

## September Health Care Round-up: Legislative Activities and Deadlines of Note

+Insights

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Congress will have a long to-do list as members return from their August recess. While outright repeal and replacement of the Affordable Care Act seems unlikely, there are still high-priority health care items that Congress must attend to.



As Congress returns to Washington this week, it faces a daunting to-do list of critically important legislative items. These must-pass measures include raising the U.S. debt ceiling to avoid default on necessary payments, approving a disaster relief package to support the Hurricane Harvey recovery effort (and possibly adding Hurricane Irma funds if needed) and enacting a federal budget agreement prior to the end of the current fiscal year on September 30. Given the necessary focus on these fundamental items, the bandwidth for continued action on a broad effort to repeal and replace the Affordable Care Act (ACA) is limited. However, Congress is expected to discuss reform proposals to stabilize the market for individuals purchasing insurance through the exchanges, and pursue reauthorization of the historically bipartisan Children's Health Insurance Program (CHIP) before current funding expires at the end of the month.

### Congressional must-dos for September:

- ✓ Address U.S. Debt Ceiling
- ✓ Disaster relief funding
- ✓ Continuing Resolution (short-term federal funding agreement)
- ✓ CHIP reauthorization
- ✓ Possible ACA reforms

During the August recess, the repeal and replace debate shifted to activities that would target specific portions of the ACA needing improvement rather than driving towards broad repeal of the current law. Sen. Lamar Alexander, Chairman of the Senate Health, Education, Labor and Pension (HELP) Committee, announced his panel will hold a series of hearings in September focused on market stabilization solutions that could be acceptable to members on both sides of the aisles. The first of these hearings is scheduled for [September 6<sup>th</sup>](#) and will feature testimony from the state insurance commissioners of Alaska, Oklahoma, Pennsylvania, Tennessee and Washington. The second hearing, [scheduled for the following day](#), will include testimony from the governors of Colorado, Massachusetts, Montana, Tennessee and Utah. Additional HELP hearings are scheduled

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for [Sept. 12<sup>th</sup>](#) and [14<sup>th</sup>](#), and are expected to feature testimony from various stakeholder groups and possibly state and federal agency officials. The Senate Finance Committee, which shares jurisdiction over health care issues, has scheduled a [reform hearing on health care costs and coverage for September 12<sup>th</sup>](#), and the House is expected to continue its discussion of specific legislative fixes to address more narrow ACA provisions.

### September Health Care Legislative Priorities:

- ✓ ACA market stabilization
- ✓ CHIP renewal prior to Sept. 30
- ✓ Expiring Medicare payment programs

Given the more targeted focus on bipartisan market reform, several potential policy solutions have emerged from interested stakeholder groups and subject experts. [Last week, a group of eight Democratic and Republican governors](#), led by Govs. Kasich and Hickenlooper, sent a letter to congressional leaders proposing specific actions the federal government should take to buttress state insurance markets. These solutions included the following:

1. Fund Cost-sharing Reduction subsidies through 2019
2. Renew and extend the stabilization fund with suggested funding level of \$15 billion
3. Encourage plans to enter underserved counties
  - Exempt plans entering these markets from ACA insurer tax
  - Allow residents in these areas to buy federal employee (FEP) coverage
4. Retain individual mandate until reliable alternative can be identified
5. Increase enrollment to stabilize risk pool
  - Increase outreach, especially to younger populations
  - Fix family glitch that disqualifies some people from coverage even when they do not have affordable employer insurance option
6. Ensure appropriate enrollment
  - Verify qualifications during special enrollment period
  - Shorten coverage grace period if premiums are not paid
  - Limit exchange enrollment for people who qualify for other programs (Medicare, Medicaid, etc.)
7. Stabilize risk sharing programs
  - Strengthen and fund federal reinsurance and risk adjustment programs

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8. Allow state flexibility on Essential Health Benefits
    - Give states more ability to pick reference plans for EHBs under section 1332
  9. Improve regulatory environment
    - Don't pre-empt or duplicate state regulation
    - Review NAIC recommendations on market reform
  10. Support the section 1332 waiver process
    - Ease the ability of states to obtain waivers under section 1332 but do NOT allow states to waive guaranteed issue, community rating, dependent coverage up to 26, lifetime coverage limits or preventive care mandates
  11. Pursue payment innovation to contain costs
    - Improve transparency on quality and pricing information for consumer using tools such as an all payer claims database
    - Allow states to participate in multi-payer state innovation models
    - Align value based purchasing initiatives across federal agencies

Similar concepts can also be seen in the proposals released this summer by the [National Association of Insurance Commissioners](#) (NAIC), the bipartisan [Problem Solvers Caucus](#) in Congress and a [group of 9 bipartisan health care thought leaders](#), including Joe Antos, Stuart Butler, Lanhee Chen, John McDonough, Ron Pollack, Sara Rosenbaum, Grace-Marie Turner, Vikki Wachino and Gail Wilensky. Senators Graham and Cassidy also drafted [an alternative health reform plan](#) in July that emphasizes some market reform and increased state flexibility but includes Medicaid reforms, such as block grants, that are less likely to garner bipartisan support.

Congress will also need to accelerate its slow moving effort to reauthorize CHIP before Sept. 30 to avoid disruption to the program that states rely on for coverage of nearly nine million children. Senator Orrin Hatch, one of the original sponsors of the CHIP program and Chairman of the Senate Finance Committee, has [scheduled a hearing to discuss the reauthorization this Thursday, September 7](#). Traditionally, CHIP funding is strongly supported by leaders on both sides of the aisle, and reauthorization of the program rarely is controversial. However, given the incredibly politicized environment of the recent health reform debate, reauthorizing CHIP may get entangled with the broader legislative health policy discussions. In light of the Senate Parliamentarian's recent decision that the current reconciliation instructions serving as the foundation for the Republican ACA repeal effort will expire on September 30<sup>th</sup> as well, it is possible that these two issues may cross or converge in a very tight race to the finish line for both.

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Finally, Congress also must contend with a variety of expiring Medicare payment programs, such as enhanced payments for low-volume hospitals, Medicare-dependent Hospitals, ambulance services; continued funding for federally qualified health centers; and others.

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