

MODERN HEALTHCARE

ONLINE

Article published Nov 13, 2006

Back on the center stage **Republicans' losses in Congress cause speculation among** **industry insiders on changes in lawmakers' healthcare agendas**

The Democratic Party's move into power in the House and Senate last week may be significant more for what won't happen as a result than what will. The Democrats are now in a key position to stall, alter or kill Republican-backed moves regarding Medicare, health savings accounts, specialty hospitals and stem-cell research.

Already on tap under the Democrats' so-called 100-hour plan is the introduction of legislation that would allow Medicare to negotiate directly with drug companies and shield Medicare and Medicaid from efforts to privatize the programs. One move not tied to an existing Republican effort—but likely to occur—is the reintroduction of an embryonic stem-cell research bill.

The congressional turnover could prove a boon for healthcare providers, predicted Bill Robertson, chief executive officer with Adventist Healthcare System in Rockville, Md. "I believe that providers are hopeful that the new Congress will make our nation's health and our healthcare system a priority, ensuring adequate funding to care for our citizens, helping invest in infrastructure for safety and quality and addressing the issue of the uninsured," he said.

Whether a Democrat political power play comes to fruition is yet to be seen. Healthcare policy analysts said they are skeptical that the Democrats' agenda can get pushed through in short order. And even so, President Bush may be more inclined than ever to use his veto authority. But if the Democrats do find success on even a portion of their healthcare initiatives, it could lead to a major strategy shift and serve as a bellwether for the industry.

One Republican, former HHS Secretary Tommy Thompson, said that he expects the majority party will have to temper its legislative agenda for the next two years. "Things are going to be very slow as far as passing any healthcare legislation in the upcoming session of Congress," he said. "I don't think anything will happen."

Thompson, chairman of the Deloitte Center for Health Solutions, said that while Democrats could pass "some of the low-hanging fruit" bills—such as one that promotes the use of health information technology—broader health initiatives most likely will be shelved until after the 2008 presidential elections.

“I don’t think cuts are going to happen in either Medicare or Medicaid,” Thompson predicted, adding that spending on both federal programs should be trimmed back.

But look for the Democrats to take a swing at previous Republican initiatives. Ron Pollack, executive director for Families USA, spotlighted mostly Republican-led issues he said would be relegated to the back burner, which include efforts to cut Medicaid, expand HSAs and passage of so-called association health plans legislation.

With the Democrats in control of the House, “It’s only a matter of time until we get price controls in the Part D program,” although the timetable on this is uncertain, said Michael Cannon, director of health policy studies with the Cato Institute, during the second annual Consumer-Centric Healthcare Congress conference last week.

Rep. Pete Stark (D-Calif.), who’s expected to chair the influential Ways and Means Health Subcommittee, outlined the initiative along with several of the Democrats’ policies last month in a speech to the Third National Medicare Congress in Washington. (For a rundown of who’s in and who’s out in Congress, see story on p. 15.)

Stark said he expects the party to tread lightly at the outset. Taking a page from the Hippocratic oath, he said the Democrats’ health policy would be to “first of all, do no harm.”

Stark said “the first task and thought of the Democratic leadership in the House” would be to protect Medicare and Medicaid from GOP-led privatization efforts. But that also trickles down to the Medicare drug benefit, Stark said. The long-serving lawmaker has been highly critical of Part D, calling it a tool of the pharmaceutical industry.

Stark said he won’t move to repeal the act, but rather would spearhead legislative initiatives he claims would improve the prescription drug program. Democratic leaders said they want to push through a provision that allows the HHS secretary to bargain with drug companies in order to get the lowest prices for its beneficiaries.

In a statement, Ken Johnson, senior vice president at the Pharmaceutical Manufacturers and Researchers of America, countered that negotiations are already occurring “as they should be” between prescription drug plans and pharmaceutical companies.

The Congressional Budget Office has said the government could not negotiate lower costs “than the powerful private-sector purchasers already negotiating for lower costs,” Johnson said.

Democrats are also likely to tweak the doughnut-hole provisions in Medicare Part D, Robertson said. “The challenge is how to fund that, because the doughnut

hole is what keeps the plan from becoming so expensive that it's unaffordable," he said.

With the return to two-party rule, there needs to be more serious negotiations on where to move on entitlement programs and other broad-based issues such as expanding coverage, said Cal Pierson, president of the Maryland Hospital Association. The high cost of providing coverage for the chronically ill and people with serious disabilities is the biggest cost issue under Medicaid right now. And because of the lack of leadership in Congress, states have been forced to come up with their own solutions, such as the universal healthcare plans in Massachusetts and Maine.

