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Flash: What the Election Means for Health Care

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There are a number of factors to consider that have broad implications beyond health care:

- In the first 100 days of a new Administration, there is typically an opportunity for legislative achievement — for folks to come together and identify common-ground solutions for policy challenges.
- As it relates to the Affordable Care Act (ACA), it remains to be seen how much bipartisan, common ground can be achieved. President-elect Trump has campaigned, like his GOP colleagues before him, to repeal and replace the ACA, and it is doubtful to envision many Democrats joining such an effort.
- This was a very nasty election. A lot has been said about our President-elect that can't be easily taken back. Don't expect the election to end partisanship. Expect it to get worse.
- The Senate will have 52 Republicans now that it's all said and done. McConnell is going to be under severe pressure from rank-and-file Republicans and the President-elect to end the filibuster. They will not take well to allowing Minority Leader Schumer having the ability to block legislation.
- The 2018 election cycle began November 9th**.** Democrats will defend 25 seats; Republicans, 8 seats. Of those 25 seats, 10 are in states won by Trump. Keep that in mind when you consider Republicans ending the filibuster; they have leverage.
- House Republicans positioned themselves to lead on policy by supporting Trump. Everyone would be well advised to read their **A Better Way proposals**. They weren't kidding.

For health care, here is what to expect in lame duck:

- There are two major outstanding issues, the 21st Century CURES Act and mental health legislation. Republicans will want to get these done during the lame duck, but they are not likely to make significant compromises to get support from Senate Democrats.

A potential olive branch for Republicans in an effort to get these done would be additional funding for President Obama's two key health care initiatives: the cancer moonshot and Precision Medicine Initiative.
For health care, here is what to expect in 2017 and beyond:

- Repeal of the Affordable Care Act (ACA) will be prominent, but it is very complex. It does not necessarily mean 20 million people will lose their coverage, nor does it mean all provisions will be repealed. House Republicans have been much more realistic in recent proposals than the simplistic "repeal and replace" sloganeering. They have made policy proposals that could cover millions of Americans. Republicans will try to implement their proposals while providing a smooth transition away from the ACA. For Republican-controlled Washington, there are three key factors:
  - Will Republicans listen to stakeholders who actually cover people in making their design decisions? They need to remember insurers are creatures of a regulatory environment. Insurers won't participate if Republicans make it worse.
  - How will a transitional period be structured? Remember, if 26 states have no plans next summer, that's now fully a Republican problem. Republicans will face the political consequences if their policies go poorly.
  - The Congressional Budget Office (CBO) will never sign off on Republican plans covering as many people as the ACA or reducing costs to the level Republicans desire. At some point, Republicans will have to affirmatively choose to ignore CBO. The term is called "directed scorekeeping."
- MACRA was passed on a bipartisan, bicameral basis, with many pieces originating from the ACA, for example accountable care organizations and bundled payment demonstrations. Don't expect Republicans to abandon it or its underpinnings from the ACA. Stakeholders should remain engaged to make sure implementation favors them.
- There are two schools of thought on the future for CMS. Republicans have been very leery of CMS and CMMI's wide-ranging authority. They may try to greatly restrict it. Then again, they may decide wielding that authority could be *very* useful.
- Drug pricing is no longer an issue of nearly the importance it would have been with a different election outcome. It will still be discussed, but major policy changes are unlikely and certainly nothing along the lines of what Democrats favored.
- Given their deep relationships and financial connection with Republicans, PhRMA is in the driver's seat for the User Fee Act reauthorizations. It's hard to conceive of a world where they don't get much, if not all, of what they want.
- Congressional Republicans have long wanted to tackle entitlement reform with premium support for Medicare and per capita caps for Medicaid. Can they tackle the ACA and entitlement reform during the 115th Congress? That's tough to imagine.

Finally, Trump has been adverse to Republican orthodoxy on several occasions. He has mentioned support for government negotiation on prescription drugs and is not supportive of full-scale entitlement reform. Trump and the people he puts in charge at HHS (Ben Carson, Bobby Jindal) and CMS are going to have to be agile in working with a Republican Congress on health care issues, so that conflicts are

minimized.

Authors