

ML Strategies Health Care Preview

Week of March 5th

Congress kicks off this week with three weeks to go before the March 23 omnibus spending deadline. At this point it's still not entirely clear what will be tacked on to this spending package, but immigration, market stabilization, CREATES, and gun control remain in the mix.

On immigration, the March 5th deadline relating to the Deferred Action for Childhood Arrivals (DACA) has [been affectively delayed](#) by the Supreme Court, allowing the injunction preventing the Administration from ending the program to remain in effect as the Ninth Circuit Court of Appeals continues its review. It's unlikely that a bipartisan agreement comes together after the Senate failed to produce a bill last month.

On market stabilization, Senators Alexander and Murray continue the work they started last year. The effort to draft legislation was complicated after the repeal of the individual mandate in 2019 sent staffers back to the drawing board on market stabilization negotiations. It's being reported that potential [stabilization legislation](#) includes three years of funding for reinsurance, and cost-sharing reductions (CSR) payments for 2019 and 2020, as well as retroactive CSR funding for the last quarter of 2017. There's also language on loosening the section 1332 waivers, which will closely align with previous stabilization language. There's a sense of urgency in getting this attached to the omnibus since it is highly unlikely it gets done as a standalone bill.

There's also an outside chance that drug pricing initiatives will be considered in the omnibus. Multiple stakeholder groups have been pushing the CREATES Act to address abuses of the REMS process. The budget deal did not include REMS but did include a change in the calculation on the Part D donut hole. PhRMA has been very openly unhappy about the donut hole policy. Are they so unhappy that they might consider accepting CREATES or a version of it if they could roll back the donut hole policy? There has been chatter that it might be possible.

Finally, the momentum to act on gun control legislation will continue to be tested. While there are a handful of proposals floating around Capitol Hill with some bipartisan potential, it remains difficult to imagine floor consideration in the Senate of any bill where poison pill amendments could derail the process.

WORK REQUIREMENTS UPDATE

Arkansas is the next state up to have its Medicaid waiver approved, becoming the third state to include work requirements in its waiver. We have been closely following these proposed waivers, including those recently approved in Kentucky and Indiana. CMS has every reason to continue pushing these efforts forward given the support in Congress.

The State of Arkansas expects to save \$356M due to these changes, while critics say [it amounts](#) to more of a cost shift. We will be sending out more analysis on waivers this week.



THIS WEEK IN THE HOUSE

On Tuesday (3/6), the House Judiciary Subcommittee on the Constitution and Civil Justice will hold a hearing titled, "Examining Class Action Lawsuits Against Intermediate Care Facilities for Individuals with Intellectual Disabilities." Click [here](#) for more information.

THIS WEEK IN THE SENATE

On Thursday (3/8), the Senate HELP Committee will hold a hearing titled, "The Opioid Crisis: Leadership and Innovation in the States." Click [here](#) for more information.

SIGN UP

Contact us at MLSDCHealth@mintz.com to sign up for real-time updates on the latest health policy machinations in DC.

FOLLOW MLS

Follow us on Twitter
[@RodneyMLS](#)

OUR TEAM

Rodney Whitlock
Katie Weider
Eli Greenspan

Visit us at

www.healthlawpolicymatters.com

