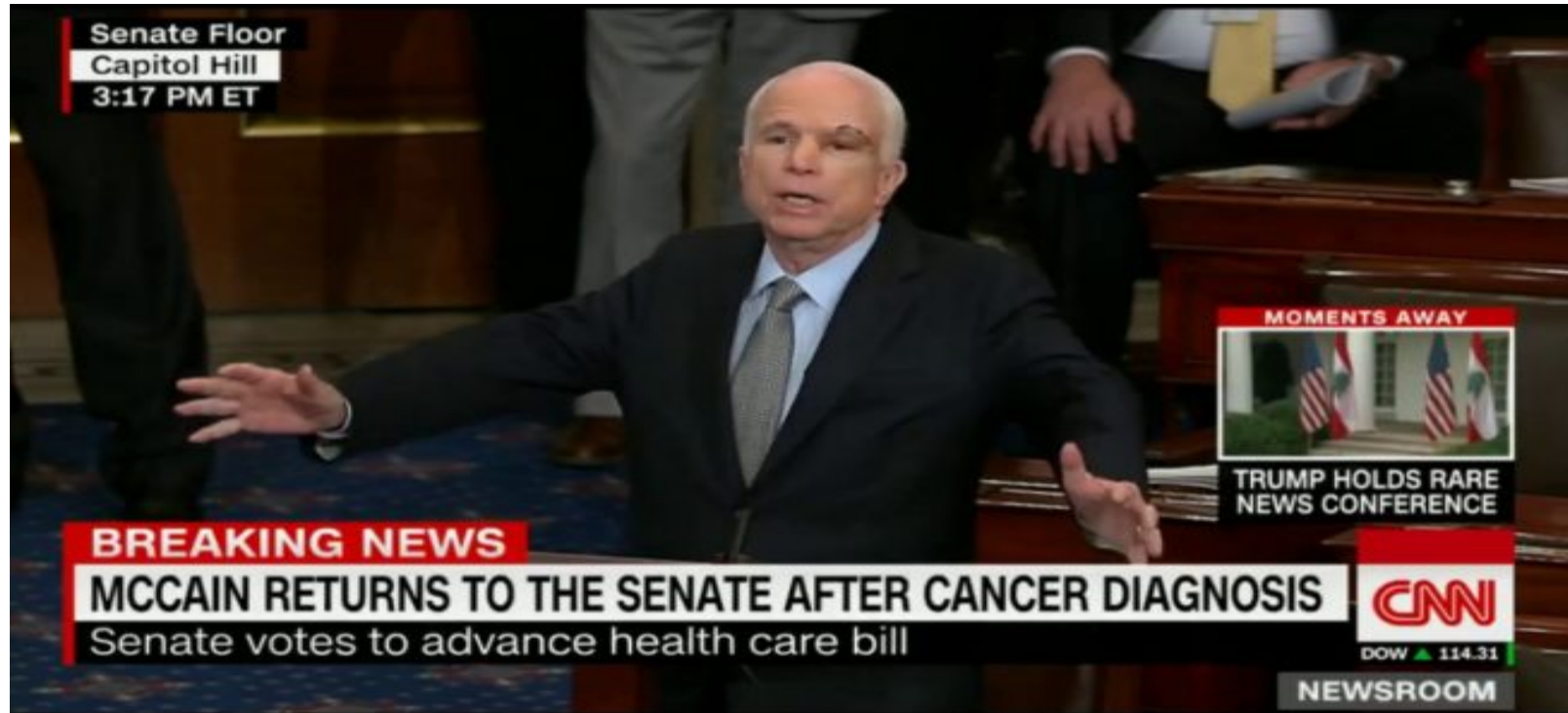
Highlights

- Repealed individual and employer mandates and most of ACA's taxes
- Scaled back ACA premium tax credits to 350% FPL
- Repealed medical loss ratio requirements
- Maintained Medicaid expansion for 3 years and then scaled it back to pre-ACA levels over 3 years
- Established per capita cap system with option for states to choose a block grant
- Froze Planned Parenthood funding for 1 year
- \$2 billion for states to apply for Section 1332 waivers
- \$2 billion for state substance abuse programs
- Repealed cost-sharing subsidies starting in 2020

