What's Happening in Washington? A Legislative & Political Update

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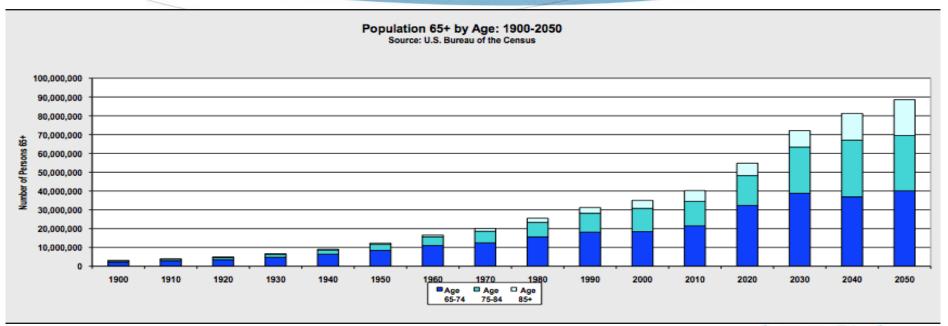


Post-Acute Care Trends

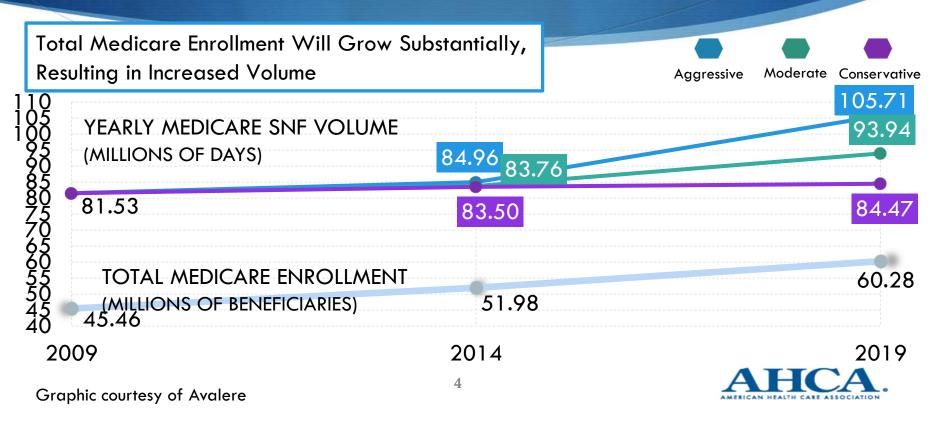
What's Happening in 2014?



Demographics are in Our Favor

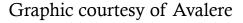


More People Will Need Our Post-Acute Services



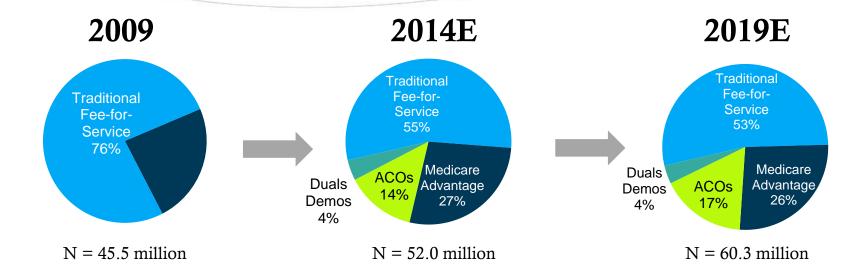
Changing Medicare Payment Systems







What the Future Could Hold



Graphic courtesy of Avalere



Federal Risks Remain

- MedPAC admits our total margins ar razor-thin
- Budget cut discussions have shrunk from trillions to billions
 - Lower Exposure
- √ 1-Year Doc Fix end of March
- ✓ Provider Tax Reductions?





Price Tag of Permanent "Doc Fix" Lower than Stop-Gap Measures

2014

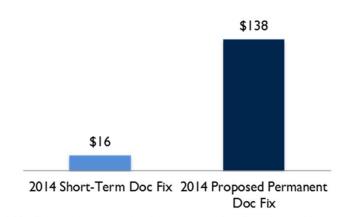
Medicare Budget Under SGR vs. Medicare Costs
(conceptual)



In 1997, Congress created the Medicare Sustainable Growth Rate (SGR) to tie the Medicare budget to the economy's growth. However, health care spending soon outpaced the economy.

1997

Cost Difference Between 2014 Short-Term and 2014 Proposed Permanent Doc Fixes (in billions of dollars)



Since 2003, Congress has passed 16 short-term "doc fixes" to stabilize provider payments. Short-term doc fixes are, if only for a short while, cheaper solutions than a permanent fix and, as a result, more politically palatable

Our Focus- RRV...

