



# Washington Update

CAHPMM Annual Conference  
Pismo Beach, California  
Oct. 18, 2017

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**vizient**<sup>TM</sup>

# Disclosure

**The speaker has nothing to disclose.**

# Key Takeaways:

- ACA repeal and replace efforts look to be over. But we've been here before – and we will likely be back to again if the opportunity presents itself.
- Congress has a full agenda, and with POTUS's and HHS administrative authority, there are still concerns for the future of the ACA.
- Hospitals and other providers are facing significant pressure from the marketplace and consumer demands. That pressure will be extended across the industry.
- Politics are already looking ahead to 2018. Energized Dems targeting House and Governorships – while GOP defends majorities and seeks gains in Senate.

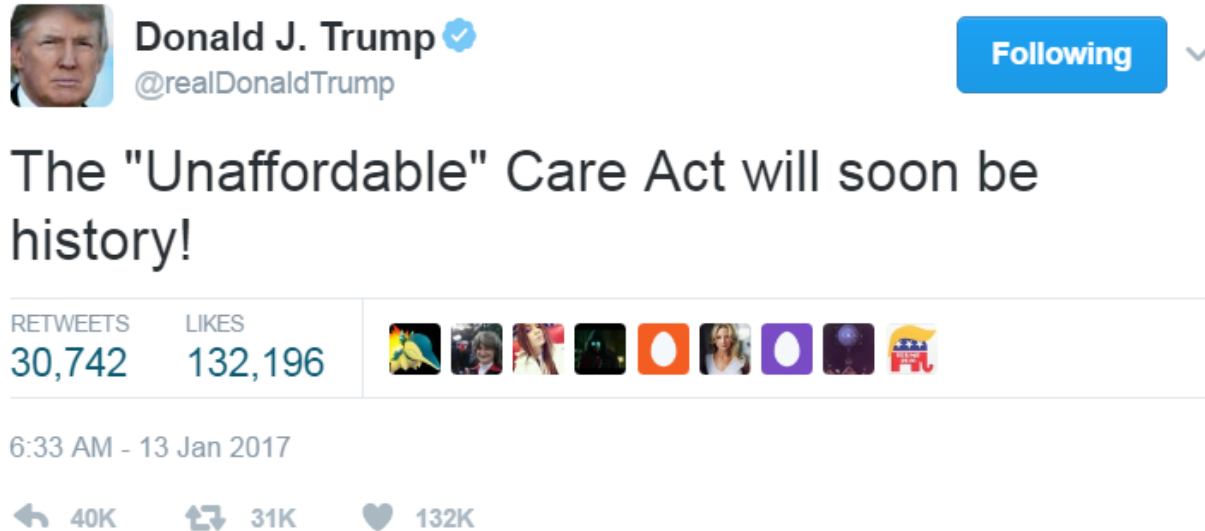


# How Can We Work Together?

- **Washington Updates** – Updates on happenings on Capitol Hill and through the regulatory agencies, and how they may impact hospitals.
- **Public Policy Updates** – Deliver in-person or virtual updates to member hospitals and employees.
- **Connecting with Federal Agencies** – Track efforts from regulatory agencies and connect members and employees to policymakers.
- **Legislative and Regulatory Summaries** – Offering summaries of emerging legislative and regulatory issues.
- **Answering Your Questions** – We are always available to answer questions or conduct research into specific legislative or regulatory questions.
- **Grassroots Advocacy** – Participate in in-district meetings with members of Congress through the Healthcare Leadership Council.



# The Elephant in the Room



# Vizient Repeal Positioning

- **No repeal without concurrent replacement**
- **Maintain coverage levels and insurance protections**
- **Consider and mitigate financial impact for hospitals**
- **Improve delivery system reforms and maintain drive toward value**

