

ALSTON & BIRD



Health Care Legislative Update and Outlook NCCMP Virtual Conference October 14, 2020

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COVID Relief Update



March – April

- Swift action on multiple relief bills
- \$2.3 trillion estimated cost (CBO)

Oct. 7-?: WH halts negotiations, then offers \$1.8 trillion

Oct. 1: House passes “Heroes II” (HR 925)

- \$2.2 trillion est. cost

Sept. 10: Senate GOP “skinny bill”

- Failed to advance in the Senate on a procedural vote of 52-47 (60 votes needed to proceed)
- Rand Paul (R-KY) only Republican vote against
- \$650 billion est. cost

July 27: Senate GOP HEALS Act

- Combination of 8 separate bills.
- \$1.1 trillion est. cost

May 15: House passes Heroes Act (HR 6800)

- \$3.4 trillion est. cost





COBRA Subsidy

Heroes I:

- Builds on precedent from the American Recovery and Reinvestment Act of 2009
- 100% subsidy for the cost of COBRA coverage
 - Special rules for furloughed employees for the employee portion of the premium
- Available if coverage lost due to a significant reduction in hours or termination of employment (other than a voluntary termination)
- Up to 11 months of subsidy (March 1, 2020 through Jan. 31 2021)
- Subsidy is paid directly by the federal government to the multiemployer plan
- Expediated process for payment of the subsidy on an advanced basis

Heroes II:

- Not included
- Provides open enrollment for exchange coverage and expansion of ACA subsidies



December 11: Federal Government funding runs out





Election Impact

Divided Government

Status quo: More of the same

Biden wins; D House/Sen. GOP

- Rescind Trump administration rules (e.g., AHPs, short-term plans, nondiscrimination rules)
- Use of rule-making power to shore up ACA and overcome GOP Senate
- Significant increase in ACA outreach and enrollment & emphasis on Medicaid expansion
- Compromise required for legislation

Winner Take All

Dem Sweep

- Legislation to protect and possibly expand the ACA – intraparty struggle with public option proposals
- Drug pricing legislation
- Insurance and affordability focus
- Pandemic/Supply chain reform

GOP Sweep: ACA repeal/replace



Three Key Issues

- SCOTUS decision on constitutionality of ACA (*California v Texas*)
 - Oral argument Nov. 10
 - Decision likely in June 2021 (but could be earlier)
 - Election outcome will impact legislative/administration response
- Role of employment-based plans in providing health coverage
 - Tax issues
- Issues specific to multiemployer plans



Thank you!