- ✓ Rate
 - Protect our rate and ensure increases
- Regulation
 - Combat duplicitous and costly regulations
 - Manage Five Star Changes
- ✓ Volume
 - Advance policies that acknowledge our value proposition and places patients in settings based on their needs



AHCA/NCAL 2015 Goals

- To avoid any payment reductions in coming SGR debate and to ensure appropriate market basket increases via rulemaking process. Maintaining payment predictability and adequacy remains our top priority.
- Continue to represent an industry promoting health care solutions to improve quality of care and reduce costs.
- Expedite payment reform work and develop pay-for alternatives of varying sizes

- Advocate for permanent Therapy/MMR resolution on next viable legislative vehicle
- Manage Implementation of changes to the Five Star Program
- Highlight problems associated with Medicaid
 Managed Care in a targeted manner
- Continue to advance observation stay legislation and work to minimize score



Current State-of-Play

House, Senate, and Administration



2014 Leadership Line-Up

Senate

- ✓ Majority Leader Reid (D-NV)
- ✓ Minority Leader McConnell (R-KY)
- ✓ Finance Wyden (D-OR)
- ✓ Ranking Member Hatch (R-UT)

House

- ✓ Speaker Boehner (R-OH)
- √ Minority Leader Pelosi (D-CA)
- √ Ways & Means Camp (R-MI)
- ✓ Health Subcommittee Brady (R-TX)



Deep Involvement with All Potential Leaders

- Majority LeaderReid (D-NV)
- Sen. Schumer (D-NY)
- Minority LeaderMcConnell (R-KY)
- ✓ Sen. Wyden (D-OR)
- ✓ Sen. Cornyn (R-TX)
- ✓ Sen. Hatch (R-UT)
- ✓ Sen. Thune (R-SD)
- ✓ Sen. Grassley (R-IA)

- Speaker Boehner (R-OH)
- Minority Leader Pelosi (D-CA)
- Majority Leader
 McCarthy
 (R-CA)
- Rep. Hoyer (D-MD)

- Rep. Becerra (D-CA)
- ✓ Rep. Ryan (R-WI)
- Rep. Brady (R-TX)
- ✓ Rep. Upton (R-MI)



Political & Lobbying Focus

- Deep involvement with all potential leaders
- √ Fundraising events and tours for all on Senate Finance
- ✓ Continue Rank and File activity
 - 2015 rule
 - Advancement of Payment Reform Efforts



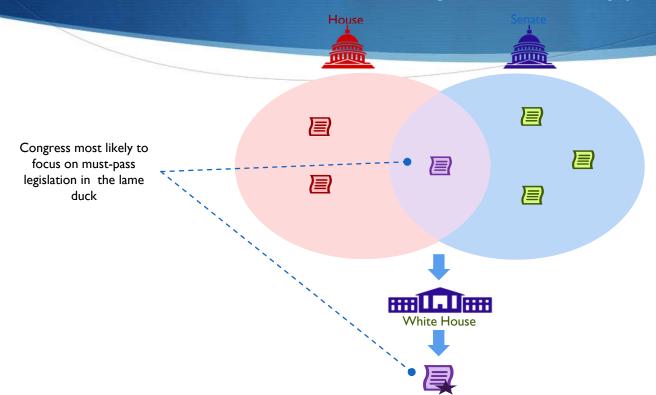
Maintaining Positive Relationships with the Administration

- Dr. Gifford and Quality Department daily contact with CMS
- ✓ Mike Cheek duals demos
- Reimbursement Team quarterly meetings with Lawrence Wilson at CMS
- ✓ Mark Parkinson and Dr. Gifford quarterly meetings with Marilyn Tavenner & Sean Cavanaugh



Only Urgent Issues Likely to be Addressed in Lame Duck Session

Potential Lame Duck Session Legislative Productivity (113th Congress)



- Regardless of which party wins the Senate, expect legislators to pass only necessary, short-term bills and continuing resolutions in the lame duck session
- The lame duck session may be more productive than the status quo; necessary legislation that was not passed before the election may be taken up in the lame duck session once electoral pressure is off of members and controversial votes are easier to take
- If Dems lose the Senate, they may attempt to push legislation and appointments through while they still have control; however, even if Dems keep control of the Senate, the prospect of improved Republican vote margins in the 114th Congress will likely push Republicans to obstruct nonessential lame duck legislation

Sources: National Journal Research, 2014; Billy House, "Election Uncertainty Complicates Budget Decisions," National Journal, August 20, 2014; Robert Longley, "Lame Duck Sessions of the U.S. Congress," About News, 2014; Billy House, "As Bills Pile Up, Congress Starts Contemplating a Lame Duck Session," Government Executive, June 18, 2014;

Lame Duck Implications

- Short Lame Duck with little meaningful action due to organization of new majority (Contingent upon Republican Majority)
 - Permanent SGR fix unlikely
 - Patch likely by March 2015 (9 to 12 months?)
 - CR passed at least through March 2015
 - Extenders (no action, 2 year bill with some permanent, some middle ground compromise)?