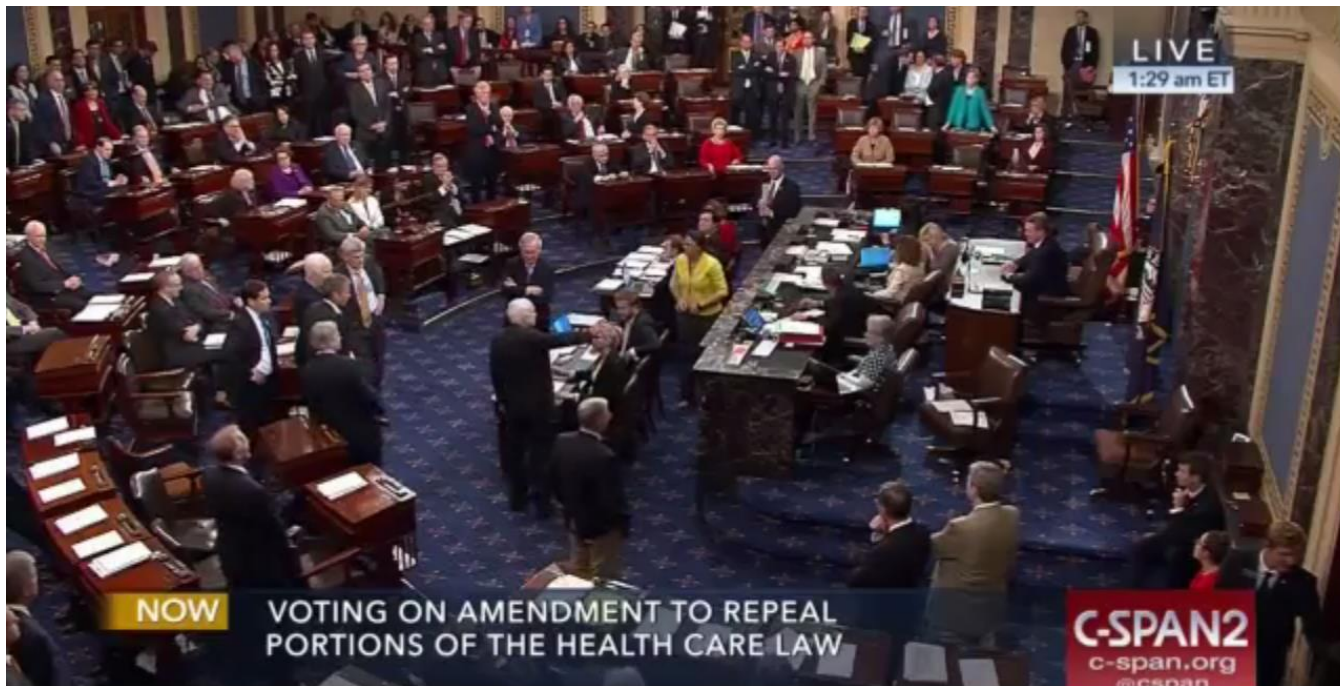


# Current Status – Repeal and Replace Over?

- Failed vote in Senate on “Skinny Repeal” early July 28 potentially looked to have ended Senate repeal effort - but GOP rallied for one final push!
- President Trump continued to push for repeal!
- Cassidy-Graham effort last ditch push for repeal also failed to gain enough votes for passage
- Reconciliation authority expired Sept. 30 – unclear how or if GOP will proceed.



# What Happened...in July?





# What Happened...In September?

## Sen. Bill Cassidy (R-LA) & Sen. Lindsay Graham (R-SC) Pushed New Block Grant Approach to Repeal

- Would shift ACA funds to block grants to states until 2026.
- Block grant replace federal money being spent on Medicaid expansion, ACA tax credits, cost-sharing reduction subsidies and basic health plan dollars.
- Reduces funding for higher costs states while increasing funding for lower cost states.
- Ends Medicaid expansion and incorporates Medicaid per-capita funding caps.
- Incorporates earlier BCRA policies (Medicaid work requirements, defunds Planned Parenthood, ends mandates, etc.)



**Failed to Secure Needed Votes – Majority Leader Elected  
not to have a Vote**

# What is Happening...Now?

**HELP Committee Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) seeking stabilization.**

- **Broad stakeholder engagement – but path forward unclear**
- **Potential options for state reinsurance programs**
- **Added flexibility and timeliness of 1332 waiver requests**
- **CSR funding**
- **Filing Deadline for insurers has passed – so benefit of plan would not be seen until next year!**



Lamar Alexander, *Chairman*



Patty Murray *Ranking Member*

# SO WHAT DO WE DO NEXT?



# Administration Action on the ACA



**Donald J. Trump** ✓

@realDonaldTrump

Following



ObamaCare is a broken mess. Piece by piece we will now begin the process of giving America the great HealthCare it deserves!

6:14 AM - 13 Oct 2017

9,480 Retweets 44,603 Likes



💬 19K ↺ 9.5K ❤️ 45K ✉️



**Donald J. Trump** ✓

@realDonaldTrump

Following



The Democrats ObamaCare is imploding. Massive subsidy payments to their pet insurance companies has stopped. Dems should call me to fix!

4:36 AM - 13 Oct 2017

9,705 Retweets 42,046 Likes



💬 20K ↺ 9.7K ❤️ 42K ✉️

# Executive Order Impact?

## President Trump signed Executive Order – Oct. 12

- Seeks to expand access to Association Health Plans – with goal to allow purchase across state lines (though big questions remain)
- Relaxes restrictions on short-term, limited duration insurance plans sold outside of ACA marketplaces
- Major changes will still require semi-lengthy regulatory process and may face legal challenges
- Short term impact fairly minimal, but could contribute to ACA destabilization during open-enrollment. Long-term impact more detrimental as younger, healthier enrollees may leave ACA markets

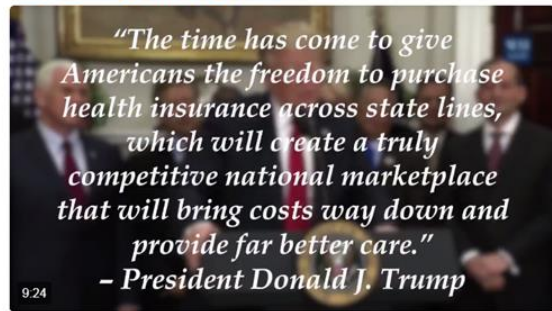


Donald J. Trump  
@realDonaldTrump

Following

The time has come to take action to IMPROVE access, INCREASE choices, and LOWER COSTS for HEALTHCARE!

[45.wh.gov/Sp9y4H](https://45.wh.gov/Sp9y4H)



### PRESIDENT TRUMP SIGNS HEALTHCARE EXECUTIVE ORDER

The time has come to give Americans the freedom to purchase health ins across state lines - creating a truly competitive national marketplace that will bring costs way down & provide far better care.