Disabled individuals on Medicaid would see a 24% cut to funding by 2026

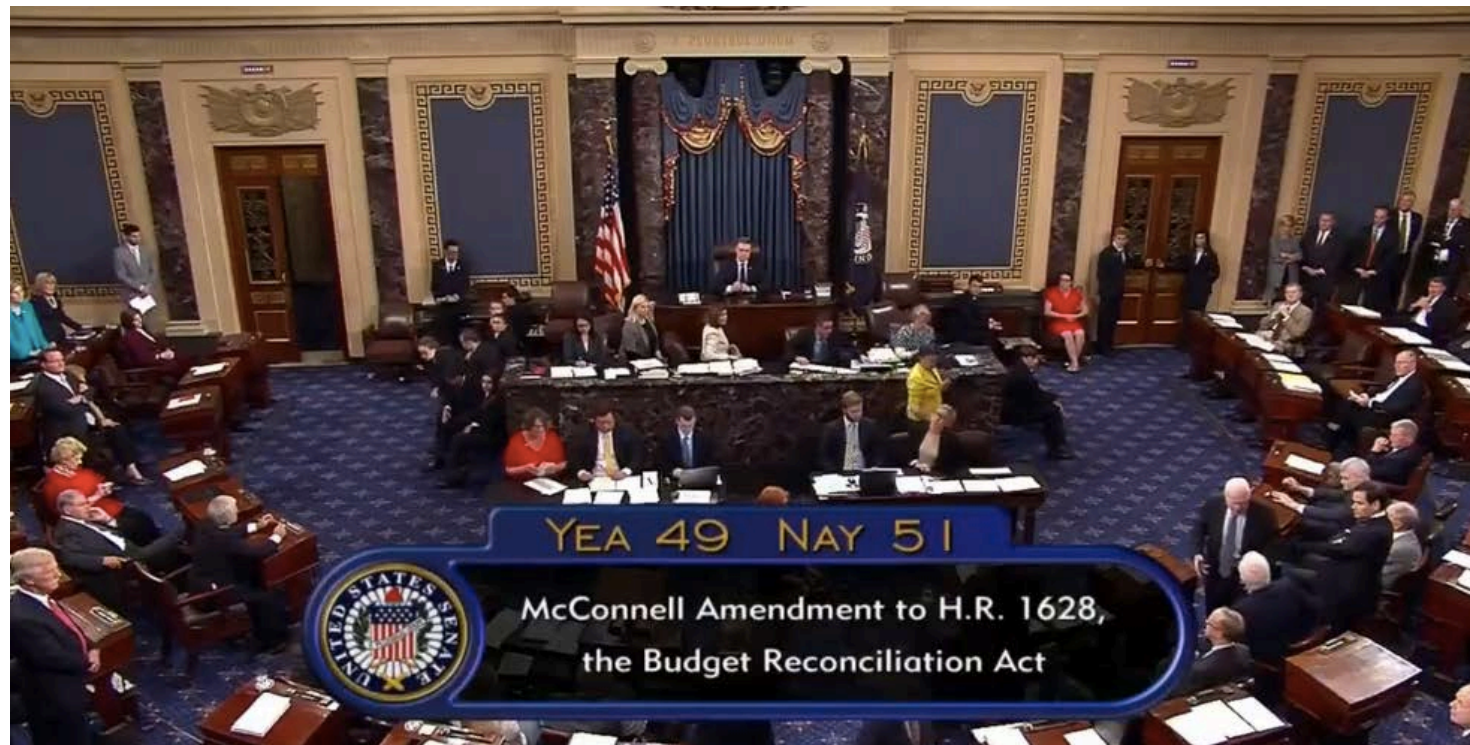


Motion to Proceed



“Skinny Repeal”

- Repealed individual mandate
- Blocked employer mandate for 8 years
- Extended moratorium on the medical device tax for 3 years
- Increased limits on health savings accounts
- Prohibit Planned Parenthood from serving Medicaid patients
- Add \$442 million for community health centers
- \$178.8 billion in savings
- 16 million to lose coverage



Politics Matters

You can't separate good policy from the need to bring the American people along and make sure that they know why you're doing what you're doing.