2014 Mid-Term Elections

Who's Going to Retain Control?



The Six-Year Itch

Change in congressional party makeup after midterm elections during President's second term

Year	President	Party	Pres. Party Seat Change: House	Pres. Party Seat Change: Senate		
2006	G.W. Bush	Republican	-30	-6		
1998	Clinton	Democrat	+5	0		
1986	Reagan	Republican	-5	-8		
1974	Nixon/Ford	Republican	-48	-4		
1966	Kennedy/Johnson	Democrat	-48	-4		
1958	Eisenhower	Republican	-48	-12		
Average			-29	-6		

Analysis

The President's party has been hammered in the House and/or Senate in five of the last six "six-year itch" elections since World War II

Source: 2008 Vital Statistics on Congress.

Obama's Approval Ratings Slightly Below Average of Predecessors

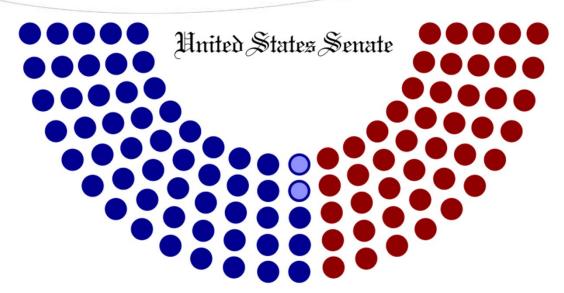
Second-term presidential approval ratings

President	Approval Rating	Date
Clinton	63%	September 1998
Reagan	61%	September 1986
Eisenhower	57%	September 1958
Johnson	46%	September 1966
Obama	41%	September 8-14, 2014
G. W. Bush	39%	September 2006
Truman	35%	September 1974

Source: Gallup Presidential Approval Center.



Current Composition - Senate



Majority: 55

Minority: 45



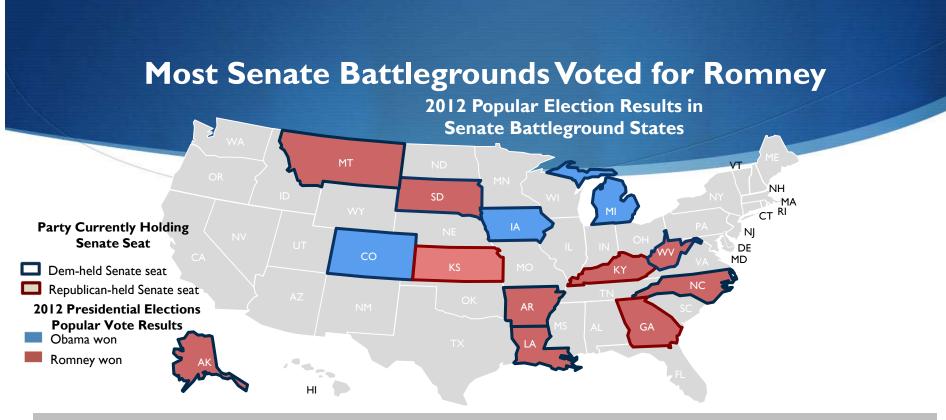
2014 Senate Races by 2012 Presidential Performance

Senators running in 2014 by 2012 presidential performance (Obama vs. Romney)

Obama + 15 or Greater Obama +5 to +14.9		Obama +4.9 to Romney +4.9	Romney +5 to +14.9	Romney +15 or Greater	
		DEMOCRATS (21)			
Coons (DE) +19 Schatz (HI) +43 Durbin (IL) +17 Markey (MA) +23 Reed (RI) +27 Booker (NJ) +17	M. Udall (CO) +5 Harkin* (IA) +6 Levin* (MI) +10 Franken (MN) +8 Shaheen (NH) +6 T. Udall (NM) +10 Merkley (OR) +12	Hagan (NC) R+2 Warner (VA) D+4	Begich (AK) +14 Walsh* (MT) +14	Pryor (AR) +24 Landrieu (LA) +17 Johnson* (SD) +18 Rockefeller* (WV) +27	
		REPUBLICANS (15)			
Collins (ME) +15			Chambliss* (GA) +8 Cochran (MS) +12 Graham (SC) +10 Scott (SC) +10	Sessions (AL) +22 Risch (ID) +32 Roberts (KS) +22 McConnell (KY) +23 Johanns* (NE) +22 Coburn (OK) +34 Inhofe (OK) +34 Alexander (TN) +20 Cornyn (TX) +16 Enzi (WY) +41	

^{*} Senate seat is open Source: The Cook Political Report.