12:06 PM - 12 Oct 2017

11,618 Retweets 45,493 Likes



# Trump Administration Health Care Leadership



**Eric Hargan**

**The Department of Health  
& Human Services (HHS)**

***Acting Secretary***

**Areas of expertise?**

**ACA approach?**



**Seema Verma**

**The Centers for Medicare  
& Medicaid Services (CMS)**

**Administrator**

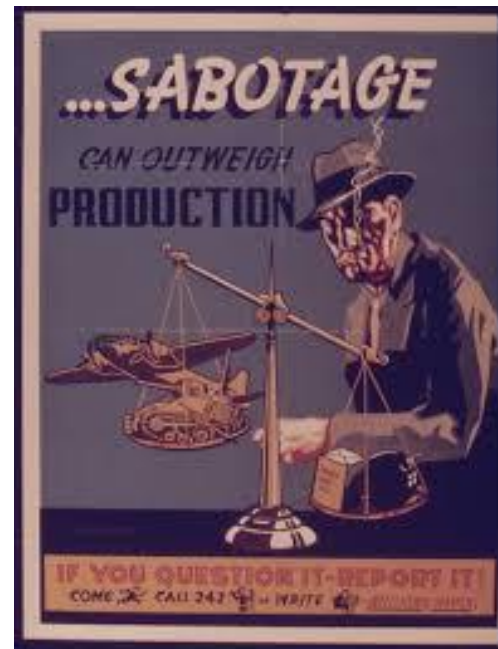
# Ending Cost Sharing Reduction Subsidies

**The ACA provided cost-sharing reduction payments (CSRs) to insurers to reduce low-income enrollees out-of-pocket costs**

- CSR payments reimburse insurers for discounting out-of-pocket costs for low-income enrollees
- Legal battle (*House V. Burwell/Price*) found subsidies were not appropriately funded by Congress – but stayed ruling allowing payments to continue during appeal
- Trump administration paid on monthly basis – but decided Oct. 12 to end the payments
- CBO found ending CSRs would increase premiums and increase government spending
- Overall insurance marketplace impact uncertain – outlook may depend on state

# Is it...Sabotage?

- ✓ **End cost-sharing reduction subsidies**
- ✓ **Executive Order to potentially offer less costly / skimpier plans**
  - Short-term, limited duration plans
  - Association Health plans
- ✓ **Failure to act on waiver requests**
  - Minnesota
  - Iowa
  - Oklahoma
- ✓ **Abbreviated open enrollment**
- ✓ **Cutting funding for outreach and enrollment efforts**
  - Advertising Budgets
  - Navigators



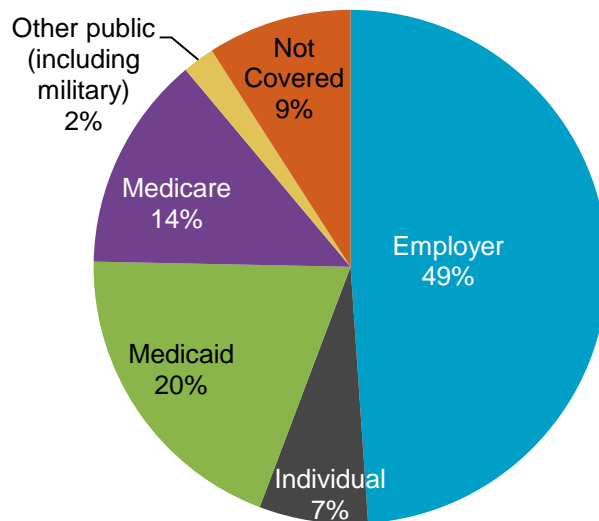


# Most Americans Still Get Insurance Through Employers

## Private health insurance accounted for 56 percent of market in 2015

- » 156 million received insurance through employer
- » 21.8 million received coverage directly from insurers (“individual” or non-group)
- » 62.4 million received insurance through Medicaid
- » 43.3 million received insurance through Medicare

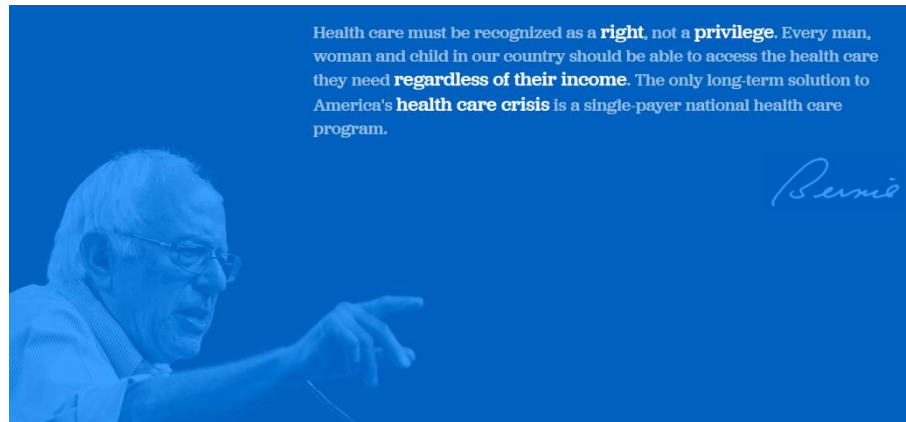
### Type of health insurance coverage, 2015



# Single Payer as a Backstop?

## Democratic support is growing for “Medicare-for-All” or “Single Payer” Health Care Reform

- 16 Senate Dems joined Sen. Bernie Sanders (I-VT) in introducing “Medicare for All”
- Most leading Dem 2020 candidates endorsed the bill
- Polling suggests public may be open to idea – but key policy details still lacking



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# 2017 Legislative Outlook



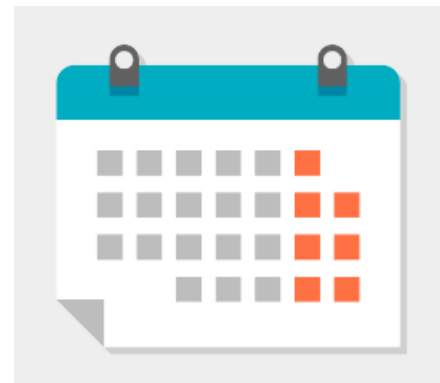
# Actual State of Play



**“Negative Ghost Rider, the pattern is full”**

# Health Care Agenda 2017

- **Debt Ceiling & Budget Fight**
- **CHIP Funding**
- **Tax Reform**
- **Health Care Extenders Package**
- **IPAB Repeal**
- **Drug Pricing**
- **Opioid Abuse Solutions & Funding**
- **Stark Reform**
- **Chronic Care**



# September Budget Surprise!



- Government Spending and Debt Ceiling Fight Miracle
  - Agreement suspends debt limit and extends government funding until December.
  - Unexpected reprieve buys time for other agenda items
- Appropriations Process Ongoing – Labor-HHS spending bills flouting administration's budget – increasing funding for NIH

December fight could be bruising if unresolved questions about CSRs, DACA, THE WALL remain, and Conservatives frustrated by this deal draw a line in the sand.

