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NAHU and Advocacy

- NAHU conducts advocacy efforts at the state and federal levels of government to advance the interests of health insurance professionals and to promote affordable and responsible financing of private health care.
- NAHU is a non-partisan organization.
- The Government Affairs team works to build relationships with members of Congress and the administration to effect legislation and regulation, and works with state chapters to have a lobbying presence in all 50 states.

Current Politics

- Although Democrats control the House, Senate and White House, the majorities are narrow (1 vote in Senate and 11 in House)
- Only 3 times has Senate been evenly divided.
  - Latest was in 2001 when Republican Trent Lott and Democrat Tom Daschle forged a power-sharing agreement that last five months, broken when Sen. Jeffords changed from Independent to Democrat

Implications of 50-50 Senate and Narrow Democratic House

Policy

- Legislation with bipartisan support but opposed by a majority of Senate Republicans will now get a vote, and some of those bills will become law.
- Using his power to bring up legislation, Majority Leader Schumer can now force votes on issues that have support on both sides of the aisle.
- It will still take the support of at least 10 Republicans to overcome a filibuster.

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Implications of 50-50 Senate and Narrow Democratic House

Reconciliation

- Reconciliation, the process used to pass the Trump tax bill, Affordable Care Act, and the Bush tax bills with simple majority votes, is now back in play.
- Reconciliation can only be used for revenue/direct spending items
- Proposal needs bipartisan support or unanimous Democrat support.
- For example, in 2001 with a 50-50 Senate, the Bush tax bill was passed using reconciliation with bipartisan support of 58 Senators.
- There are 3 reconciliation options available to be used in 2021 and 2022.

Budget Reconciliation 1: COVID-19 Relief
American Rescue Plan

AMERICAN RESCUE PLAN

Exchange Subsidies

- An adjustment to the premium tax credit guidelines would temporarily – for this year and next year – eliminate the income cap for premium subsidies. That means that – regardless of income – no one would have to pay more than 8.5 percent of their household income for the benchmark plan.
- Subsidies would phase out gradually as income increases. Plan buyers would not be eligible for a subsidy if the benchmark plan’s full price would not be more than 8.5 percent of the household’s income.
- Subsidy enhancements will be retroactive to the start of 2021. Current enrollees will be able to start claiming any applicable extra subsidy immediately, or they can wait and claim in on their 2021 tax return. The additional premium subsidies would also be available for 2022, but would no longer be available as of 2023 unless additional legislation is enacted to extend them.

Budget Reconciliation 1: COVID-19 Relief
Biden Administration & 117th Congress

AMERICAN RESCUE PLAN	**COBRA** ▪ Under the relief bill, the government would pay the entire COBRA premium from April 1 through Sept. 30. ▪ A person who qualified for new, employer-based health insurance someplace else before Sept. 30 would lose eligibility for the no-cost coverage. And someone who left a job voluntarily would not be eligible, either. **Dependent Care FSAs** ▪ For 2021 — and only for 2021 — you could set aside \$10,500 in a dependent care account instead of the normal \$5,000. But employers would have to allow the change

Budget Reconciliation 1: COVID-19 Relief Biden Administration & 117th Congress

AMERICAN RESCUE PLAN

Unemployment and Economic Stimulus

- $300 a week in unemployment benefits through Sept. 6 and up to $10,200 in tax relief for unemployed workers.
- Up to $1,400 checks with tighter eligibility restrictions

PPP loans and Aid to Businesses

- $7.25 Billion added to PPP loans, extends eligibility to larger nonprofits
- $15 Billion added to Economic Injury Disaster Loan (EIDL)
- Extends the Employee Retention Credit through 2021

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Implications of 50-50 Senate and Narrow Democratic House

What Else is Likely to Happen

- Two more reconciliation options will be available – one likely to be used in 2021 would probably used for infrastructure improvements **but might include a public option**.
- Other must-pass legislation could become a vehicle for other issues such as the Medicare trust fund pending insolvency in 3 to 4 years, expiration of sequester relief, expiration of the debt limit extension, Supreme Court ACA decision, end of fiscal year on Sept. 30
- **Other than reconciliation, expect to see fewer big legislative deals and continued flexing up of Executive Branch authority**

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Implications of 50-50 Senate and Narrow Democratic House

Filibuster

- There is no immediate threat of changing the filibuster rule, but pressure may build
- It would take the support of all 50 Democratic Senators to eliminate or reduce the 60-vote threshold of the filibuster rule
- Numerous Democratic Senators have said they oppose changing the rule, but that could change if virtually every bill, especially those with bipartisan support, is filibustered