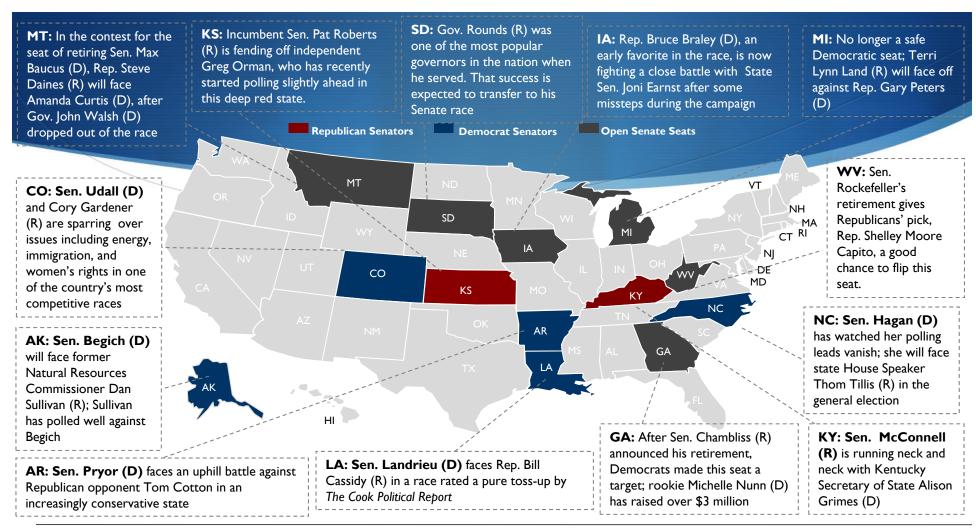




Analysis

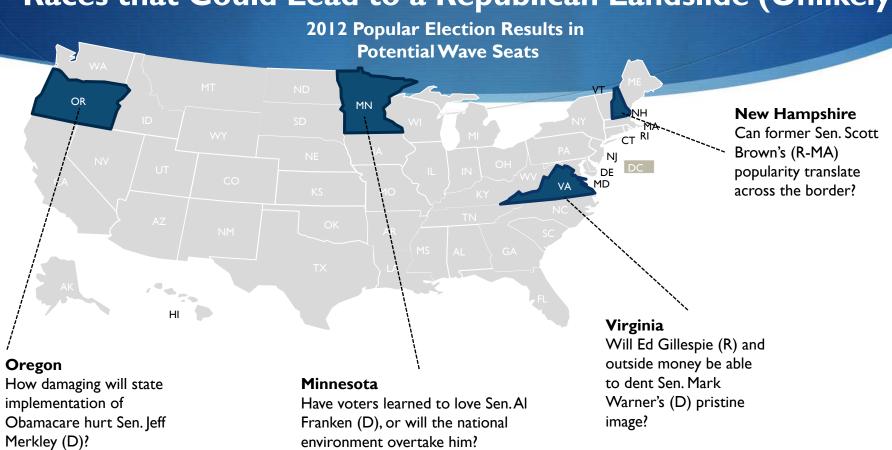
- •Of the Democrat-held Senate battleground states, seven are in states that Mitt Romney carried in 2012
- •Six of those seven states were carried by double-digits (AK,AR, LA, MT SD, WV)
- •Only two Republican-held seats are at risk (GA, KY), and they're both in solidly Republican states

Source: National Journal Research with Josh Kraushaar.



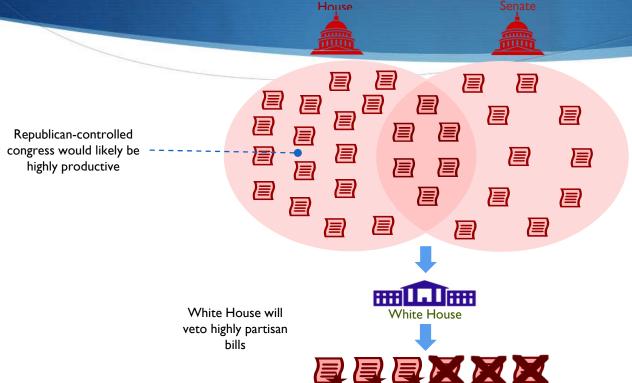
Source: Scott Bland, Andrea Drusch, and Alex Roarty, "The Senate Seats Most Likely to Flip: Hotline's Race Rankings," National Journal's Hotline, June 25, 2014.

Races that Could Lead to a Republican Landslide (Unlikely)



If Republicans Control the Senate, Expect More Bills (and More Vetoes)

Potential Post-Election Legislative Productivity With Republican Senate (114th Congress)



Sources: National Journal Research, 2014; Rebecca Kaplan, "3 big issues Congress will likely punt for now," CBS News, July 29, 2014; Billy House, "Election Uncertainty Complicates Budget Decisions," National Journal, August 20, 2014; Phillip Bump, "Yes, the Senate is ignoring hundreds of bills passed by the GOP House. But it's always been that way," The Washington Post, August 8, 2014.