# CHIP Reauthorization

## Children's Health Insurance Program funding expired 9-30-2017

- ✓ Bipartisan Support for Program but legislation can be a heavy lift
- ✓ Full agenda and repeal push caused Congress to miss deadline
- ✓ Agreement reached between key leaders – but not final!

### Key Issues to Watch:

- Length of reauthorization (5 yrs?)
- Enhanced funding/interaction with ACA (Phased Out...)
- Extraneous provisions along for the ride (Nothing yet!)



# Tax Reform

## Tax Reform Efforts Impact Health Care

- ~~Border Adjusted Tax?~~
- Health Care Items to Watch
  - Cadillac Tax
  - Medical Device Tax
  - Individual Mandate
  - Hospital Tax Exemption
  - Charitable Donation Deduction

SCHEDULE H (Form 990)		Hospitals	OMB No. 1545-0047
Department of the Treasury Internal Revenue Service		► Complete if the organization answered "Yes" on Form 990, Part IV, question 20. ► Attach to Form 990. ► Information about Schedule H (Form 990) and its instructions is at <a href="http://www.irs.gov/form990">www.irs.gov/form990</a> .	<b>2016</b> Open to Public Inspection
Name of the organization		Employer identification number	
<b>Part I Financial Assistance and Certain Other Community Benefits at Cost</b>			
		Yes	No
1a	Did the organization have a financial assistance policy during the tax year? If "No," skip to question 6a . . .	1a	
b	If "Yes," was it a written policy? . . . . .	1b	
2	If the organization had multiple hospital facilities, indicate which of the following best describes application of the financial assistance policy to its various hospital facilities during the tax year. <input type="checkbox"/> Applied uniformly to all hospital facilities <input type="checkbox"/> Applied uniformly to most hospital facilities <input type="checkbox"/> Generally tailored to individual hospital facilities		
3	Answer the following based on the financial assistance eligibility criteria that applied to the largest number of the organization's patients during the tax year. a Did the organization use Federal Poverty Guidelines (FPG) as a factor in determining eligibility for providing free care? If "Yes," indicate which of the following was the FPG family income limit for eligibility for free care: <input type="checkbox"/> 100% <input type="checkbox"/> 150% <input type="checkbox"/> 200% <input type="checkbox"/> Other _____ % b Did the organization use FPG as a factor in determining eligibility for providing discounted care? If "Yes," indicate which of the following was the family income limit for eligibility for discounted care: . . . . . <input type="checkbox"/> 200% <input type="checkbox"/> 250% <input type="checkbox"/> 300% <input type="checkbox"/> 350% <input type="checkbox"/> 400% <input type="checkbox"/> Other _____ % c If the organization used factors other than FPG in determining eligibility, describe in Part VI the criteria used for determining eligibility for free or discounted care. Include in the description whether the organization used an asset test or other threshold, regardless of income, as a factor in determining eligibility for free or discounted care.	3a	
		3b	
4	Did the organization's financial assistance policy that applied to the largest number of its patients during the tax year provide for free or discounted care to the "medically indigent"? . . . . .	4	
5a	Did the organization budget amounts for free or discounted care provided under its financial assistance policy during the tax year?	5a	
b	If "Yes," did the organization's financial assistance expenses exceed the budgeted amount? . . . . .	5b	
c	If "Yes" to line 5b, as a result of budget considerations, was the organization unable to provide free or discounted care to a patient who was eligible for free or discounted care? . . . . .	5c	



# Focus on Drug Prices

## Rapidly Increasing Drug Costs

- Price increases continue to squeeze both providers and patients
  - High priced specialty medications
  - Generic drugs in a monopoly
- President Trump has made it a priority to address

## Continued Drug Shortages

- Drug shortages continue to create patient safety concerns

## Legislative-Regulatory Approaches

- Medicare Price Negotiation
- Importation from Canada
- Speed FDA Approval for generics without competition

## On the Table for Discussion

- Modifying Part B drug reimbursement
- 340B Drug Discount Program



# Drug Pricing Legislation

Bill Number	Key Impact
S. 124 – Preserve Access to Affordable Generics Act	Would modify pay-for delay loopholes that keep generic competition from entering market
HR 2051 - FAST Generics Act	Restricts brand drug makers from denying access to samples for generic competition, including closing REMS loopholes and closed distribution channels
S. 974 – CREATES Act	Allows legal action and damages for brand delaying tactics (REMS)
H.R. 749 – Lower Drug Cost through Competition Act	Accelerates FDA approvals when generic drug lacks competition. Price increase trigger amendment possible

# 340B Program Facing Growing Scrutiny

- **Outpatient Payment Rule – Calls for reducing 340B Hospital Reimbursement for Part B drugs (From ASP+6% to ASP-22.5%)**
- **Congressional Hearings Around 340B Program Oversight with legislation expected**
- **Advocacy Campaigns Targeting the Program**
- **Potential Scapegoat for Drug Prices?**



# Health Policy Environment



# Cost Pressures Growing on All

- **Government, Employers and Patients are all seeing increased exposure to growing costs!**

## Increasing Government Spending on Health Care

- 19% (\$112 billion) of Medicare spending goes to prescription drugs – (MedPAC, June, 2016 report)
- Medicare spending nearly doubled from 2005 to 2015 (\$337 billion to \$635 billion) and is expected to exceed \$1 trillion by 2021.