Congressional Direction on Health Care

- House Democrats may push Medicare for all, but it is unlikely to pass given <u>narrow margins</u> and opposition within Democratic caucus
- Public Option could be in play but hard to see how it could overcome 60 vote requirement and opposition in Senate
- Also <u>would be unlikely to survive a Byrd Rule challenge</u> on reconciliation as any proposal would likely include a definition of what benefits would be available in a public plan, a violation of budget rules.
- Lowering Medicare age to 62 or 60 more likely but could be impacted by issues relating to Medicare solvency
- Meanwhile, states are proposing public options at a rapid pace
- Administration could advance public option plans at the state level through 1332 waivers

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Medicare Solvency

- Projected to become insolvent in 3-4 years
- Solvency will become a catalyst for reforms, and will be tied to an effort to extend the debt limit sometime after it expires on June 30, 2021
- Democrats will push for fee-for-service benefit expansions, including hearing, dental and vision benefits
- Difficult to see how hospitals and other providers would be cut during a pandemic but some items and services may be eligible for reform including nursing home payments, quality and staffing requirements, Medicare Advantage coding intensity adjustments, more aggressive risk sharing in provider models and expansion of site neutral payment policies

Biden on Health Care

- ACA Expansion
- Additional state dollars for reinsurance
- Expansion of ACA subsidies
- Changes to enrollment
- Cost sharing reduction subsidy payments through discretionary funding
- Tighten ACA rules
- Regulatory roll back of short-term plans to duration of up to 3 months and 1 renewal
- AHP rules will be revised and perhaps rescinded

Healthcare Policy Outlook: Biden Administration & 117th Congress

Affordable Care Act

- Unlike some of his opponents who directly supported single-payer or Medicare for all, President Biden called for protecting and building on the Affordable Care Act which may be easier to achieve legislatively with a 50-50 Senate and Democratic House.
- A public option will be unlikely, especially with moderate Senators like Jon Tester (D-MT), Kyrsten Sinema (D-AZ), and Joe Manchin (D- WV) inhabiting the Democratic Caucus
- Expect much of the Biden Administration's early months to be focused on undoing changes made by the Trump Administration, including limitations on short-term and association health plans, a new approach towards the use of 1332 waiver flexibility, addressing the "family glitch" in the ACA exchanges
- We have already seen a Biden Executive Order relating to a special enrollment period

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Healthcare Policy Outlook: Biden Administration & 117th Congress

Drug Pricing

- Similar to President-elect Biden's proposals on the ACA, major sections of his drug pricing proposals would also require legislative action.
- Concerns around the cost of prescription drugs run across the political spectrum and include proposals to redesign the Medicare Part D benefit, reform how Medicare Part B drugs are paid for, cap drug price increases in public programs to the rate of inflation, and encourage value-based purchasing for prescription drugs.
- If President Biden is unable to achieve his drug pricing agenda legislatively, he would likely have to rely on regulatory action; key areas of focus could include a continuation of President Trump's international reference pricing efforts, other potential reforms of the Medicare Part B reimbursement system, and modifying Part D's protected classes.

Surprise-Billing Ban, Broker Compensation Disclosure & More

- This surprise-billing ban will hold patients harmless from surprise medical bills (including from air ambulance providers) in both emergency situations and certain non-emergency situations where patients do not have the ability to choose an in-network provider
- For other claims, this new surprise-billing agreement utilizes arbitration
    - NAHU has opposed arbitration as a solution to this problem, as we believe it could drive up costs for consumers in the long run
    - Additionally, some private-equity firms have turned this kind of billing into a robust business model, buying physician staffing groups and moving the providers out of network so they could bill larger fees
    - However, this bill fortunately requires the arbiter to consider the median in-network rate for the service in question