Analysis

- If Republicans win the Senate, expect legislative productivity to go up, since Congressional gridlock will be less of an obstacle to lawmaking
- However, not all legislation passed by the I I4th Congress will be conservative; Senate Republicans will still have to address concerns of moderate Democrats in order to pass legislation, so Senate bills are likely to be more moderate than House versions
- Even if Congress does pass more Republican-backed bills, Obama will likely veto highly partisan legislation

Most Major Outlets Predicting Senate Flips

	\mathbf{e}	u		H	\$	R	top
	NYT	538	DK	HuffPo	PEC	PW	WaPo
	Oct 24	Oct 24	Oct 23	Oct 24	Oct 24	Oct 24	Oct 23
Senate Control	64% Rep.	61% Rep.	70% Rep.	66% Rep.	54% Rep.	78% Rep.	91% Rep.

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	NYT	538	DK	HuffPo	PEC	PW	WaPo	Cook	Roth.*	Sabato
Competitive States	Oct 24	Oct 24	Oct 23	Oct 24	Oct 24	Oct 24	Oct 23	Oct 17	Oct 24	Oct 23
New Hampshire	78% Dem.	81% Dem.	63% Dem.	61% Dem.	89% Dem.	78% Dem.	99% Dem.	Tossup	Tossup	Leaning
North Carolina	74% Dem.	71% Dem.	61% Dem.	56% Dem.	72% Dem.	78% Dem.	95% Dem.	Tossup	Tossup	Leaning
Kansas	62% Ind.	58% Ind.	72% Ind.	Even	83% Ind.	51% Ind.	60% Ind.	Tossup	Tossup	Tossup
Georgia	Even	51% Dem.	71% Rep.	59% Rep.	61% Dem.	54% Dem.	61% Dem.	Tossup	Leaning	Tossup
lowa	60% Rep.	66% Rep.	66% Rep.	57% Rep.	69% Rep.	75% Rep.	86% Rep.	Tossup	Tossup	Leaning
Alaska	72% Rep.	70% Rep.	78% Rep.	80% Rep.	88% Rep.	91% Rep.	95% Rep.	Tossup	Tossup	Leaning
Colorado	82% Rep.	79% Rep.	77% Rep.	60% Rep.	76% Rep.	87% Rep.	93% Rep.	Tossup	Tossup	Tossup
Arkansas	82% Rep.	85% Rep.	87% Rep.	58% Rep.	86% Rep.	97% Rep.	90% Rep.	Tossup	Leaning	Likely
Louisiana	91% Rep.	78% Rep.	79% Rep.	82% Rep.	88% Rep.	93% Rep.	95% Rep.	Tossup	Tossup	Tossup
South Dakota	91% Rep.	88% Rep.	>99% Rep.	97% Rep.	97% Rep.	95% Rep.	>99% Rep.	Leaning	Leaning	Leaning
Kentucky	91% Rep.	78% Rep.	81% Rep.	66% Rep.	87% Rep.	96% Rep.	>99% Rep.	Tossup	Leaning	Likely

Solid Likely Leaning Tossup Leaning Likely Dem. Dem. Dem. Rep. Rep.

^{*} Rothenberg ratings are converted from a nine-category scale to a seven-category scale to make comparisons easier.

Potential Republican Additions to SFC

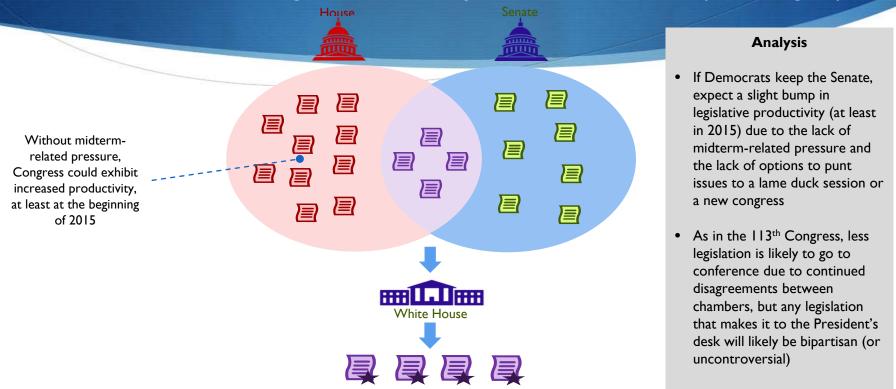
- John BoozmanArkansas, elected 2010
- ✓ Jeff Flake
 Arizona, elected 2012
- Jerry MoranKansas, elected 2010