## Increasing Employer Costs

- Employer sponsored plan deductibles have increased on average 63%; Premiums increased by 19%; while earnings have increased 11% since 2010 (Kaiser/HRET 2016 survey)
- 22.1% of premiums go to prescription drugs cared with 15.1% for inpatient care - (AHIP, May 2017),

## Increasing Patient Costs

- Estimated average out-of-pocket cost for hospitalization increased 37% from 2009-2013 (JAMA Internal Medicine, Sept. 2016)

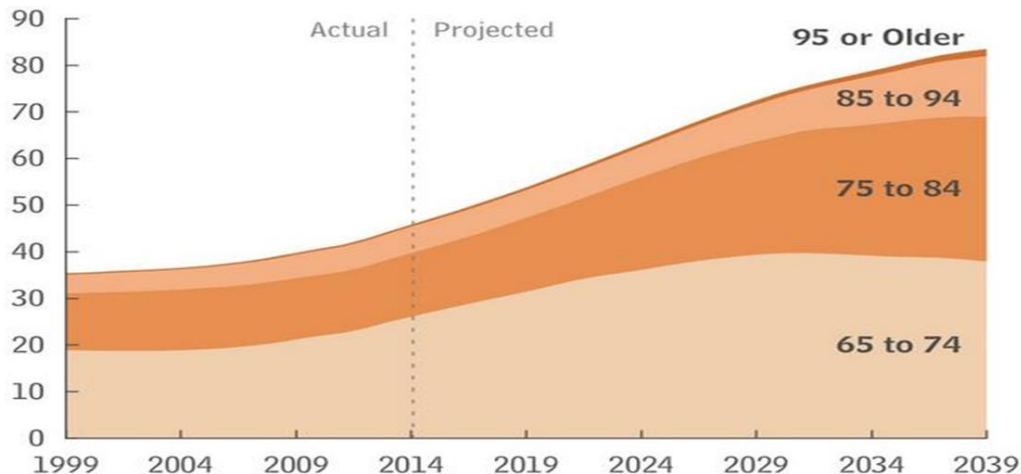


# Cost of Care Concerns Will Escalate

**Figure 2-3.**

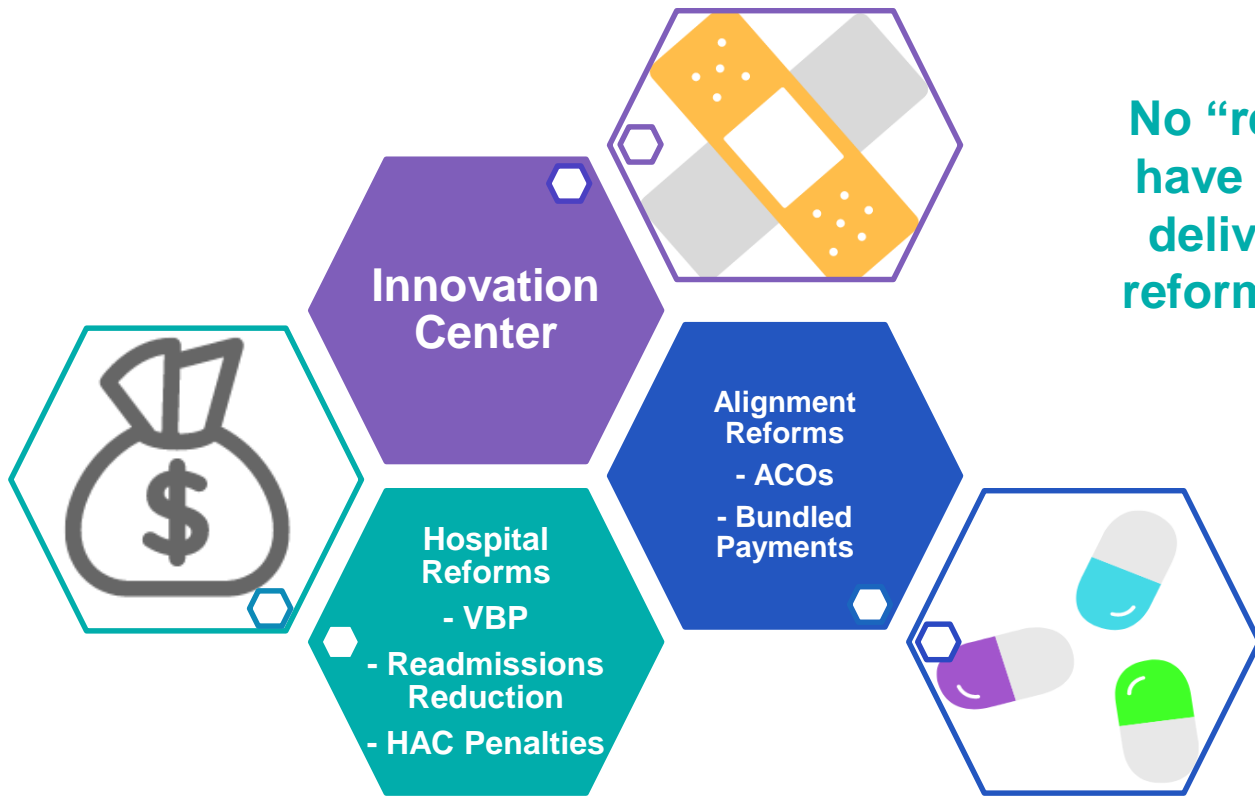
## **Number of People Age 65 or Older, by Age Group**

Millions of People



Source: Congressional Budget Office.

