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Legislative Update: Ways and Means approves bills concerning investors in medical providers, “surprise” medical bills

The House Ways and Means Committee today approved two bills relating to (1) reporting by certain investors with respect to specified medical care providers and (2) “surprise” medical bills.

Reporting by certain investors

The Ways and Means Committee approved an amendment in the nature of substitute to H.R. 5825, the “Transparency in Health Care Investments Act of 2020.”

The bill would add to the Code a new section 6039K, “Returns by certain investors with respect to certain specified medical care providers.” The provision would generally require certain holders of interests in some medical care providers to file annual information returns reporting information regarding such medical care providers. Specifically, the reporting requirement would be imposed on any person who holds an interest in a specified medical care provider, controls such provider, and receives any service from any person engaged in an applicable trade or business that meets certain requirements. (For purposes of the control test, certain constructive ownership rules apply and persons holding an investment coordinated with the investment of any other person is treated as holding all such coordinated investments.)

The bill generally would apply to investments in medical care providers that are partnerships or corporations that are enrolled as providers under Medicare, Medicaid, or both.

The bill would also apply to investments in any partnership or corporation that employs one or more individuals enrolled as a provider under Medicare, Medicaid, or both, in the course of a trade or business that includes the provision of medical care.

The returns must contain certain information related to the reporting party’s investment in a specified medical care provider, including:

- Gross receipts received by the specified medical care provider
- Acquisitions and dispositions of interests in the specified medical care provider
- Real estate owned and leased by the specified medical care provider
- Payments to persons related to the specified medical care provider.

The bill would impose penalties for failures to file the required information returns. The penalty imposed on the reporting person would be \$5,000 for each day the person fails to file a complete and accurate information return, up to a maximum penalty of \$1 million per return.

Further, the bill would provide that the returns be made available to the public by the Treasury Department.

The provisions of the bill would be effective for returns for tax years of specified medical care providers beginning after the date of enactment.

Read text of [H.R. 5825](#) [PDF 52 KB]

Read a [description of an amendment in the nature of a substitute to H.R. 5825](#) prepared by the staff of the Joint Committee on Taxation (JCT).

KPMG observation

This proposal would create a new information reporting requirement for private equity investors in certain healthcare practices. Ways and Means Chairman Richard Neal (D-MA) said in his opening statement:

Increasingly, private equity firms are investing in areas such as emergency departments, ambulatory surgery centers, trauma units, nursing homes and hospitals, as well as health insurance companies. This reporting will enable policy makers and regulators to better understand private equity's effects on the health system.

While the bill sets forth a number of items that must be reported, the legislation would provide that the Secretary of the Treasury may require additional information to be reported.

Consumer-related bill

The Ways and Means Committee also approved H.R. 5826, the "Consumer Protections Against Surprise Medical Bills Act of 2020."

The bill contains a number of modifications to the Internal Revenue Code, including a provision that would allow taxpayers to deduct certain surprise billing expenses below the adjusted gross income (AGI) floor. This deduction would be allowed for expenses paid during the period beginning on January 1, 2020, and ending on the date that is one year after the date before the date specified in section 2(a)(5) of the bill.

Read text of [H.R. 5826](#) [PDF 479 KB]

Statement by ranking member Brady

In a [statement](#) at the beginning of the markup, ranking member Brady (R-TX) indicated that Republicans “strongly oppose” the bill relating to investor reporting (i.e., H.R. 5825).

However, he described the “surprise medical billing” bill (i.e., H.R. 5826) as a “thoughtful, bipartisan measure,” noting that he was proud to be the lead cosponsor (with Chairman Neal) and that every Republican member of the Ways and Means Committee was an original cosponsor as well.

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