**Public Policy Update – September 2017**

**By Brian Lindberg and Marly Santoro**

**Big Picture**

**With a short legislative calendar this month, big deadlines are quickly approaching. In a surprising move, President Trump brokered a deal to fund the government and raise the debt ceiling through December 8, and provide initial funding of $15 billion for Hurricane Harvey relief. Congress will now focus its efforts on the annual defense authorization bill, reauthorization of the Children’s Health Insurance Program and the Federal Aviation Administration, appropriations bills, and the** Deferred Action for Childhood Arrivals, or DACA**. Lawmakers will also need to keep the National Flood Insurance Program funded past September 30. Funding for disaster relief for Florida and other southern states will also be requested.**

**Debt Deal Details**

On September 6, President Trump shocked Republicans by making a deal with Democrats to prevent a government shutdown, raise the debt ceiling, and provide hurricane relief funding. Senate Minority Leader Chuck Schumer (D-NY) called the deal a “happy ending” that was for the “good of the nation.” House conservatives expressed disappointment that no meaningful spending or entitlement reforms were included in the deal. The White House suggested that the deal would provide time for Congress to work on tax reform.

On September 7, the Senate approved the proposed package (H.R. 601) with an 80-17 vote. The measure was subsequently passed in the House 316-90 and sent to the President who signed it on September 8. A contingent of House Republicans tried unsuccessfully to derail the bill. Senate Majority Leader Mitch McConnell recently stated that although Congress will need to address appropriations again this year, they will not vote again this year to raise the debt ceiling.

**FY 2018 Budget and Appropriations**

Budget - Neither the full House or the Senate have passed FY 2018 budget resolutions. The Senate Budget Committee continues to work on its budget resolution for FY 2018, with few details released and a high likelihood that it will be a shell budget used to secure reconciliation instructions from key committees for tax reform. On the House side of Capitol Hill, Budget Committee Chairman Diane Black (R, TN-6th) has requested that the committee-passed bill go to the floor regardless of opposition from conservatives. Conservatives who oppose the committee budget have argued that they must see the details of the tax overhaul plan before voting on the budget because this budget will be the vehicle that will eventually lead to a budget reconciliation package that will include the tax plan and would only need a simple majority to pass in the Senate.

Appropriations - The aforementioned Trump debt limit deal included FY 2018 funding to keep government running until December 8, but the House continues its marathon-like work on an omnibus appropriations package (H.R. 3354) that consolidates the House appropriations bills into one bill. It has little chance of passing in the Senate. Work on the bill had been delayed because of Hurricanes Irma and Harvey. The House Rules Committee has allowed many amendments to be offered during consideration of the omnibus appropriations bill but most are losing on party-line votes. For example, an amendment to restore the $4 million dollars that was cut from the Geriatrics Workforce Enhancement Program (GWEP) was offered by Rep. Grace Meng (D, NY-6th) but was defeated on September 12. Also, defeated was an amendment by Rep. Suzanne Bonamici (D, OR-1st) to increase OAA Title III services (B, C and E) to levels that were passed last year in the bipartisan reauthorization. An amendment offered by Rep. Martha McSally (R, AZ-2nd) and Elise Stefanik (R, NY-21st) to increase funding for OAA Title III B Supportive Services by $14 million to its authorized level is likely to pass. The omnibus bill includes the **Labor, Health and Human Services, Education and Related Agencies spending bill detailed in previous updates.**

Senate appropriators have continued their work on separate bills that will, at some point, be the basis for compromise with the House omnibus bill. If a compromise is not forthcoming, sequestration (i.e., across the board cuts) will be needed. House Democratic Whip Steny Hoyer (D, MD-5th) has stated that the Democrats would prefer to remove the Budget Control Act (PL 112-25) that created the spending caps rather than to continue with short-term deals to temporarily raise discretionary spending levels.

**On September 7, the Senate Committee on Appropriations approved its FY 2018 Labor, HHS & Education spending bill. The Senate measure provides $164.1 billion in base discretionary funding for the Department of Labor, Department of Health and Human Services (HHS), and Education. It is $3.0 billion above the FY 2017 funding levels and $27.5 billion above the President’s budget request. Highlights in the bill include:**

* **$2.0 billion increase for the National Institutes of Health**
* **$2.5 billion for the National Institute on Aging, a $1.2 billion increase**
* **$38.7 million for Geriatric Programs, flat funded with FY 2017**
* **$32.8 million for Area Health Education Centers (AHECs), a $2.5 million increase**
* **$47.1 million, level funding with FY 2017 to the State Health Insurance Programs (SHIPs)**
* **A decrease of $11 million to the Corporation for National and Community Service. This includes $202 million for Senior Corps, level funded with FY 2017.**
* **Older Americans Act programs were level funded at FY 2017 levels.**
* **See more here** <https://www.appropriations.senate.gov/news/majority/committee-approves-fy2018-labor-hhs-and-education-appropriations-bill>

**Bipartisan Effort on Healthcare Reform and More**

**The U.S. Senate Committee on Health, Education, Labor & Pensions (HELP) is holding at least four hearings on a bipartisan healthcare approach with testimony from governors, state insurance commissioners, and healthcare stakeholders. The goal of the hearings is to lead to passage of a bill by the end of September to stabilize individual insurance markets for 2018 and fund the Affordable Care Act’s (ACA) cost-sharing reduction payments. Senate Democrats will likely push to restore ACA outreach funding (the Administration slashed 90 percent of outreach funds) in the bill the Senate HELP Committee is negotiating. Disagreements on the Committee may also include the level of flexibility that states will be given to redesign their health care programs under waivers. Passing the bipartisan bill in the full Senate and House will be a challenge for lawmakers who failed to address the ACA for seven months. Finance Committee Chairman Orrin Hatch has already come out in opposition to authorizing funding for the ACA’s cost-sharing reduction payments made to insurers.**

**In addition, there is another effort brewing to repeal and replace the ACA. Senators** Graham (R-SC), Cassidy (R-LA), Heller (R-NV) and Johnson (R-WI) have released their block grant proposal. See the press release, section-by section analysis, and more at [Senator Cassidy’s website here.](https://www.cassidy.senate.gov/newsroom/press-releases/senators-introduce-graham-cassidy-heller-johnson)

Also, here is the Families USA bill analysis: <http://familiesusa.org/product/graham-cassidy-proposal-gigantic-block-grants-and-huge-health-care-cuts>.