# Value and Delivery System Reform Questions



No “repeal and replace” efforts have made any changes to the delivery system and payment reform components of the ACA.

# Hospitals Still Must Do More With Less

- **ACA Cuts – hospitals absorbed \$155 billion of new cuts over 10 years**
  - Readmissions -3%
  - VBP -2%
  - HACs -1%
  - Ongoing Productivity Adjustment
  - Statutory ACA Cuts



# DSH Allotment Reductions - Proposed Rule

- **CMS issued proposed rule for ACA's state Medicaid DSH allotment reduction on July 27 (after a several year delay)**

## Key Takeaways:

- Proposes methodology to implement annual reductions to state Medicaid DSH allotments (FY 2018 – FY 2025) as required by the ACA
- Industry comments pushed to extend delay of these reductions

**Expect final rule before the end of 2017**



# Movement Toward Site-neutral Payments

- **MedPAC has taken the lead in pushing for site-neutral payments**

*“The Commission believes that, as a prudent purchaser, Medicare should not pay more for a given service just because it is provided in a more costly setting. In the interests of the taxpayers who support Medicare and the beneficiaries who pay copayments, Medicare should base its payments on the resources needed to provide high quality care in the most efficient setting.” - MedPAC Blog March, 2015*

- **Congress also moved quickly**

- **Bipartisan Budget Act of 2015** – New off-campus HOPDs (250+ yards from main hospital) won't be paid for most services under OPPS after Jan. 1, 2017
- **21st Century Cures** – Made some minor tweaks to allow under-construction/mid-build HOPDs to qualify for OPPS reimbursement – but overall prohibition against new HOPDs remains

- **Regulation Also Targeting Reductions**

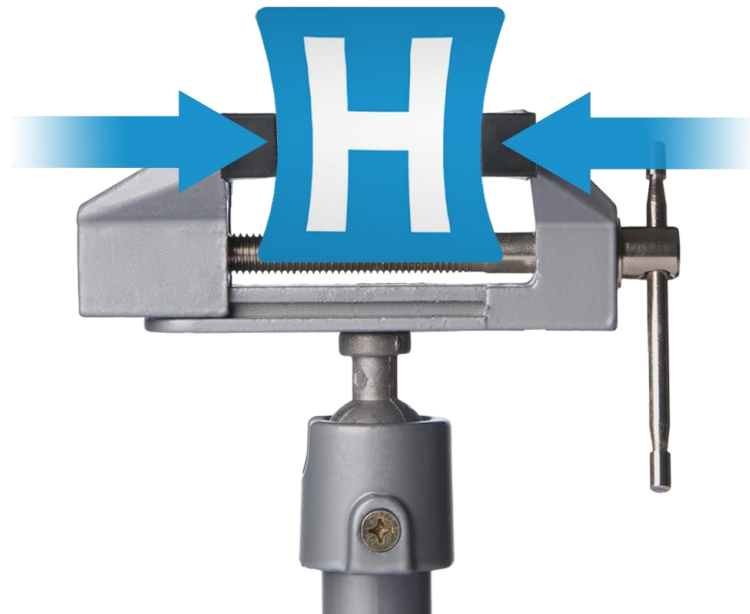
- **CMS PFS proposed rule** - seeks further cuts to “new” off-campus hospital outpatient departments 25% of OPPS rate for non-excepted services (rather than current 50%) of

*The trajectory toward site-neutrality shows no signs of slowing down, with Congress, CMS and MedPAC seeking to cut costs.*

# Environmental Perspectives

- The Affordable Care Act added new challenges to an already difficult environment
- Health care reform, part 2, is adding uncertainty into this environment

**REGULATORY  
PRESSURES**

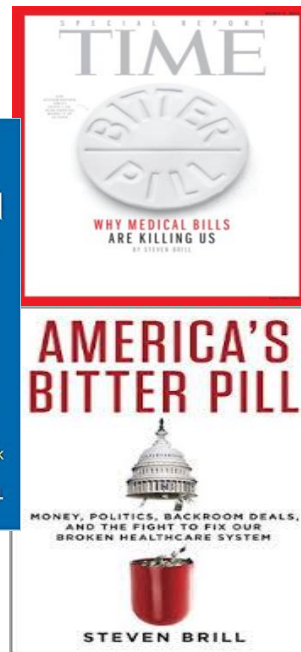
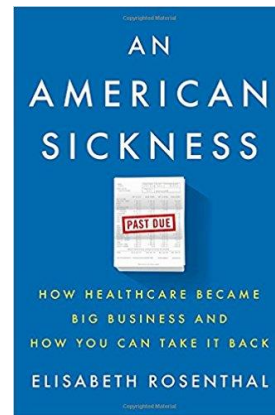


**MARKET  
PRESSURES**

# Continued Pressure for Hospitals Billing Reform

- **Consumer driven care**
  - Urgent care/retail clinic proliferation/telemedicine
  - Direct contracting/self-pay patients
- **Hospital billing stories and data dumps have highlighted “Chargemaster”:**
  - Bitter Pill(s), An American Sickness,
  - CMS data dumps highlight Medicare charge differences