President Barack Obama

November, 2015

Graham-Cassidy Bill

- Block grants ACA funding to states
 - Can keep ACA programs or create an entirely new system
- Allowed states to opt out of many ACA regulations
 - Individual and employer mandate eliminated on the federal level
 - States can choose to reinstate the mandate
- Medicaid would be funded on a per-capita basis starting in 2020
- Federal government would pay a smaller portion of the cost for states that choose to expand Medicaid

What Went Wrong with Graham-Cassidy?

- Rise and Fall of Graham-Cassidy
- Will we see Graham-Cassidy again in 2018?



Medicare for All



Medicare for All

- Biggest question: **funding**.
- Federal expenditures estimated to increase by \$32 trillion between 2017 and 2026.
- Possible Options
 - 7.5% payroll tax paid by employers.
 - Exemption for first \$2 million to protect small businesses.
 - 4% income-based premium paid by households.
 - Wealth tax on the top 0.1% of earners.
 - Alter estate tax.

Trump's Executive Order

October 12, 2017

- Reaction to inability of Republican controlled Congress to repeal the ACA.
- Clears the way for major changes in health insurance market
- HHS and Trump also announce termination of cost-sharing subsidies
- No changes until federal agencies adopt regulations after opportunity for public comments



What's in the Executive Order

- Directs Treasury, Labor and HHS to exempt low-cost, short-term health plans from Affordable Care Act's insurance market rules
- Cross-State Association Health Plans (AHP)
- Broader interpretation of Employee Retirement Income Security Act (ERISA)
- Boosts Health Reimbursement Arrangements

What Else Will the Administration Do?

- Enrollment outreach
 - Already rolling back
 - Alexander-Murray increases funding
- Mandate Enforcement
 - Will IRS enforce individual mandate?

Key Health Care Players in Trump Administration

Vice President Mike Pence



HHS Secretary ?????



CMS Administrator Seema Verma



Medicaid Director Brian Neale



Office of Management and Budget Director Mick Mulvaney



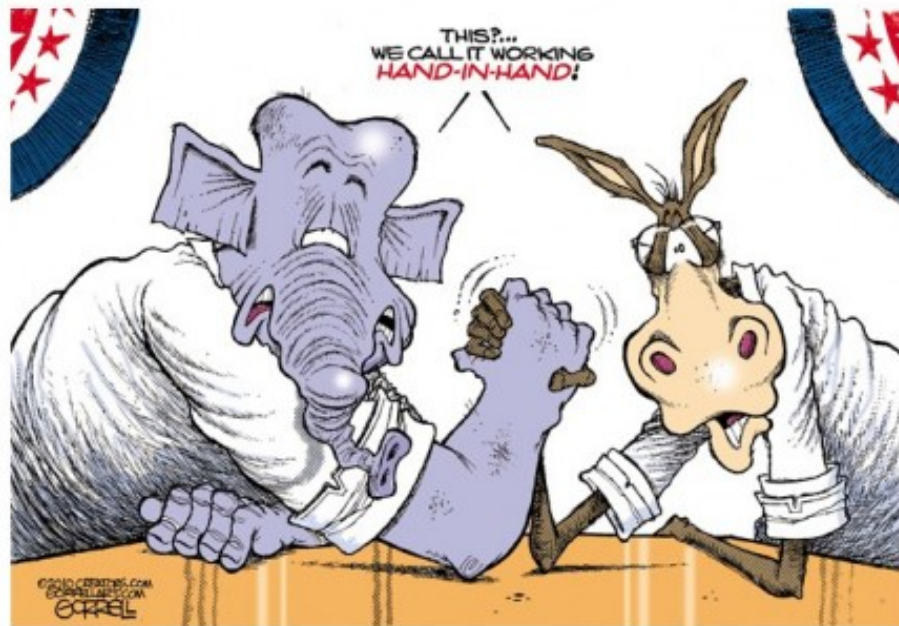
What's Been Spared...

