NAIFA GovTalk

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NAIFA Members Urge Lawmakers to Enact the SECURE Act

During the December 4 Day on the Hill held in connection with NAIFA's National Advocacy Meeting, more than 125 NAIFA members, at approximately 200 Hill meetings, asked their lawmakers to weigh in with Congressional leadership to urge them to find a way to allow for enactment of the retirement savings bill.

Most of the elected Members and Senators, and/or their staffers, reiterated their support for H.R.1994, the SECURE Act (it passed the House earlier this year by a 417 to 3 vote). Most also agreed to lobby their leadership to set up a vote on the legislation itself, or to include it another bill (probably, the year-end government funding measure) on which there would be a vote.

The Day on the Hill initiative also focused on relationship-building: NAIFA members established and/or grew their relationships with Members of the House of Representatives and Senators. They offered to serve as resources to Congress on issues that impact life and health insurance, annuities, retirement savings, and employer-provided benefits. Congressional offices uniformly welcomed this effort.

Prior to the Day on the Hill, meeting attendees heard from advocacy experts, NAIFA's state and federal lobbying team, and Representative Adrian Smith (R-NE) and learned more about NAIFA's advocacy efforts as well as tips and best practices for PAC fundraising and grassroots relationship development.

Prospects: There is widespread, bipartisan support for the SECURE Act. Its prospects for enactment are dependent upon passage of a spending bill that could carry the SECURE legislation. Senate leadership has said the plan is to attach the SECURE Act to a bill funding the government for fiscal year (FY) 2020. However, there is still some uncertainty about whether Congress and the Administration will be able to agree on an FY 2020 funding measure prior to the end of the year. So, if Congress avoids a government funding crisis (the government will shut down if a funding bill is not passed by December 20), chances for enactment of the SECURE Act, while not guaranteed, look hopeful.

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Congress Is Making Progress On Surprise Billing

Health legislation is among the year-end priorities that Congress hopes to address. Among the key issues is a solution to the surprise billing problem. On December 8, key Congressional lawmakers (with support from the Administration) said they may have a deal that would ban balance billing and set up a new mechanism for addressing payment disputes for out-of-network charges.

The announcement came from three of the four leaders of the committees of jurisdiction. They include Sen. Lamar Alexander (R-TN), chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee, and Reps. Frank Pallone, Jr. (D-NJ) and Greg Walden (R-OR), chairman and ranking member of the House Energy & Commerce Committee. Senate HELP's ranking member, Sen. Patty Murray (D-WA), did not sign off on the announcement, saying she is still working through concerns among some Senate Democrats. However, she added that she is hopeful that a deal can be struck soon.

The agreement is not yet available in statutory language, but there is a detailed explanation provided by the negotiators (here). According to the explanation, the surprise billing deal includes:

- A ban on balance billing
- Benchmark rates, based on the median in-network rates for the same services, by geographic region
- Authority to go to arbitration for bills that exceed $750, limited to no more than one application by the same requester for the same services in a 90-day period
- Required disclosure by health benefit brokers and consultants to employer-sponsored and individual health plan (including short-term limited-duration health plans) purchasers of any direct or indirect compensation received for referral of services—there is a special disclosure requirement for compensation that is not known at the time a contract is signed

The agreement also includes other health-related issues. For example, it would impose a minimum age of 21 at which people could buy tobacco products, and it would authorize almost $20 billion over five years for community health centers. It caps the cost to Medicare for insulin and includes many provisions involving transparency between health care providers, insurers, and patients.

Initial reaction to the deal has been mixed. While insurers and employers are happy with inclusion of a benchmark rate, they remain concerned about the potential for abuse in the arbitration arena. Hospitals and doctors, on the other hand—through the Coalition Against Surprise Medical Billing—expressed concern about use of a benchmark rate, saying it will limit access to care "and lead to a system of government-picked winners and losers."

Prospects: Most lawmakers want a solution to the surprise billing issue that bans balance billing.