**Indefensible stories and growing consumer demand will drive push toward expanded price transparency**



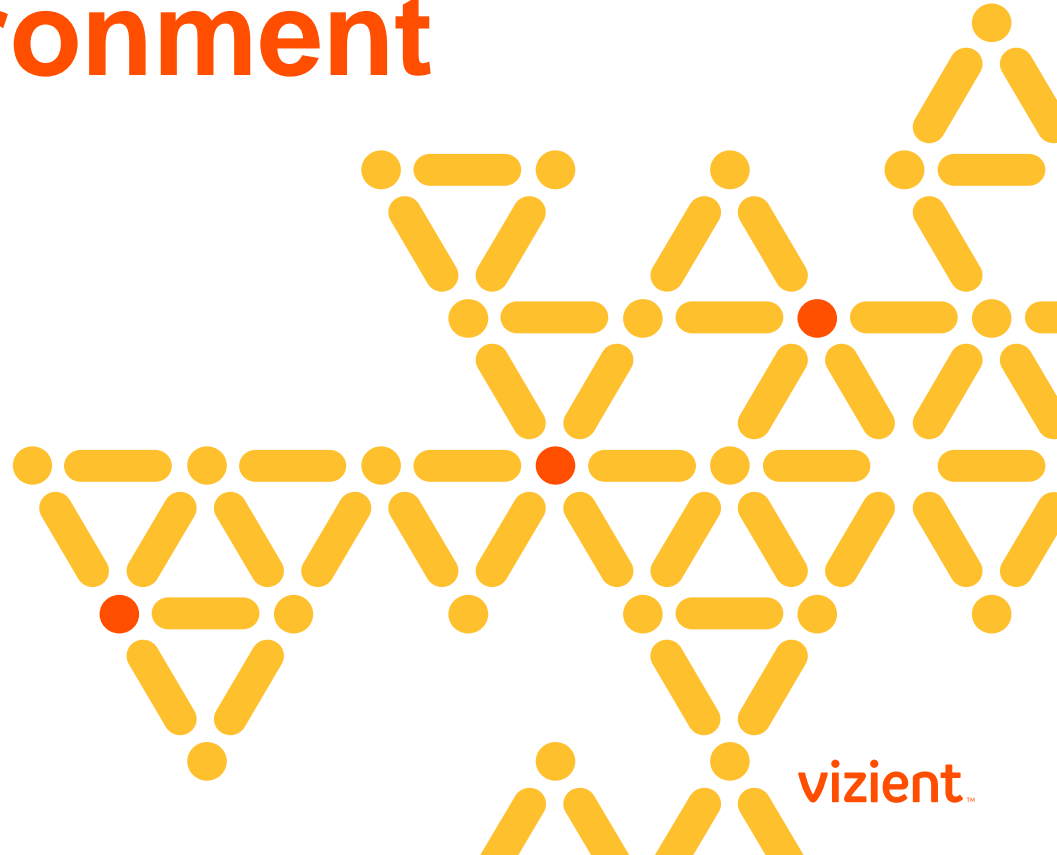
# Medical Device Tax

**ACA's medical device manufacturers continues to be targeted for repeal!**

- 2.3% excise tax strongly opposed by device makers
- Tax implementation suspended until 2018
- Repealing the tax has bipartisan support!
- Finding offsets has proven difficult
- Other industries have pushed back on repeal as they face similar assessments



# Political Environment



# Political Landscape Dictating Policy

- President Trump approval rating and multiple distractions appear to be hampering movement on major agenda items.
- Harvey/Irma/Maria disasters, foreign policy challenges and ongoing Russia investigation likely to further distract from ambitious goals.
- 2018 is an election year – accomplishments likely need to be completed well before August – potentially earlier for controversial items.
- Despite energy from left, Senate is not at risk of flipping control in 2018.
- House is primary target for Democrats – but favorable (gerrymandered) districts will make gains a challenge.



# Election 2018

- President's party has lost seats in 36 of 39 mid-term elections since the Civil War!
- Sagging approval numbers generally spell bad news for sitting president's party – but President Trump is not on any ballots in 2018.
- GOP intra-party squabbling is creating tension.
- Democrats seem energized, but have not yet been able to harness energy for any special election wins (in deep red districts).
- Democratic fractures are also emerging (Bernie v. Hillary; DSA strengthening; Abortion Litmus Test)





# First mid-term Historically Poses Challenges for White Houses

President & Year of 1 <sup>st</sup> Midterm	Net POTUS Job Approval	House Seats	Senate Seats	Governor-ships	Seats in State Legislatures
TRUMAN (1946)	-19	-55	-11	-2	-456
IKE (1954)	+35	-18	-2	-8	+483
JFK (1962)	+36	-5	+4	0	-76
LBJ (1966)	+3	-47	-3	-8	-762
NIXON (1970)	+31	-12	+1	-11	-288
CARTER (1978)	+13	-15	-3	-5	-357
REAGAN (1982)	-6	-26	0	-7	-201
GHW BUSH (1990)	+26	-7	-1	-1	+32
CLINTON (1994)	0	-54	-8	-10	-514
GW BUSH (2002)	+33	+8	+2	-1	+127
OBAMA (2010)	-3	-63	-6	-6	-708
TRUMP (2017)	-19	<i>tbd</i>	<i>tbd</i>	<i>tbd</i>	-8 (out of 27 chances so far)