In a related health care development, Finance Committee leaders Orrin Hatch (R-UT) and Ron Wyden (D-OR.) announced that they have reached an agreement to extend the Children's Health Insurance Program (CHIP) for five years. The program’s authorization ends September 30.

**Eyes on Tax Reform**

**On August 30, President Trump made a speech in Springfield, MO, to rally support for tax reform, one of his top legislative priorities. The speech is the first in a series of tax reform events for the President. To date, the White House has not delved into policy details, such as specific tax rates.** Trump called tax reform a "once in a generation opportunity" and said he doesn't "want to be disappointed by Congress" on the issue.

**House and Senate Republican leadership are eager for a legislative win and hope to fulfill the pledge to reform the tax code this year. Lawmakers will likely use the same reconciliation rules as they did for healthcare reform to prevent a filibuster from Senate Democrats.**

**Senate Passed the Elder Abuse Prevention and Prosecution Act**

**On August 1, the Senate passed the Elder Abuse Prevention and Prosecution Act (S. 178). The bill would increase the ability of the federal government to address cases of abuse and exploitation of older Americans. Moreover, the legislation would require enhanced training and knowledge of Federal prosecutors regarding elder justice; improve data collection about elder abuse, and establish a designated Elder Justice Coordinator in each Federal Judicial District as well as within the Department of Justice. The bill now moves to the House. Bill text:** <https://www.congress.gov/bill/115th-congress/senate-bill/178/text>

**Proposed Rule: Nursing Home Binding Arbitration**

**On August 7, the Elder Justice Coalition (EJC) submitted a comment to the Center for Medicare and Medicaid Services (CMS) opposing the proposed rule which would allow the use of pre-dispute binding arbitration agreements in nursing home admission contracts. The EJC described how the proposed rule would force individuals and their families to make decisions prior to any dispute occurring; restrict resident choice by making residents and families feel they have no choice but to sign the agreement; and lessen the degree of nursing home accountability for poor care, abuse and neglect.**

**Read the EJC Letter to CMS here:** <http://nasuad.org/sites/nasuad/files/Elder-Justice-Coalition-arbitration-letter.pdf>

**ACL Releases National Data on Adult Maltreatment**

**The Administration for Community Living (ACL) released the first-ever national data on the abuse of older adults and adults with disabilities. The report is based on data from the first year of the National Adult Maltreatment Reporting System (NAMRS). NAMRS is a voluntary data reporting system that collects data from state and local Adult Protective Services systems. For the data collection, 54 out of 56 states and territories contributed to NAMRS in its first year.**

**View the NAMRS report:** <https://www.acl.gov/sites/default/files/news%202017-08/NAMRS2017_Report_Release-1.pdf>

**National Center on Law and Elder Rights has New Home**

The new National Center on Law and Elder Rights (NCLER) was created by the non-profit Justice in Aging under contract with ACL and the Administration on Aging. NCLER is a national resource center for the legal services and aging and disability networks that is focused on the legal rights of older adults. The Center combines monthly trainings, case consultations, and technical assistance from Justice in Aging, the American Bar Association Commission on Law and Aging, the National Consumer Law Center, and the Center for Social Gerontology. Receive notice of training and resources: <https://ncler.salsalabs.org/nclersignup/index.html?eType=EmailBlastContent&eId=ac412cad-bddb-48a1-88a4-e64cab86e54a>

**CMS Letter on Special Needs Trusts**

**On August 2, CMS released a letter to State Medicaid Directors outlining changes to Special Needs Trusts and Medicaid eligibility determinations. The letter reflects an outcome of the 21st Century Cures Act, which altered the statute on the creation of Special Needs Trusts. Prior to the Cures Act, only parents, grandparents, legal guardians or a court could establish a Special Needs Trust. Under the new law, the Act adds “the individual” (i.e., the trust beneficiary) to the list of people who may establish a special needs trust on the individual’s behalf. The change became effective on December 13, 2016. Letter:** <https://www.medicaid.gov/federal-policy-guidance/downloads/smd17001.pdf>

**Cognitive Impairment Toolkit for Primary Care Providers**

The Gerontological Society of America (GSA) has created a free online resource called the KAER toolkit to help primary care providers achieve greater awareness of cognition in older adults, increase detection of cognitive impairment, conduct diagnostic evaluations and provide referrals for community resources. Access the toolkit: <https://www.geron.org/programs-services/alliances-and-multi-stakeholder-collaborations/cognitive-impairment-detection-and-earlier-diagnosis>

**Native American Aging Programs**

From n4a: “A new n4a report finds that Title VI Native American aging programs enable tribal elders to live with independence and dignity in their homes and communities, but face unique challenges in providing services. The new report, National Title VI Program Survey: Serving Tribal Elders Across the United States, was released today.” (September 13, 2017)

<https://www.n4a.org/Files/Title%20VI%20Survey/Title%20VI%20Program%20Survey_508.pdf>