

McDermottPlus Healthcare Preview

WEEK OF JANUARY 6, 2020



Welcome Back!

- + **RECAP OF WHERE WE LEFT OFF.** The last few weeks of 2019 were busy in the world of healthcare policy. Congress funded the healthcare extenders until May 22, 2020 in the year-end spending package, but failed to address prescription drug pricing or surprise billing. As a result, the first few months of 2020 are likely to look a lot like 2019, as Congress will again look for a long-term extension of the healthcare extenders and will need a pathway to pay for it.
- + Congress has already done a lot of the heavy lifting in developing policies and legislative language on long-term solutions for the extenders, surprise billing, and prescription drug reforms. Theoretically, they could move quickly to address the issues if House and Senate leadership were inclined to do so. However, they were not so inclined the week of December 16th when lawmakers were scrambling to reach a deal, so it is unlikely they will be more inclined today to address these policies issues. We will be watching for signals of how Congress plans to address these issues in the first half of 2020.
- + Additionally, we closed the year with a ruling from the Fifth Circuit on the *Texas v. Azar* case. The ruling found the Affordable Care Act's (ACA) individual mandate unconstitutional; however, it did not affirm the part of the district court's ruling that struck down the rest of the ACA's provisions on grounds that they were not severable from the individual mandate. The Fifth Circuit did not decide the severability question; it instead sent the case back to the district court, instructing the judge to re-do the analysis of what parts of the law could remain intact. This decision is not a simple ruling for political purposes. For example, a ruling in favor of Texas could have allowed Democrats to campaign on the consequences of striking down the ACA and the importance of Supreme Court appointees. The group of Democratic attorneys general defending the ACA have asked the Supreme Court to review the case. If the Supreme Court takes up the case, which they could decide as early as this week, it would change the political calculus ultimately making the issue far more prominent in 2020.
- + **THE UNCERTAINTY OF IMPEACHMENT MATTERS.** The cloud of uncertainty regarding the President's impeachment factors into all policy moving into 2020. It is difficult for the Senate to commit to action at the committee level without clarity on next steps. We are watching for movement on this front, which could happen this week.

THIS WEEK IN THE SENATE

There are no health care related hearings in the Senate this week.

THIS WEEK IN THE HOUSE

Energy and Commerce Committee

[Legislation to Improve American's Health Care Coverage and Outcomes](#)

Wednesday, January 8th 10:00am

CONTACT INFO

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