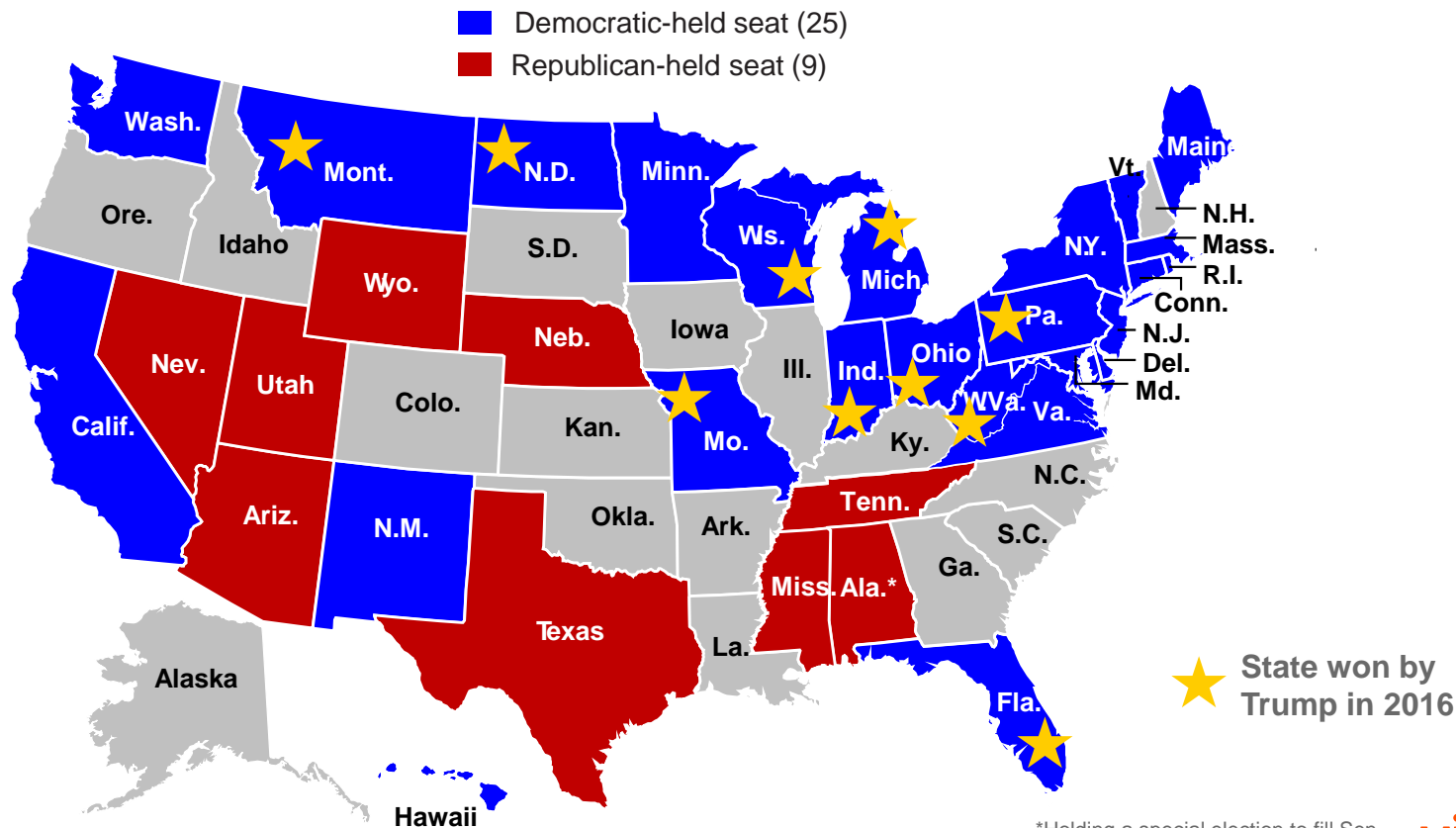
# House Up for Grabs?

**Democrats are focusing resources on retaking the House – but it is a steep uphill climb!**

- **GOP holds 240-194 majority**
- **Dems need to win 24 seats for majority**
- **2010 redistricting leaves only 35+/- competitive seats (out of 435) – so Democrats will need a wave-like election to reclaim majority**
- **Performance in special elections exceeded expectations – but little to show for it!**



# Senate Battlefield in 2018 Favors GOP



# Senate Outlook – FOR NOW

***Republicans Currently Hold a 52-48 Majority***

***Democrats defending 25 seats (including 10 in states won by President Trump) with only 9 GOP seats up for grabs.***

## Top Democratic Targets

- Sen. Claire McCaskill (D-MO)
- Sen. Heidi Heitkamp (D-ND)
- Sen. Joe Manchin (D-WV)
- Sen. Joe Donnelly (D-IN)
- Sen. Jon Tester (D-MT)
- Sen. Bob Menendez (D-NJ)
- Sen. Sherrod Brown (D-OH)
- Sen. Debbie Stabenow (D-MI)

## TOP GOP Targets

- Sen. Dean Heller (R-NV)
- Sen. Jeff Flake (R-AZ)
- And that's IT!

# Election Focus May Shift to States

## Dems & GOP will focus heavily on Governor's Races:

**27 Republican vs. 10 Democratic Governorships in 2017-2018 Cycle**

- **Governors will have outsized influence in shaping policy**
  - Medicaid expansion/waivers
  - ACA implementation
  - Redistricting plans
- **2017 Gubernatorial Races in Virginia and New Jersey will be seen as early bellwethers**
- **2018 Governor Races in Swing States**

# Key Takeaways:

- ACA repeal and replace efforts look to be over. But we've been here before – and we will likely be back to again if the opportunity presents itself.
- Congress has a full agenda, and with POTUS's and HHS administrative authority, there are still concerns for the future of the ACA.
- Hospitals and other providers are facing significant pressure from the marketplace and consumer demands. That pressure will be extended across the industry.
- Politics are already looking ahead to 2018. Energized Dems targeting House and Governorships – while GOP defends majorities and seeks gains in Senate.



# How Can We Help You?

- How does the federal government affect business/business decisions/reimbursements for hospitals?
- What challenges does this pose?



**Vizient's D.C. office wants to hear your concerns, develop strategies, and connect with policy-makers either with you or on your behalf**



**Steve Rixen**

**Government Relations Director**

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