



## ML Strategies Update

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## Health Care Update

### ML Strategies Publishes 2016 Legislative Outlook

The ML Strategies 2016 Legislation Outlook is now available! The first session of the 114<sup>th</sup> Congress marked a productive year for Congress, with passage of numerous measures, including replacing the Sustainable Growth Rate (SGR), a major tax extenders bill, a two-year budget agreement, an omnibus spending package, and numerous other legislative items. As we head into the second session of the 114<sup>th</sup> Congress, we will be closely monitoring Affordable Care Act (ACA) implementation, Senate efforts to advance its version of the House-passed 21<sup>st</sup> Century Cures Act, as well as progress on the Senate Finance Committees' Chronic Care Initiative, among other important issues. For our complete health care policy forecast in 2016, please [click here](#). For our complete 2016 legislative outlook and analysis, please [click here](#).

With one year left in his Administration, President Obama's signature health care law will continue to be at the forefront of the Administration's domestic agenda. Following last month's end-of-year Omnibus, which saw the President and Congress agree to delay three key tax provisions in the ACA, the House of Representatives kicked off the second session of the 114<sup>th</sup> Congress with an affirmative vote on the Senate-passed budget reconciliation package to repeal major portions of the ACA. While the President has successfully warded off most Republican attempts to alter or repeal the law, recent moves by Democrats supporting changes to the law have created openings not previously accessible to opponents of the law. In the span of a year, we saw Democrats rally around the repeal of the Cadillac tax and medical device tax, as well as stand down on delaying the health insurance tax, which insurers say is simply passed on to consumers, and lastly, limits in risk corridor funding. While delaying these provisions won't alter the trajectory of the overall law itself, it does take these issues off the table in 2016.

We still expect further legislative activity on other targeted bipartisan reform efforts to modify the ACA. One issue in particular – the "30-hour work week" fix – could be a topic for debate as the employer mandate goes into full effect, not to mention Democratic frontrunner Hillary Clinton hinting at opposition to the rule. While Republicans and some Democrats will be eager to demonstrate their policy prowess heading into an election year, amending the Affordable Care Act may be difficult given the busy agenda rolled out by the Senate Finance Committee and the Committee on Health, Education, Labor, and Pensions, who would oversee any proposed revisions to the health care law.

ML Strategies will continue to monitor these developments.

## All Things ACA

**Speaker Ryan Vows to Unveil Obamacare Replacement:** House Speaker Paul Ryan told reporters that House Republicans will release their Obamacare alternative this year. It remains unclear how far Congressional Republicans will go with these proposals. Whether we see concepts or actual legislative text remains to be seen, especially as Senate Majority Leader Mitch McConnell expresses concerns about forcing votes on vulnerable Republicans in an election year.

**GOP Doctors Caucus to Propose its Own Plan:** Part of the problem the GOP faces with finding an Obamacare replacement is divergent views within its own party. The Caucus intends to combine Rep. Tom Price's Empowering Patients First Act (H.R. 2300) with the Republican Study Committee's American Health Care Reform Act (H.R. 2653). Both pieces of legislation have been in the public space for some time, but perhaps merging some of the key provisions can bring enough members together to rally behind the alternative.

**GOP Aides Not Optimistic:** As expected, many GOP aides and congressional observers see election year politics, and the tight legislative calendar, as hindering major reform efforts. Still, that should not stop members from floating ideas out there, making the political case now for action in 2017.

**Obama Courting Non-Medicaid Expansion States:** President Obama is proposing a new plan to offer three full years of federal funding for newly eligible beneficiaries in states who expand Medicaid. While Congress would have to pass the proposal – which is highly unlikely – the Administration is making one more pass at this, providing Democrats in certain states with viable talking points. The 19 states that have yet to expand Medicaid are: Alabama, Florida, Georgia, Idaho, Kansas, Maine, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming.

**Kentucky Dismantling Health-Care Exchange:** Despite being a bright spot among state-based exchanges, Kentucky's new Governor Matt Bevin announced he is following through on his campaign pledge to dismantle Kentucky's exchange, known as Kynect, with the goal of having the transition completed in time for 2017 enrollment.

**Co-Op Crisis Not Going Away:** Senate Finance Committee Chairman Orrin Hatch (R-UT) has scheduled a hearing to review the failed co-ops as a result of an Affordable Care Act funding shortfall. The hearing is scheduled for January 21 at 10:00AM with Acting CMS Administrator Andy Slavitt set to testify. With Slavitt's nomination still up in the air, and no confirmation hearing scheduled, this hearing is an important opportunity for him to establish credibility before the committee that will ultimately vote on his nomination.

## Prescription Drug Costs

**Drug Prices Increase 10 percent in 2015:** Analysis released last week by [TruVeris](#) shows that drug prices increased at a rate of 10.4 percent, making 2015 the third straight year of double-digit price increases.

**Institute of Medicine (IOM) to Review Drug Pricing:** IOM is establishing an ad hoc committee to examine patient access to affordable drugs, "with an emphasis on drug pricing, inflation in the cost of drugs, and insurance design." The announcement can be [found here](#) (via POLITICO).

**House Democrats Call for "March-in Rights:"** More than 50 House Democrats, led by Rep. Lloyd Doggett (D-TX), are calling on NIH to exercise its "march-in rights" to help lower the costs of prescription drugs. In statute, NIH has the authority to override a company's patent if its product is based on federally-funded research and not reasonably available to the public. NIH has rejected numerous requests to invoke this authority as it is seen highly controversial. However, given the focus on prescription drug costs, members will likely throw out every idea under the sun and see what sticks. A [Harvard Law School report](#) published last week on "march-in rights" explores how this authority would still fall short in addressing the drug pricing issue.