- Roy BluntMissouri, elected 2010
- ✓ Dean HellerNevada, elected 2012
- Ron JohnsonWisconsin, elected 2010



If Democrats Keep the Senate, Expect More Status Quo

Potential Post-Election Legislative Productivity With Democratic Senate (113th Congress)



Sources: National Journal Research, 2014; Rebecca Kaplan, "3 big issues Congress will likely punt for now," CBS News, July 29, 2014; Billy House, "Election Uncertainty Complicates Budget Decisions," National Journal, August 20, 2014; Phillip Bump, "Yes, the Senate is ignoring hundreds of bills passed by the GOP House. But it's always been that way," The Washington Post, August 8, 2014; Grace Wallack and Elaine Kamarck, "Why a Do-Nothing Congress Helps Both Parties in Elections," FixGov, August 14, 2014.

If Democrats Retain Control...

- Leadership will remain the same
- Composition of committees may change (if Democrats lose seats) and current Democrat Finance members may lose seat on committee (Sen. Warner most junior) or lose margin via attrition.
- Key Committee Chairmanships will remain unchanged
 - Except for Aging (Sen. Casey will elevate due to term limits)
 - Chair of HELP will change due to Harkin retirement



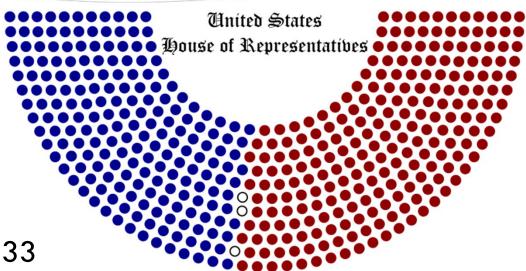
2015-2016 (with reasonable certainty)

Senate

- ✓ Majority Leader ? (Reid, McConnell, Cornyn, Thune)
- ✓ Minority Leader ? (Reid, McConnell, Cornyn, Thune, Schumer)
- ✓ Senate Finance Chair/Ranking D Wyden
- ✓ Senate Finance Chair/Ranking R Hatch



Current Composition - House

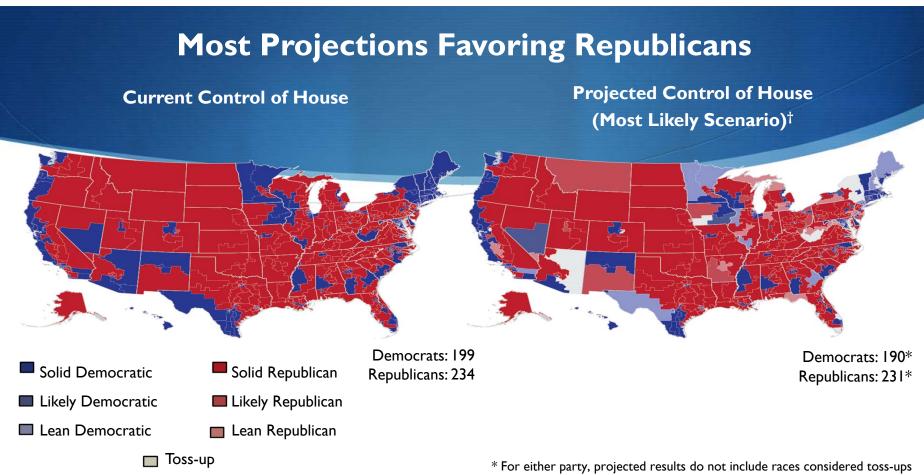


Republicans: 233

Democrats: 199

Vacant: 3



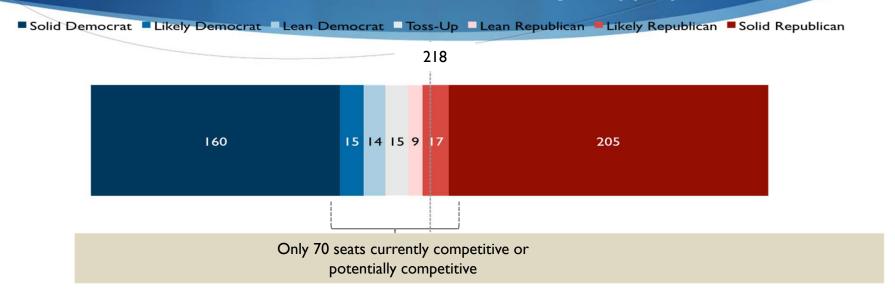


† The Most Likely scenario is based on recent polling and the consensus of the two House forecasts cited below, allowing for toss-ups

Sources: U.S. House of Representatives; "House: Race Ratings," The Cook Political Report, July 11, 2014; "2014 House Races," Sabato's Crystal Ball, June 19, 2014.