- MACRA
- Payment transformation – from volume to value
- ACOs
- CMMI
 - Drop mandatory demos
 - Proposed rule to canceled EPM and CR payment models and change CCJR
 - Provider feedback/buy-in on demo design
 - Keep pilots small



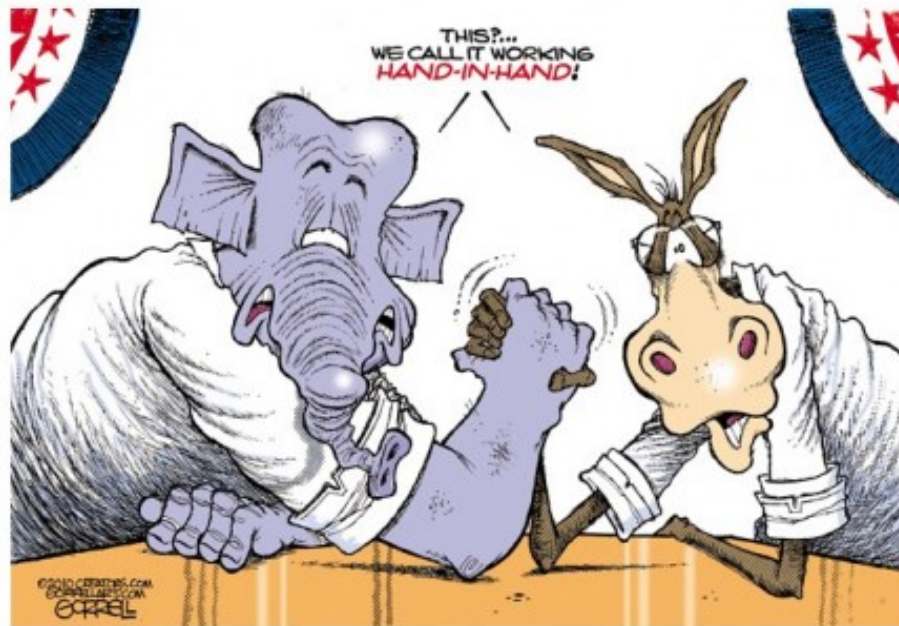
Focus on Cost-Sharing Reduction Payments & Market Stabilization

- Senate HELP Committee leaders Sens. Lamar Alexander and Patty Murray reached an agreement stabilizing the ACA marketplace
- Two years of funding for cost-sharing reduction payments
 - Not retroactive
- Allow states to use existing ACA innovation waivers to approve insurance plans with comparable affordability as ACA plans



Focus on Cost-Sharing Reduction Payments & Market Stabilization

- Congressional Budget Office says:
 - Silver Plan premiums rise 20% in 2018 and 25% in 2020
 - Federal deficit would increase by \$194 billion from 2017 to 2026
- Pass as stand-alone or part of year-end package?
- ACA enrollment starts in two weeks



Unresolved Issues



Children's Health Insurance Program

- Funding expired at the end of September
- Strong bipartisan support for extending funds
 - All states are expected to exhaust CHIP funding by the end of 2017 or during fiscal year 2018, if funding is not extended
- Senate Finance Committee advanced bipartisan funding package; House Energy and Commerce Committee drafted similar bill
 - CHIP vote delayed in House because parties cannot agree on pay-for provisions.
 - Senators keeping CHIP funding negotiations private
- Extends CHIP funds for five years and continues ACA's funding enhancement of 23 percentage points for two years before winding it down over the following two years.

