

PUBLICATION

Graham-Cassidy Falters; Bipartisan Talks Restart on Market Stabilization

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October 11, 2017

Following defections from Senators Rand Paul (R-KY), John McCain (R-AZ), and Susan Collins (R-ME), Senate Republican leaders announced on September 26 that they did not have the votes for the Graham-Cassidy plan – the last attempt to push Affordable Care Act (ACA) repeal on a partisan vote before the fiscal year 2017 (FY17) Budget Reconciliation expired on September 30. After initial talks halted due to the Graham-Cassidy push, Senate Health, Education, Labor and Pensions (HELP) Committee Chair Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) reportedly restarted negotiations to find consensus on a limited bipartisan stabilization plan for the individual market. A key sticking point in the debate is the level of state flexibility to waive ACA insurance regulations. Even if a deal were reached, Senate Republicans would need to overcome resistance from conservatives and skeptical House Republicans to achieve passage.

With 2018 open enrollment beginning in less than a month (November 1), congressional inaction is likely to exacerbate expected premium increases, lower enrollment, and increase volatility in the individual market. Ongoing uncertainty regarding whether the Trump Administration will continue to make Cost-Sharing Reduction (CSR) payments to insurers, combined with the Administration's cuts to enrollment outreach, have contributed to somber enrollment prospects for plan year 2018.

Background and Analysis: Senate Republicans pulled an expected vote on the Graham-Cassidy proposal once it became apparent that they did not have the 50 votes necessary for passage. Three Senate Republicans publicly objected to the proposal: Senator Paul, because the bill was not conservative enough; Senator McCain, because of the rushed, partisan process; and Senator Collins, because of the bill's significant changes to Medicaid and negative expected impacts on health coverage. Senator Lisa Murkowski (R-AK) later released a statement attacking the "lousy process" behind the last attempt ACA repeal push. The Senate Budget Committee is expected to pass a FY18 Budget Reconciliation measure to move on to tax reform, without instructions on health care, which would mean that a partisan repeal of the ACA is off the table until at least next year.

Although focus is shifting back to market stabilization, it remains unclear whether Senate HELP Committee Chairman Alexander and Ranking Member Murray can reach a deal. If a bipartisan agreement does come together, we expect it would be based on the following framework outlined in the Senate HELP Committee's hearings in early September. First, Republicans and Democrats both agreed on the importance of funding the CSR program for two years that reduces out-of-pocket costs for low-income enrollees to provide certainty for the individual market. Second, Republicans and Democrats would like to allow people over age 30 to purchase catastrophic insurance plans under the ACA. Finally, Democrats have expressed a willingness to allow greater state flexibility on existing Section 1332 state innovation waivers, likely key for attracting Republican support; however, they insist on maintaining the ACA's core coverage and affordability guardrails. A final deal has yet to emerge as negotiations continue over defining what amounts to meaningful flexibility for states. Observers expect that any market stabilization measure would likely be tacked on to another must-pass legislative vehicle, rather than advancing as a stand-alone bill.