Surprise-Billing Ban, Broker Compensation Disclosure & More

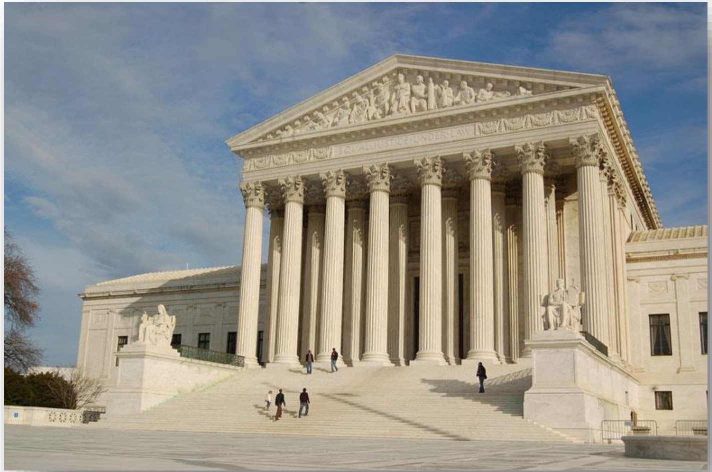
- The Omnibus Package also contains provisions on transparency, including disclosure of direct and indirect compensation for brokers and consultants to both employer-sponsored and individual-market plans
- While NAHU supports transparency in healthcare, we have made it clear to both the Trump Administration and Congress that such legislation is redundant, as similar requirements exist at the state level as well as through Form 5500 under ERISA
- In addition, these requirements could be a financial burden on carriers, employers, agents and brokers
- We expressed these concerns in many meetings with members of Congress to explain how transparent brokers already are regarding their compensation
- NAHU will be heavily involved in the regulatory process relative to these provisions

Surprise-Billing Ban, Broker Compensation Disclosure & More

- In regards to Flexible Spending Accounts (FSA), this legislation provides further flexibility for taxpayers to roll over unused amounts in their health and dependent-care FSAs from 2020 to 2021 and from 2021 to 2022
  - This provision also permits employers to allow employees to make a one-time 2021 mid-year prospective change in contribution amounts
- Since March, NAHU has repeatedly requested that Congress take action to allow for such a rollover for FSAs and we are pleased that this was included in the COVID section of the Omnibus bill

California v. Texas

- The U.S. Supreme Court heard oral arguments for California v. Texas, the case challenging the Affordable Care Act's (ACA) constitutionality, on November 10th 2020
- While the California v. Texas case questioning the constitutionality of the ACA loomed large in campaign rhetoric, the oral arguments on November 10th seemed to indicate the law will survive when the court rules sometime before July
- Nevertheless, a surprise ruling that finds critical parts of the law unconstitutional could jumpstart some very complex negotiations between Biden, and bipartisan congressional leadership on how to preserve the law



California v. Texas

- The justices' lines of questioning during a two-hour-long argument session suggest at least two members of the court's newly fortified six-justice conservative majority have reservations about overturning or undercutting the ACA.
- Justice Kavanaugh appeared to signal on several occasions that he favored leaving the rest of the law intact if the mandate is struck.
  - "I tend to agree with you that it is a very straightforward case under our precedents, meaning that we would excise the mandate and leave the rest in place," Kavanaugh said.
- Chief Justice John Roberts, who authored the two previous opinions upholding aspects of ACA, said the court should consider whether Congress in 2017 intended for the rest of the law to survive if the mandate was found unconstitutional.
  - "Here Congress left the law intact when it lowered the penalties to zero," Roberts said. "That seems to be compelling evidence on the question."

NAHU will continue to advocate on behalf of agents/brokers and your clients

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Priorities

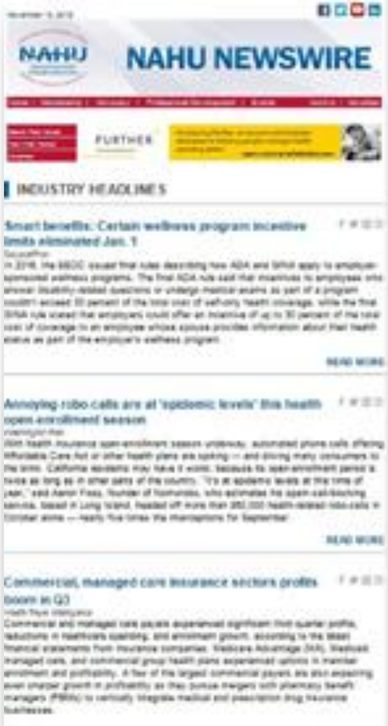
- Work with President and congressional leadership to determine the best approach and timing for change in our healthcare system.
- Continue to advocate for the need for valued guidance by health insurance agents, brokers, and consultants.
- Continue to advocate for a strong private health insurance market.