Only 70 Competitive or Potentially Competitive Seats in the House in 2014

Number of House seats in the 113th Congress, by party



Democrats must win every Solid Democrat, Likely Democrat, Lean Democrat, Toss-Up, Lean Republican, and 5 out of 17 Likely Republican districts to take back the House

Source: Cook Political Report.

2015-2016 (with reasonable certainty)

House

- √ Speaker Boehner
- Minority Leader (Pelosi, Hoyer, Becerra, Van Hollen)
- ✓ Chair Ways & Means Ryan
- ✓ Chair Health Subcommittee Brady
- ✓ Chair Energy & Commerce Upton



2015 Legislative Session Risks

- ✓ Multiple risk windows (SGR, Debt limit, Omnibus?)
 - SGR expires March 31
 - Debt limit expires Summer of 2015 (July-August)
- ✓ Significant legislative activity in 2015 with threat of reconciliation instructions (51 vs. 60 to pass legislation) potentially expediting passage of harmful legislation



Macro-Risks Associated with Republican Majority

- More Managed Care Friendly Environment
 - Medicare
 - Medicaid
- Provider Tax Skeptics
- Entitlement reform proposals to re-emerge
 - Chairman Ryan's budget/block grant/Medicare plans



Other Macro-Risk Factors

√ Syria/ISIS crisis could grow

- Increased pressure to lower defense cuts in sequester (increasing burden on non-defense sectors)
- Eliminates ability to spend OCO money on health expenses



Macro-Opportunities if Republicans Take Senate

- Large, divisive, stand-alone Republican initiatives will be blocked by the President's veto (i.e. block grants)
- Senate more receptive to value-producing legislation
 - Hips/Knees
 - Bundling
 - Site Neutral
 - Episodic
- √ Receptive to MedPAC reports of low margins
- Mitigated regulatory risks and greater receptivity to regulatory relief proposals
- ✓ Possibility of Tax Reform: could open the door for life insurance LTC insurance reform ideas



Opportunities and Threats Specific to SNF Interests



Opportunities: Payment Reform Provides Proactive Solution

- ✓ Package Deal:
 - Episodic/bundling
 - Therapy Rule Relief
 - Observation/3 day stay relief

Positives

- Saves Money
- Solution/Quality Focused
- Confined to SNF sector
- Similar to other payment models
- Difficult to oppose

Obstacles

- Bundling proponents may oppose
- Staffers/CMS may object to specific components of proposal
- MEDPAC is mandated (IMPACT ACT) to be involved



Threats-Sound Familiar?

- √ Market Basket Cuts
- ✓ Provider Tax Reductions
- ✓ Block Grants
- Rebasing
- √ Bad Debt



2014 Legislative Developments



Congressional Efforts Linking Quality & Payment

- ✓ IMPACT ACT of 2014
- Reducing Re-hospitalizations



"IMPACT ACT OF 2014"

Legislation has four parts:

- 1. Incorporate standardized assessment
- 2. Public reporting of common quality measures
- Provide quality measures to consumers when transitioning to a PAC provider
- 4. HHS and MedPAC to conduct studies to link payment to quality



"IMPACT ACT OF 2014" Part 1

- Incorporate standardized assessment(s) (e.g. CARE tool) into existing assessment tools across PAC providers (LTCH, IRF, SNF, & HH) for
 - Pressure ulcers
 - Functional status
 - Cognitive status
 - Special Services
- Collect data at admission and discharge
- ✓ Implement by Oct 2018



"IMPACT ACT OF 2014" Part 2

- Develop & Publicly report quality measures across settings:
 - Rehospitalizations & hospitalizations
 - Hospitalizations after discharge from PAC provider
 - Discharge to community
 - Pressure ulcers
 - Medication reconciliation
 - Incidence of major falls
 - Patient preferences
 - Avg Total Medicare Spend per Beneficiary
 - Plus any other measures Secretary wants

- Measures must be approved by National Quality Forum
- Public reporting starting in Oct 2018



"IMPACT ACT OF 2014" Part 3 & 4

- Hospitals and PAC providers need to provide quality and efficiency measures to beneficiaries to help them with their decision making
 - Modify conditions of participation to incorporate QMs into the discharge planning process
- √ Payment penalty of 2% for failure to collect and report data
- Requires several studies and reports
 - MedPAC and HHS develop plan to link quality to payment
 - Review Risk adjustment methodologies
 - Review use of socio-economic status in risk adjustment



SNF Rehospitalization linked to payment

- SGR fix contained legislation that links SNF rehospitalization to SNF Medicare Part A payments
 - Uses a with-hold approach
 - 2% "mathematical" withhold to create incentive pool
 - o Incentive pool is 50-70% of the withhold
 - Incentive pool is "returned" to facilities based on their rehospitalization performance score
 - Performance score is based on rehospitalization rate OR degree of improvement from prior year(s)
 - o Top performers most or all of their withhold and possibly more
 - Middle performers will receive some of their withhold
 - Bottom performers receive less than their withhold or nothing
 - First adjustment to a SNF's market basket will be in Oct 2018 (FY 19)