"There's a possibility that the new Congress could force the president to become more engaged with the idea of broader-based health reform—new ways to cover more of the uninsured and approaches other than health savings accounts," Pierson said.

Allan Hubbard, assistant to the president for economic policy and director of the National Economic Council, admitted that it would be difficult for the administration to move any type of HSA legislation with the Democrats in control of the House, despite its interest in improving upon HSAs.

"HSAs have become a very partisan phrase on Capitol Hill. The Democrats don't like it because it's a Republican idea, yet I've met with Democrats who tell me that HSAs make a lot of sense, but are told they can't support it," said Hubbard, who also spoke at the Consumer-Centric Healthcare Congress.

It's unlikely that the Democrats will go so far as to try to repeal HSAs or impose additional restrictions on them, although they wouldn't allow legislation to go forward that would liberalize HSAs, said John Goodman, president of the National Center for Policy Analysis and the "father" of HSAs (June 19, p. 7).

Each party will offer different approaches on what to do about the baby boomer retirees and low-income uninsured, Goodman said. "The Democratic inclination will be to lower the age of eligibility for Medicare, and the Republicans will want to give tax relief to make it easier for people to get private insurance. This will be a big issue in the 2008 elections because baby boomers are now thinking about retirement, and candidates will have to respond," he said.

Richard Pollack, executive vice president of policy at the American Hospital Association, said that specialty hospitals likely will get a fresh look with Democrats—especially Rep. Stark—at the helm.

In his speech, Stark said he would further study what impact specialty hospitals have on general hospitals. "People say I don't like specialty hospitals. That's not true. I love 'em," he said. "But I don't like the idea that we are going to dismantle or cannibalize every general hospital in the country as people pick off the profit

centers and move them across the parking lot and leave my hospitals with the emergency room, the birthing center and burn care.”

Stark continued: “It seems to me that the hospitals have to come together with specialty physicians and figure out what they’re going to do to keep hospitals alive. When they decide what they’re going to do, I will support it.”

Another physician issue that deserves more immediate attention but may not be solved by the end of the year is an impending 5% cut to Medicare physician payments in 2007.

Stark has acknowledged that the current formula Medicare uses to determine physician payment needs to be overhauled. In the interim, the Democrats would work to postpone or minimize the expected fee cut slated for 2007. The CBO estimated the planned cuts would save \$700 million from 2006 to 2015.

Congress left this issue on the table when it adjourned in October. “It’s critical that Congress comes back and deals with the cut,” said Cecil Wilson, board chairman of the American Medical Association.

Physicians for several years now have been facing reductions in Medicare payments because of a flaw in the physician fee schedule’s sustainable growth rate formula. In the past, Congress managed to stave off cuts with temporary fixes, although the physician lobby wants a more permanent solution, such as replacing the SGR with a system that more accurately reflects annual increases in medical practice costs.

The SGR fix in particular has enjoyed bipartisan support, with 80 senators and 265 representatives sending letters to congressional leadership, calling for action on this issue, Wilson said. He conceded it would be a challenge to get lawmakers to approve a positive update to payments during a lame-duck session of Congress. However, “We look forward to working in a bipartisan way to getting something done and going forward with a more permanent fix to the SGR,” Wilson said.

This might not be as easy as the AMA projects, since the physician lobby lost key supporters of this issue in the elections. With Rep. Nancy Johnson (R-Conn) out the picture, it’s even more uncertain whether a fix will be achieved, since “Johnson had been working on that issue since the August recess,” said Mark Weller, senior vice president and manager of the health and life sciences practice at B&D Consulting in Washington, a healthcare consulting group. “And you now have Stark, who thinks physicians are already paid too much money. The focus is very different,” Weller said.

Partisan divisions will continue on embryonic stem cells, an issue that has divided the GOP, Weller said. “You have moderates and evangelicals,” which

isn't healthy for the party, he said. President Bush had vetoed legislation, but the Democrats are expected to put that issue back on the table. "This will be a campaign issue in 2008."

There are areas the new Congress could find consensus on, such as long-term funding for the State Children's Health Insurance Program, the Maryland Hospital Association's Pierson said. "It needs to be reauthorized in 2007, before it sunsets. It's been a very successful program, so there's not been a lot of controversy or conflict over it." Questions remain on whether Congress would draw from Medicaid or other areas to fund SCHIP, he added.

President Bush and the Democrats are also on the same page about a policy that would help the workforce shortage by allowing emigration of healthcare workers from other countries to work nursing and other healthcare jobs in the U.S., Adventist's Robertson said. "We do see the need to be able to get professionals from other parts of the world to help fill gaps in the workforce pool," and it would be advantageous for the Democrats to take on that initiative, he said.

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