

Washington Business Health Update

From the National Business Group on Health

Vol. XX, No. 14 November 4, 2010

IN THIS ISSUE:

➤ **WHAT THE 2010 ELECTION MEANS FOR THE FUTURE OF THE NEW HEALTH CARE LAW**

➤ **WHAT THE 2010 ELECTION MEANS FOR THE FUTURE OF THE NEW HEALTH CARE LAW**

Despite Republican campaign rhetoric to “repeal and replace” the new health care law, the Tea Party’s adamant opposition to it, and President Obama’s recent stated willingness to “tweak” it, don’t look for any major changes in the law in the near future.

We will not see any major changes for a number of reasons. First, the President is unlikely to sign onto legislation making big changes in his signature law. The “tweaking” he has talked about refers mainly to a tax provision unrelated to health care though it is a nuisance for business. Second, Congress must make the economy and jobs its number one focus and Republicans know that spending the next year fixated on undoing the health care law is not the message that voters sent to Washington on Tuesday. Finally, the big changes, the individual mandate that spurred such angst two summers ago and fueled the Tea Party, 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. The net pick up for Republicans of 10 state governorships (29-17) is likely to be of even more significance for the law than the change in control of the House. It will affect the willingness of states to create exchanges and expand Medicaid, the key ways the law planned to increase access to coverage and also the big ticket items for both the states and the federal taxpayers.

What we are likely to see in the near future are more of the recent increased regulatory flexibility toward implementation of the law, possible delays in effective dates, potentially some diminished funding for implementing some parts of the law, and possibly reductions in some of the taxes and fees imposed by the law.

On other health care issues, we are likely to see a Congress more willing to look at additional options for coverage in the individual and small group markets like the ability to buy insurance across state lines if at least one state has approved it and the ability for small employers to band together to purchase insurance jointly. These are efforts supported by the likely Speaker, John Boehner (R-OH), a former small businessman himself. We are also likely to see support for health savings accounts, health flexible spending accounts, and consumer-directed health care as the upcoming Republican House leadership, including Eric Cantor (R-VA), likely majority leader, Dave Camp (R-MI), likely chair of the Ways and Means Committee, are big fans. (One area where we

could possibly see some immediate changes could be a rolling back of the ban on the use of FSAs for OTC medicines). Rep. John Kline (R-MN), likely chair of the Education and Labor Committee, is a strong supporter of ERISA, which also bodes well for employer plans. We are also likely to see greater focus on efforts to control costs both in Medicare and private health care costs in the new Congress.

Turning to the results, Republicans netted a pick up of 34 seats lost by Democratic incumbents in the House and picked up a significant number of the open previously Democratic seats to hold 239 seats to 186 for Democrats, with 10 seats still undecided. In the Senate, the Republicans took control of 6 previously Democratic seats leaving the Democrats still in control but with a slimmer margin of 51-47 seats (includes Alaska though the race is still undecided between the Republican candidate and the write-in Republican incumbent running as an independent). Joe Lieberman (I-CT) caucuses with Democrats but does not always vote with them and is not included in these figures. The Senate race in Washington State is still too close to call for the incumbent Democrat or the Republican challenger and is also not included.

Link to the latest 2010 election results:

<http://www.washingtonpost.com/wp-srv/special/politics/election-results-2010/>

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 202-585-1812. **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.**

This material is provided for information purposes only and is not a substitute for legal advice.

Steven Wojcik
Vice President, Public Policy
National Business Group on Health
202-585-1812
wojcik@businessgrouphealth.org