

KOEHLER FITZGERALD

| REFERENCE-BASED PRICING NEWSLETTER |

Koehler Fitzgerald

Koehler Fitzgerald LLC provides highly specialized legal services to TPAs, HCSMs and Plan Sponsors offering reference-based medical plans.

Central to those services are the defense of balance billing claims, from provider billing to jury trial, utilizing the firm's highly rated trial lawyers, nationally recognized experts and affiliated local counsel throughout the U.S.

Koehler Fitzgerald's multilingual services are supported by the use of proprietary and customized software to track and support group calendaring, task management, contact management, conflicts checking, integrated document assembly and customized weekly reports of the status of claims and activity.

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"Bipartisan Healthcare Agreement"

Last Tuesday, Senators Lamar Alexander (R-Tennessee) and Patty Murray (D-Washington) publicly announced what the press has referred to as a bipartisan healthcare agreement. On Thursday, White House legislative affairs director Marc Short reported that President Trump does not support the agreement as outlined, saying, "He does not support a bailout to the insurance companies."

The agreement is intended to sustain the ACA for two years until Congress can debate and conclude a reform of America's healthcare law. A principal aspect of the agreement is to extend the ACA cost-sharing subsidies ("CSRs") through 2019. This would counter President Trump's October decision to immediately cease supplementary payments to insurers to offset the discounts the insurers provide to eligible individuals to control their out-of-pocket costs. These individuals have incomes between 100% and 250% of the federal poverty level and purchase healthcare coverage via the ACA exchanges. The Congressional Budget Office issued a projection in August that termination of the CSRs would increase premiums by 20% in 2018.





Why No Repeal and Replace

The New England Journal of Medicine published an article, dated October 18, 2017, by Jeanne M. Lambrew, Ph.D. entitled "Lessons from the Latest ACA Battle." In it, the author explores the "unlikely heroes" in opposition to the various repeal and replace efforts. Ms. Lambrew points to consumer groups such as the AARP, American Cancer Society, American Medical Association, American Hospital Association, and the Center on Budget and Policy Priorities. She reports that the Congressional Budget Office "produced detailed reports on the cost and coverage implications of eight different repeal-and-replace bills in as many months." She names think tanks, including the Brookings Institution, Commonwealth Fund, Kaiser Family Foundation and the Urban Institute. Finally, she credits Republican governors who "became the unexpected champions of Medicaid."

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The agreement would leave the existing premium tax credits in place. Premium tax credits are intended to control the amounts that eligible enrollees spend for monthly healthcare coverage. Because termination of the CSRs would increase the amount of the premium tax credits, the costs and savings under the agreement would offset one another, at least to some material extent.

Section 1332 of the ACA permits states to apply for State Innovation Waivers to waive key requirements under the ACA for five years to innovate and experiment with different health care models. The waivers may not increase the federal deficit and must be at least as comprehensive in covered benefits. Six states have sought waivers; one has been approved. The bipartisan agreement would shorten and abbreviate the approval process which now requires state legislative approval, public comment, detailed actuarial and economic analysis, and a review process. Under the agreement, states would be granted more flexibility in designing 1332 waivers and the length of the waivers would be extended beyond five years. Significantly, budget neutrality would be assessed over the length of the waiver as opposed to being assessed year by year.

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