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This week, House Republicans, joined by a few Democrats, passed 2 mainly symbolic bills that would:

- Repeal the health care law; and
- Instruct 4 committees to draft a new health care bill that would address 12 goals to:
 1. Foster economic growth and private sector job creation;
 2. Lower health care premiums through increased competition and choice;
 3. Preserve patients’ ability to keep their health plans;
 4. Provide people with pre-existing conditions access to affordable coverage;
 5. Reform the medical liability system;
 6. Increase the number of insured Americans;
 7. Protect the doctor-patient relationship;
 8. Provide the States greater flexibility to administer Medicaid programs;
 9. Expand incentives to encourage personal responsibility for health care coverage and costs;
 10. Prohibit taxpayer funding of abortions;
 11. Eliminate duplicative government programs and wasteful spending; and
 12. Not accelerate the insolvency of entitlement programs or increase the tax burden on Americans.

In addition, Representative Jim Matheson (D-UT) added an amendment to the second bill instructing the committees to include a permanent “fix” for the annual cuts to Medicare physician reimbursements.

During debate of the bills, Democrats touted a preliminary Congressional Budget Office (CBO) [estimate](#) that repealing the health care law would increase the deficit by \$230 billion over 10 years and leave about 32 million people without health insurance.

Speaker John Boehner (R-OH) and Republicans countered with an earlier [analysis](#) by the Centers for Medicare and Medicaid Services' (CMS) Actuary who estimated that the law would cost \$2.7 trillion when fully implemented.

The Administration responded that the President plans to veto the "repeal" bill if it passes the Congress.

IMPACT ON EMPLOYERS: In the near term, the House vote will have little impact on employer plans. Employers are implementing provisions of the law that take effect now and planning for future provisions. However, the vote does raise uncertainty about whether the law will change in the future.

Changes in the health care legal system will reduce the amount of employer dollars diverted from paying for needed, quality care toward frivolous lawsuits and defensive medicine.

Expanding incentives for personal responsibility will help assure more effective, efficient spending on health care.

IMPACT ON EMPLOYEES: Similarly, the House vote will have little impact on employees, but it does raise uncertainty about whether Congress will change the law in the future and the impact these potential changes will have on their health care benefits.

Employees could expect improved access to and reduced out-of-pocket costs for health care from effective medical liability reform, especially for high-risk services.

Employees may receive incentives for taking more responsibility for their own health care.

OUTLOOK: *Unlikely. The Democrat-controlled Senate will not repeal the health care law. With divided branches of government, we will likely see limited congressional action on health care in 2011. We do expect more regulatory flexibility; possible delays of some of the Affordable Care Act's provisions; possible defunding for implementation of some provisions; possible reductions or eliminations of some of the fees or taxes; and additional investigations and oversight related to the implementation of the law.*

The House Ways and Means Committee plans to turn its attention to overhauling the way Medicare reimburses physicians in February.

The House may pass a medical liability reform bill in the next few months, but it will also face substantial opposition in the Senate.

BACKGROUND: Employers have already begun to implement a number of the early provisions required under the health care law, including accounting for retiree drug subsidy (RDS) taxes; deciding whether or not plans should maintain their grandfathered status; eliminating lifetime limits; applying for the early retiree reinsurance program; adding adult dependent coverage; implementing health account changes for over-the-

counter drugs; and providing break times and accommodations for nursing mothers. The federal government has also begun to implement a number of the health care payment and delivery reforms. The health care law's big changes, the employer mandate, the exchanges, tax credits, and the "Cadillac" tax don't come on line for several years. Thus, Congress has time and a Presidential election before it may deal with the big provisions.

NATIONAL BUSINESS GROUP ON HEALTH'S VIEW ON THESE ISSUES: The Business Group believes that employers must continue to have the flexibility under ERISA to determine the types of benefits they offer and to tailor benefit plans to the specific needs of their employees and the circumstances of their companies.

The Business Group urges Congress to tie physician reimbursements to performance on quality and safety and use of health information technology in any reform of Medicare's physician payment system and along with any restoration of planned reimbursement cuts.

The Business Group supports reforms to the health care legal system that would improve patient safety and eliminate frivolous lawsuits—caps on non-economic damages in malpractice lawsuits; a 3 year statute of limitations after the date of injury or one year after injury discovery; a restriction on attorney contingency fees; limits on attorney fees based on award value; federal jurisdiction for health care litigation and strengthened criteria for the expert witness rule to ensure accurate medical opinions.

➤ CONGRESS PLANS FIRST ROUND OF 2011 HEARINGS ON THE HEALTH CARE LAW

Republicans have already started their efforts to rewrite the health care law with a House Judiciary Committee hearing this week on medical liability reforms. Democrats in the Senate and Republicans in the House have also scheduled additional oversight hearings on the health care law next week including, a:

- Senate Health Education, Labor and Pensions (HELP) Committee hearing, Chaired by Senator Tom Harkin (D-IA), on the health care law's consumer protections;
- House Ways and Means Committee hearing, Chaired by Representative Dave Camp (R-MI), on the impact the health care law will have on the U.S. economy and employers' ability to hire new workers and retain existing employees; and a
- House Budget Committee hearing, Chaired by Representative Paul Ryan (R-WI), on the fiscal consequences of the new health care law with testimony from CMS' Actuary.

House Energy and Commerce Committee Chair Fred Upton (R-MI) and Subcommittee on Oversight and Investigations Chair Cliff Stearns (R-FL) also sent a [letter](#) to the Department of Health and Human Services (HHS) this week seeking more information about the Administration's waivers of certain groups, including "mini-med" plans, from the health care law's requirements and to explain why HHS moved the main agency implementing the insurance reforms from HHS to CMS.

IMPACT ON EMPLOYERS: In the near term, the congressional hearings will have little impact on employer plans. Employers are implementing provisions of the law that take effect now and planning for future provisions. However, to the extent the hearings address concerns that employers have about provisions in the law, including its impact on costs and plan administration; employers could see positive changes in the future.

IMPACT ON EMPLOYEES: Similarly, the congressional hearings will have little impact on employees, but it does raise uncertainty about whether Congress will change the law in the future and the impact these potential changes will have on their health care benefits.

OUTLOOK: *Democrats in the Senate will hold a series of hearings in the next few months touting the benefits of the health care law. Conversely, House Republicans will initiate additional investigations and oversight related to the implementation of the law.*

BACKGROUND: Senator Harkin previously announced hearings on the new health care law's benefits on a variety of topics, including how the law holds insurers accountable; benefits small business owners; reduces the deficit and promotes economic growth; increases health care quality and reduces waste, fraud and abuse; makes significant prevention and wellness investments; allows Americans to change jobs without losing coverage; and expands coverage.

House Republican Committee leaders promised during the last elections that they planned to conduct hearings that would require Administration officials to defend the health care law. They also plan to withhold funding for as many provisions of the health care law as possible, beginning with stop-gap funding for the federal government that expires in March.

NATIONAL BUSINESS GROUP ON HEALTH VIEW ON THESE ISSUES: The Business Group supports reducing the uncertainty surrounding implementation of the law.

The Business Group plans on submitting testimony to the House Ways and Means Committee hearing on the impact the health care law will have on employers.

If you would like more details on these or other issues or would like a phone briefing on legislation, or want to express concerns about specific issues, please contact Steven Wojcik, Vice President, Public Policy at Wojcik@businessgrouphealth.org or 202-558-3012. **Also, as part of our "Ask a Benefits Question" service, we are happy to respond within 24 hours to any health benefits question on policy, regulations or legislation.**

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