340B Drug Pricing Program

- 340B isn't going away – but change is coming
- 2018 OPPS Proposed Payment Rule would change the payment rate for Part B drugs purchased by hospitals through 340B at ASP minus 22.5% vs. ASP +6
- Greater regulatory authority for HRSA and program integrity bill from Congress likely
 - Report 340B volume, revenue generated, safety-net services funded
 - Move away from using DSH patient percentage to determine qualification
- Drug pricing also a focus

Telemedicine

- Progress has been slow on substantive telemedicine changes
- Substantive payment expansion unlikely
- Telemedicine-related legislation
 - CONNECT Act: ACOs, kidney dialysis, stroke patients, remote monitoring and mental health services
 - CHONIC Care Act: ACOs, Medicare Advantage, telestroke and dialysis
 - Medicare Part B Improvement Act: kidney dialysis treatments
 - Telehealth Enhancement Act: adds eligibility for telemedicine payments for counties with sole community hospital or less than 25,000 people
- Congressional Budget Office

Medicare Extenders

- Medicare Dependent Hospital
- Low Volume Hospital Adjustment
- Outpatient Therapy Cap Exceptions
- Ground Ambulance Add-On



Rural Health-Related Legislation

- **Rural Hospital Regulatory Relief Act:** Permanently extends the non-enforcement of the direct supervision of therapy services requirement.
- **Save Rural Hospitals Act:** Reverses cuts to rural hospitals, provides regulatory relief, and develops a new provider type – the Community Outpatient Hospital – which provides a 24/7 Emergency Room, outpatient services, and primary care services.
- **Rural Access to Hospice Act:** Provides for payments for certain RHC and FQHCs furnished to hospice patients under the Medicare program.
- **Rural Hospital Access Act:** Makes permanent the extension of the Medicare-dependent hospital program and the increased payments under the Medicare low-volume hospital program

Funding the Government



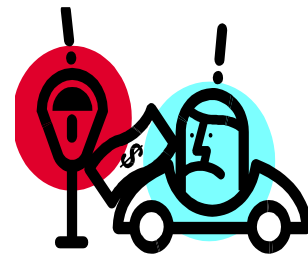
FY 2018 House Labor, HHS Funding Bill

- \$156 billion in discretionary funding
 - *\$542 million below FY 2017*
 - *\$14.5 billion above President's budget request*
 - *\$77.6 billion for HHS*
 - *\$3.5 billion for CMS (\$219 million below FY 2017)*
 - *No additional funding to implement ACA programs*
 - *Prohibits funds for "Navigators" program*
 - *Prohibits collection of user fees from Health Insurance Exchanges*
 - *\$35.2 billion for NIH (\$1.1 billion above FY 2017)*
 - *\$3.5 billion for SAMHSA (\$306 million below FY 2017)*

FY 2018 Senate Labor, HHS Funding Bill

- \$164.1 billion in discretionary funding
 - *\$800 million below FY 2017*
 - *\$27.5 billion above President's budget request*
 - *\$79.4 billion for HHS*
 - *\$3.6 billion for CMS (same as FY 2017)*
 - *Does not provide new funding for the ACA*
 - *\$36.08 billion for NIH (\$2 billion above FY 2017)*
 - *\$816 million to fight opioid abuse*

Hall Render Stark Law Correction Coalition



- Stark Administrative Simplification Act (H.R. 3173)
- Technical Violations Amendment to Stark Law
 - Verbal, unsigned or lapsed agreements
 - \$5,000 for violations disclosed within 1 year of noncompliance
 - \$10,000 for violations disclosed after 1 year of noncompliance
 - Requires CMS to accept a “valid” voluntary disclosure
 - Codifies regulatory changes CMS made in 2016 Physician Fee Schedule Final Rule
 - Medicare Part B Improvement Act of 2017



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