## Telemedicine

**ATA Releases 36 Telemedicine Codes:** The American Telemedicine Association (ATA) [is calling on](#) Medicare to cover 36 new telemedicine codes in 2017. None of the services requested are new; however, they are not covered when delivered via telemedicine. There is momentum around granting greater use of telemedicine services, and this is one part of that effort.

**CMS Unveils New ACO Model:** CMS [announced](#) a new Accountable Care Organization (ACO) model, known as the Next Generation Accountable Care Organization Model, which 21 organizations will be utilizing in 14 states. These ACOs will be able to utilize Medicare reimbursement for certain telemedicine services, which is significant as the trend of ACOs move forward.

**Humana Adds Telemedicine to Medicare Advantage Plans:** Following Aetna's announcement that it would offer certain telemedicine services, Humana announced its intention to offer telemedicine services in 12 states. Those states are: Arizona, Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Virginia, Washington, and West Virginia.

## Opioid Crisis Coverage

**Study Reveals Lack of Oversight in Dispensing:** A [study](#) conducted by the University of Boston found that more than 90 percent of individuals who overdose on prescription painkillers are able to get another prescription following that episode from the same doctor.

**CDC Moving Quick on Opioid Guidelines:** Last month, the CDC issued proposed guidelines for prescribing opioids for chronic pain, and is in the process of reviewing over 4,000 public comments prior to releasing a final guidance. CDC Director Thomas Frieden stated that addressing this issue is a top priority for 2016. A number of organizations that represent physicians have voiced concerns over the lack of evidence supporting the guidelines, considering most recommendations are based on low quality evidence by agency standards. A report on the findings is due January 28, 2016. To review the document, please [click here](#).

**Agriculture Secretary Tom Vilsack to Lead Inter-Agency Effort:** The Administration has pegged long-time Cabinet Secretary Tom Vilsack to lead an inter-agency team in addressing opioid addiction in rural areas. The choice reflects Vilsack's experience working on rural health care issues, as he has chaired the White House Rural Council since 2011, a group which consists of 15 departments and agencies.

## MedPAC Meeting Recap

**MedPAC Votes to Give Hospitals Full 2017 Payments:** In a most recent meeting, MedPAC voted to hospitals its full 2017 payment projected as 1.75 percentage points.

**MedPAC Calls For 340B Cuts:** MedPAC also called for cutting the 340B payment rates by 10 percent, directing those savings into uncompensated care, much to the ire of hospital groups and even PhRMA. This issue is not going away anytime soon and addressing it will remain very politically challenging.

**Calls for Limits on Health Risk Assessments:** MedPAC also agreed to limit the use of health risk assessments by Medicare Advantage plans. These plans often are awarded higher rates without follow-up care for conditions previously identified. Under this recommendation, a new risk adjustment model would be implemented using two years of data.

## In Other News

**Vice President Biden Moving Forward on "Cancer Moonshot":** Vice President Biden's launched into the cancer moonshot with a meeting with cancer researchers last week in Philadelphia, with the goal to bring all parties together and break down barriers to medical advances. Biden seems ready to make this his life's project, calling it

one of his most complex undertakings of his career. Where this goes in the next 12 months remains to be seen, but laying the groundwork for the next administration is important work and Biden is taking an all hands-on-deck approach, which should bring opportunities for both the public and private sector.

**CMS to Limit Special Enrollment Periods:** Acting CMS Administrator Andy Slavitt told stakeholders last week that CMS intends to cut some of the approximately 30 special enrollment periods offered to consumers. Insurers welcome CMS' decision to streamline special enrollment periods as it brings some certainty to the market.

**USPSTF Finalizes Breast Cancer Screening Guidance:** The U.S. Preventive Services Task Force published its finalized breast cancer screening [recommendations](#) last week. The task force stands by its guidance released earlier this year which advises women aged 50 to 75 to get biannual mammogram screenings, or a B rating, while advising women aged 40 to 49 to weigh the benefits of screening every two years, or a C rating. With a C rating, HHS is no longer required to cover such services with no copay, but a provision in the year-end spending bill ensures women aged 40 and over continue to receive mammograms with no cost sharing. This has and will continue to be a hotly contested issue.

## Hearings

### House of Representatives

No hearings scheduled.

### United States Senate

On Tuesday, January 19, the Senate Special Committee on Aging will hold a hearing titled, "Fighting against a Growing Epidemic: Reducing the Misuse and Abuse of Opioids in America."

On Wednesday, January 20, the Senate Committee on Health, Education, Labor, and Pensions will hold a hearing titled, "Improving the Federal Response to Challenges in Mental Health Care in America."

On Thursday, January 21, the Senate Committee on Finance will hold a hearing titled, "Healthcare Co-Ops: A Review of the Financial and Oversight Controls."

## The Last Word

**Senators Call for Emergency Funds in Fight Against Drug Epidemic:** Senators Angus King (I-ME) and Jeanne Shaheen (D-NH) are calling on the Congress to pass legislation which would provide \$600 million in supplemental funding for programs within the Department of Justice and Health and Human Services. The money would be divided between the relevant agencies to boost spending for state and local initiatives on drug treatment and enforcement, as well as funding for prevention initiatives, research on drug addiction, and programs targeting underage use of drugs and alcohol. This announcement comes on the heels of a request for President Obama to include funding for substance abuse in his 2017 fiscal year budget, which is due out in early February.

Senate Majority Leader Mitch McConnell (R-KY) indicated interest in taking up legislation to address the drug epidemic sweeping the nation, saying it's the number one issue for a lot of people, including leading Presidential candidates.

In response to this crisis, will we see Congress pursue new proposals or package new initiatives built on established efforts? If it is the latter, bills like the one introduced by Senator Shaheen have great value and will likely receive serious consideration. ML Strategies intends to closely follow this issue and the legislative efforts to address them.