But there has been a hot debate over whether to use a benchmark rate for surprise billing charges or to instead allow for arbitration between service providers (doctors/hospitals) and payors (insurers, self-insured plans). Initial information suggests that some Senate Democrats still have concerns about the arbitration provisions in the agreement. And, neither House nor Senate leadership has yet signed off on the agreement. So, the Alexander-Pallone-Walden agreement represents significant progress towards resolving the surprise billing issue, but uncertainty remains about whether Congress can successfully address this issue this year.

Year-End Legislation Could Include Health Tax Provisions, NFIP, SECURE

Congress and the President have until December 20 to fund the government. That must-pass legislation may provide a legislative home for H.R.1994 (the SECURE Act), reauthorization and funding of National Flood Insurance Program (NFIP), and/or several health tax rules.

Lawmakers are scrambling to reach agreement among themselves and with the Administration on how to allocate $1.37 trillion in funding among the 12 regular order appropriations bills that fund the discretionary spending portion of the federal government. Current funding authority expires at midnight December 20, and so Congress must enact (and the President must sign into law) new funding authority by then, or parts the federal government will shut down. The goal appears to be that the 12 regular order appropriations bills will be combined into one or two omnibus spending bills.

This makes the government funding legislation "must-pass" and thus a magnet for other priority initiatives that otherwise would have little chance for enactment prior to year-end. There are a number of such priorities that impact NAIFA. They include:

- ***H.R.1994, the SECURE Act***— this retirement savings bill will make an immediate difference to the overall retirement readiness of American families, by offering employer tax credits for starting new plans, expanding multiple employer plans so that even the smallest employers can offer retirement savings programs, making it easier to include annuities as an option for retirement plan allocations, providing consumers with clear statements that illustrate how much monthly income their savings might generate, and includes several fixes to preserve benefits for employees covered by defined benefit plans. And finally, the SECURE Act provides the needed fix to inadvertent tax rules so that children of Gold Star families are not subject to triple the current tax on those survivor benefits.

- ***NFIP reauthorization/funding***—at a minimum, the year-end government funding bill is likely to include extension of current NFIP authority and funding. However, there is also a chance that an agreement on reforming the NFIP and changing its funding may come together in time for inclusion in the year-end bill. There remain some difficult and controversial issues involving mapping and program caps, but if those can be resolved, we may see NFIP reform as well as new funding. If not, current law authority and funding are near-certain to be included in the year-end funding bill.

- ***Health Insurance Tax (HIT)***—among the health taxes in play in the negotiations for a tax package to be added to the year-end funding bill is repeal or delay of the health insurance tax (HIT), a $16 billion tax on health insurers, which they say will increase health insurance premium costs, that is due to be levied in 2020.

- ***MedEx***—Next year, the deduction for unreimbursed medical expenses goes from the current level—amounts above 7.5 percent of adjusted gross income (AGI)—to a higher level—amounts above 10 percent of AGI. There are indications that negotiators may agree to keeping the deduction at amounts in excess of 7.5 percent of AGI.

- ***Cadillac Tax***—Negotiators are also discussing either repealing or further delaying imposition of the Affordable Care Act's (ACA's) Cadillac tax—a levy on insurers/self-insured plans on premiums in excess of a statutory amount. However, since the Cadillac tax is not scheduled to take effect until 2021, chances are that repeal, or further delay will not be addressed until next year.

Other issues—for example, roll-back of the Tax Cuts and Jobs Act's (TCJA's) estate tax rules—are also under discussion, but Hill insiders say it is virtually certain they will not be included in a consensus year-end tax package.

Prospects: The year-end government funding bill is itself undergoing hard-fought negotiations, with success uncertain. If Congress runs out of time on a full-blown appropriations bill, it and will fall back to another continuing resolution (CR). A CR would fund the government at current levels and under current policy for a temporary period of time. It is possible that some of NAIFA's issues (most likely, the SECURE Act) could get added to a CR, but there will be pressure to keep a CR "clean" (i.e., devoid of any extraneous "add-on" policy issues).

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