



2120 L Street, NW, Suite 700
Washington, DC 20037

T 202.822.8282
F 202.296.8834

HOBBSSTRAUS.COM

MEMORANDUM

January 10, 2017

To: Tribal Health Clients

From: Hobbs, Straus, Dean & Walker, LLP

Re: *Washington Report – Health Reform*

Healthcare reform and efforts to repeal and replace the Affordable Care Act began in earnest last week. On January 3, 2017, Chairman of the Senate Budget Committee Senator Mike Enzi (R-WY) introduced a budget resolution, S. Con. Res. 3, which could begin the process of repealing provisions of the Affordable Care Act (ACA). The budget resolution provides reconciliation instructions to four congressional committees with authority over health care legislation: the Senate Committee on Finance; the Senate Committee on Health, Education, Labor, and Pensions; the House Committee on Energy and Commerce; and the House Committee on Ways and Means. The instructions direct them to come up with recommendations by January 27, 2017, and are intended to begin the process of ACA repeal.

Under the Congressional Budget Act of 1974, these reconciliation instructions pave the way for changes to the ACA being considered under expedited procedures. Only a simple majority is required to pass legislation under budget reconciliation. However, only budget-related matters may be addressed using this process. This means that only budget related aspects of the ACA could be repealed through this process. Efforts to repeal and/or replace other aspects of the ACA that are not budget related, like the Indian Health Care Improvement Act (IHCIA), would need 60 votes in the Senate and could not be repealed through budget reconciliation.

As has been widely reported, House and Senate Republicans announced their intention to use the budget reconciliation process to press for an immediate repeal of budget related provisions of the ACA, and then delay implementation of that repeal while they can craft a replacement. Just this week, however, concerns have been raised by some House and Senate Republicans that they should have a replacement bill ready to be enacted at the same time as a repeal is enacted. Yesterday, five GOP Senators introduced an amendment to the resolution that would delay the deadline for budget reconciliation instructions until March 3, 2017. As a result, it is unclear whether Congress will move to repeal the ACA until a replacement has been worked out.

Regardless of the process and timeline, health reform is under active consideration. This includes efforts to repeal and replace the ACA, as well as efforts to reform Medicaid. As previously reported, there is also active interest in reforming Medicaid and moving it to a block grant program for States. On January 6,

Representative Rokia (R. IN) introduced HR 352, which would eliminate the Medicaid program and move it to a block grant program for States. While the text of that bill is not yet available, a prior version of the bill introduced last year would have eliminated the Medicaid program entirely and replaced it with a block grant that would leave considerable discretion to the States. Unless an exception is made for Indian country, it could mean that full federal funding of Medicaid for services provided to Indians through the Indian health system would be eliminated, and those costs shifted onto the States.

While we do not have concrete legislative proposals to respond to yet, we are actively working with a number of our tribal clients to provide Congressional Staff and House and Senate offices with tribal priority issues, which include:

1. Preserving the IHCA;
2. Preserving Indian-specific laws that were enacted as part of the ACA but which are unrelated to the ACA; and
3. Ensuring that full federal funding for Medicaid services to American Indians and Alaska Natives provided through the Indian health system is maintained.

We will be setting up meetings in the coming weeks with a number of committee and staff offices on the Hill, and are happy to work with you to do so as well. Please let us know if we can arrange meetings on your behalf. We have also prepared draft letters to send to your congressional representatives, one for those in States that have expanded Medicaid, and for those in States that have not expanded Medicaid (Attached).

For further information, please contact Elliott Milhollin (emilhollin@hobbsstrauss.com or 202-822-8282), Geoff Strommer (gstrommer@hobbsstrauss.com or 503-242-1745), or Akilah Kinnison (akinnison@hobbsstrauss.com or 202-822-8282).