SNF Rehospitalization linked to payment

- Requires public reporting of SNF rehospitalization
 - Confidential feedback reports in 2016
 - Public reporting in 2017
 - Development of a potentially avoidable rehospitalization measure for use in 2019
 - All measures need to be risk adjusted



The Observation Stays Problem

- Hospitals are keeping patients under outpatient status (to receive observation services) rather than admitting them
 - To avoid RAC audits of short inpatient stays
 - To avoid readmissions penalties
- This practice is causing unintended consequences
 - Patients not achieving 3-day stay requirement for SNF coverage
 - Higher out-of-pocket costs to beneficiaries



Potential Solutions

- √ Legislative action
 - To repeal three-day stay requirement
 - To count outpatient days under observation toward 3-day stay requirement
- √ Administrative action
 - To count outpatient days under observation toward 3-day stay requirement



Coalition Work

- ✓ 31 coalition members, including AARP, AMA, Center for Medicare Advocacy, LeadingAge, and Leadership Council of Aging Organizations
- Garner media attention and support Hill efforts, including broad support for current legislative proposals
- Organize high-level meetings
 - Sean Cavanagh, CMS
 - CMS Office of the Actuary (OACT)
 - MedPAC



VA Provider Agreement

- ✓ AHCA supported the Department of Veteran Affairs' (VA) proposed rule on Provider Agreements when it was released for comment in February of 2013.
- The rule, among other things, increases the opportunity for veterans to obtain non-VA extended care services from local providers that furnish vital and often life-sustaining medical services



Rule Provisions

- Medicare (Parts A and B) or Medicaid providers are not considered to be federal contractors.
- Under the new VA Provider agreement, providers with VA patients would not be considered federal contractors, and would therefore not have to follow complex federal contracting and reporting rules.
- Federal contracts come with extensive reporting requirements to the Department of Labor which have deterred providers, particularly smaller ones, from VA participation. The use of provider agreements for extended care services would facilitate services from providers who are closer to veterans' homes and community support structures.



Support from Congress

- Several members of Congress in support of AHCA sent bipartisan Senate (43 Senators) and House (109 House members) letters directly to the VA encouraging them to release the final rule.
- The letters had a tremendous impact. VA sent the proposed rule to the Office of Management and Budget (OMB) for review.
- Senator Hoeven filed an amendment (#3905 to S. 2410) to the National Defense Authorization bill to give the VA the authority to enter into provider agreements with nursing facilities, eliminating the complex federal reporting requirements.
- ✓ The National Defense Authorization Act will be taken up as soon as Congress returns from recess likely right after the November elections in the lame-duck.



Medicaid Managed Care

Medicaid Managed Long Term Care Expansion



Letter to Senate Finance

- More work on providing accessible health care data across settings and payment types
- Letter sent in late August recommends that:
 - CMS should remove barriers to accessing timely Medicare claims and MDS data
 - CMS should ensure that MDS data systems meet certain standards of interoperability
 - CMS should enhance its data collection and reporting efforts for the Medicare Advantage and Medicaid managed care programs
 - The Congress should pass legislation providing incentive funding to post-acute and long term care providers for implementing electronic health records (EHRs)



How You Can Help

Member Advocacy



Meeting Members of Congress

- Work with AHCA's Grassroots team to hold tours of your centers with Members of Congress
 - Matt Smyth msmyth@ahca.org
- Over 170 tours in 2014, year-to-date
- ✓ AHCA/NCAL yearly goal of 200 tours
- Attend Congressional Briefing: cb.ahcancal.org
- Meet with your Members of Congress when needed



Congressional Briefing

- ✓ June 15-16, 2015
 - "Hyatt Regency on Capitol Hill
 - Attend Briefings and gain understanding of Congress and AHCA/NCAL's goals
 - Hear insights from Members of Congress, Administration officials, and Washington experts
 - Meet with elected officials and policy makers on Capitol Hill
 - Build relationships with Members of Congress
 - Shape public policy
 - Network with peers





2014 PAC Goals

- √ \$3.5 Million in Hard Dollars
 - \$3,200,000 YTD
- √ \$2.1 Million in Soft Dollars
 - \$2,550,000 YTD
- √ 150 Political Fundraising Events completed



Political Focus

- Deep involvement with all leadership and potential leaders
- √ Fundraising events for Senate Finance members
- ✓ Acute focus on "vulnerable" Senators
- Aggressive outreach to party committees
- Continue Rank and File activity
- Strategic soft dollar spending to outside groups



Questions?



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