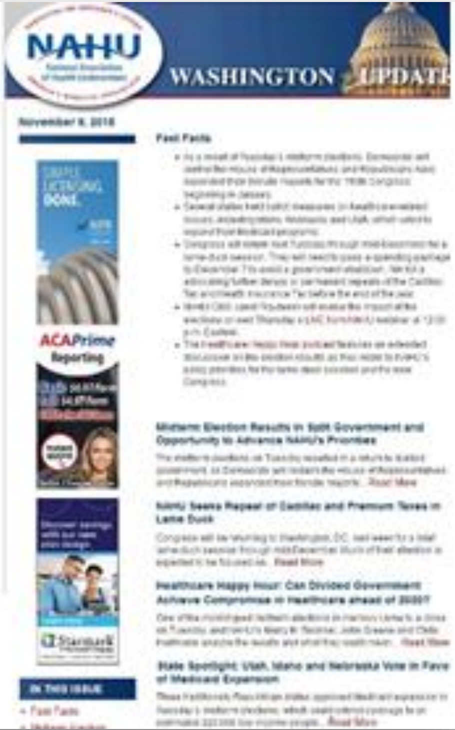
117th Congress

Join Us!

www.nahu.org

Cutting Edge Information





Get Engaged!

NAHU activates Operation Shout! to help members make their voices heard by policymakers.

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Operation Shout!

Take Action

NAHU is very concerned about ongoing discussions in Congress that would undermine the employer-sponsored health insurance system by eliminating or placing a cap on the employer tax exclusion for health insurance. More than 175 million Americans currently receive their coverage through this system, largely due to the tax exclusion where employers provide contributions for an employee's health insurance that are excluded from that employee's compensation for income and payroll tax purposes. Eliminating the exclusion would eliminate the incentive for employer-sponsored insurance while capping it would degrade the benefit and serve as a tax increase for middle-class Americans.

The employer-based system is highly efficient at providing American workers and their families with affordable coverage options through group purchasing and its associated economies of scale by spreading risk and avoiding adverse selection. Eliminating the exclusion would eliminate most of the benefits of employer-sponsored insurance, including the means for spreading risk among healthy and unhealthy individuals and group purchasing efficiencies. Capping the exclusion for employees would devalue the benefit and result in a significant tax increase for middle-class Americans, forcing many to drop employer-sponsored insurance, including dependent coverage. Employers would be incentivized to only offer coverage to their employees that would fall below the value of the cap in order to avoid paying any increased taxes, potentially resulting in a race to the bottom for employers to sponsor insurance that wouldn't meet the cap's thresholds and further shifting costs onto employees. Many of the inherent problems with the Cadillac/excise tax would exist for eliminating the employer exclusion such as setting a tax credit sufficiently high enough to cover the significant contribution made by employers today. Also, indexing a credit would need to be set to medical inflation if it is to keep up with the typical rise in healthcare expenses.

The employer exclusion tax benefit makes employer-sponsored health insurance a valuable benefit for workers. We urge Congress to maintain the system that has worked for Americans for decades, and preserve employer-sponsored health insurance through the continuation of the employer exclusion because it preserves the employer system for health insurance for the vast majority of Americans. Over the coming weeks, as Congress discusses various healthcare reform proposals, we want to be sure that they hear directly from agents, brokers and employers about the value of the employer tax exclusion. You can help us spread the message by taking action below:

1. **Contact your senators and representative.** Send an Operation Shout today asking your federal legislators to oppose the elimination or cap of the employer tax exclusion of health insurance in any healthcare reform legislative proposals. You can also call your legislators at the numbers below.
2. **Tell your employer clients to take action.** Your employer clients would be most directly impacted by the elimination or cap of the employer tax exclusion. Tell them to take action sharing why the exclusion must be preserved in any healthcare reform legislative proposals. **Tell them to take action here.**
3. **Share your story.** As a licensed insurance specialist who works closely with employers to help them offer and utilize employer-sponsored health insurance, you know personally about how the employer tax exclusion directly impacts your clients. Stories from your clients will demonstrate the value of the exclusion and the need to preserve it. We will share your stories with appropriate legislators and staff. **You can share your story here.**

Take action today and tell your federal legislators to keep the employer exclusion tax benefit!

Take Action

Don't want to send an email? No problem, you can also reach your legislators by phone:
Rep. George Holding (R) can be reached at (202) 225-3032.
Sen. Richard Burr (R) can be reached at (202) 224-3154.
Sen. Thom Tillis (R) can be reached at (202) 224-6342.

This call to action is designed as an email message to your legislators. You are welcome to use the prepared text as talking points to call your legislators, or to expand on the prepared message to share your personal story on how

HUPAC
Health Underwriters
POLITICAL ACTION COMMITTEE

- Few other industries are as heavily regulated as health insurance
- Your success, and that of your clients, is directly dependent upon the actions of Congress.
- It is absolutely critical that we help those Congressional candidates who support private health care financing

Contribute!

Questions?

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