

Drug Deal Comes Together: Pass by Aug Recess

No Official Announcement Likely As Package Gets Smaller (Not Bigger)

- **The *Washington Post* reported late yesterday ([here](#)) that a Drug Price Reform deal is coming together.** It noted the inclusion of prior BBB drug reforms (the big 3), climate and tax. We think there could be tweaks to the proposals but not major ones, so that scoring is not something that has to be redone by CBO in a tight timeline.
- **We do not expect a bold announcement if & when a Drug Pricing deal is struck: We do think that a deal will materialize.** The bill is getting smaller not bigger at this point. Leadership's goal as we understand it, via tweets ([here](#)) and other press reports, is to get it to the floor by August recess. The "Byrd Bath" would start in July (weeks of July 11 & 15): this is the process of determining whether budget reconciliation metrics are met i.e., whether w policy adds or subtracts from the deficit.
- **We have always said that the Drug reforms are more likely than ACA subsidies.** It's a wasted opportunity however in our view not to include ACA subsidies as premiums would spike up to 50% for Americans during election season this fall. See background below on how Medicaid Redeterminations plays into this conversation. Recall the big 3 drug reforms in earlier version of BBB (1) Part B&D limited negotiation (2) CPI inflationary rebates and (3) Part D restructuring with \$2,000 OOP cap as well as new liabilities (plans/pharma/gov't/consumers) in the Medicare Drug benefit.
- **As we wrote on June 2, we still think that a skinny BBB makes it in 2022 but there are myriad remaining steps (See below).** Specifically, we said that ACA Subsidies (means-tested) + Drug Reform may actually pass in 2022 with limited other provisions. The enhanced subsidies, enacted through the \$1.9 T COVID relief bill, sunset Dec 31, 2022. We think that for election purposes, both parties want to see the subsidies extended to 2023, even if it's not a blanker extension. Drug pricing reforms also offset subsidies evenly (see below for #s), and it could be a legislative win ahead of the November election. Reconciliation instructions expire as of Oct 1, 2022 (the start of FY23).
- **NEXT STEPS:** There was little fanfare today re a drug reform deal, likely because there are more reconciliation steps required before a win can be announced. We think they get there. Congress has had some momentum by passing Gun reform legislation, and we believe FDA User Fee Bills as will pass on a bipartisan basis this fall. Drug pricing reforms have eluded policymakers for years; despite it being a bipartisan issue. This deal is one that could be stomached by PhRMA, BIO, AHIP/BCBSA, essentially the major stakeholders, as well as Americans. Conventional wisdom is that ACA + Drug Price reforms (plus anything on Climate + Tax) would have to be completed by July 4 recess. We have said that we think that Aug recess is more likely. The FY22 Reconciliation instructions expire 9/30 so theoretically bill passage is possible after August recess, but would be complicated given proximity to Nov 8 mid-term election. On Reconciliation itself, there are some major steps (1) Byrd Bath (2) Senate 20 hours of debate on Reconciliation (3) vote-or-rama (plus amendments, introduced by unanimous consent) (4) House passes final deal. We believe if the Senate has 51 votes then it will likely pass the House, meaning that Progressives who may have wanted more onerous reforms will not let the perfect be the enemy of the good.

BACKGROUND

- **Our outlook sharply changed post Mem Day, after Sen. Joe Manchin (D-WV) noted his interest in Drug Pricing reform not only at Davos, but again in his home state of West Virginia ([here](#)), speaking at a forum hosted by AARP.**
 - At the World Economic Forum's annual meeting in Davos, Switzerland Manchin noted his interest in addressing inflation, drug pricing and climate, with an emphasis on fossil fuels
 - Manchin listed three major priorities: (1) inflation and deficit reduction, (2) lowering drug prices, and (3) energy/climate
 - Speaking at an AARP hosted event in WV Tuesday 5/31 Manchin said he believes that the Congressional drug reforms in BBB do not go far enough
 - Points made by Manchin (1) Pharma blames PBMs and middlemen blame big Pharma (2) Veteran's Affairs negotiation is an alternative solution (3) Pharmacy DIR redefines negotiated price and eliminates the retroactive nature of claw back fees; legislation to reform [here](#) (4) Supports the insulin copay cap bill at \$35 per month (5) Supports importing drugs from Canada (6) Medicare Trust fund solvency relies on things like drug price/spend reform.

- **Sen. Manchin has said repeatedly that BBB drug reforms do not go far enough & that the overall Reconciliation bill should be deficit-reducing.** He supports Medicare negotiation of drugs. The WV Senator believes that the Rx pricing reforms could go deeper. Manchin supports unwinding Trump tax cuts, but we do not envision that happening this year, given Sen. Sinema's (D-AZ) lack of support for tax hikes. While Manchin would still like to raise the corporate tax rate from 21% to 25%, he knows Sinema is opposed and may settle for establishing a domestic minimum rate of 15%.

- **A 'clean' way to pay for ACA subsidies is drug pricing reforms.** One roughly offsets the other:
 - ACA subsidies made permanent cost over \$200 B ([here](#)) and \$25 B/ten (for one year, 2023)
 - Drug reforms in the prior version of *Build Back Better Act* save about \$170 B/ten
 - CPI (Inflationary) rebates generates \$80 B/ten
 - Part D restructuring generates \$2 B/ten
 - Limited Part B&D drug negotiation saves \$83/ten

- **Why this could happen: Drug reforms are bipartisan and discussions have dragged on (for years).**
 - **3 M Americans lose insurance if ACA enhanced subsidies go away Dec 31, with a disproportionate amount of African American, young adults & residents of Southern States impacted.** There are 14 M enrolled today via Marketplace plans (source: KFF). Both Republicans and Democrats would like for those who obtained insurance during COVID to keep it, hence election politics may not matter here. HHS estimated in March ([here](#)) 3 M people will lose coverage past Dec 31, nearly 9 M would receive lower subsidies and 1.5 M would lose their subsidies entirely (but remain insured). A Robert Wood Johnson estimate notes that a disproportionate share of young adults, low-income, Black Americans and residents of Southern states will lose coverage if Congress doesn't extend enhanced *Affordable Care Act* subsidies.
 - **Thinking ahead to 2023, as Medicaid redeterminations ensue with PHE unwind, there is little appetite for Americans to be punted to expensive Marketplace plans.** As a reminder the additional subsidies allowed Americans to be less price sensitive as \$0 premiums are available on state based exchanges, as well as the federal marketplace. Expensive marketplace insurance products for those rolling off Medicaid would lead to likely higher uninsured rates, as folks may decide not to enroll in a new, more pricey Marketplace plan.

BACKGROUND

- **CMS announced in March a special enrollment period (SEP) will be available for low income Americans, providing government dollars for insurance coverage.** Today, on the *Affordable Care Act's* 12th anniversary, the Biden Administration announced that subsidies to access low or \$0 premium care will be available for those <150% FPL.
- **The new policy is helpful to plans such as CNC, MOH, UNH, HUM, as well as others.** Americans with incomes less than 150% of the federal poverty level -- \$19,320 for an individual and \$39,750 for a family of four -- can select policies via Healthcare.gov through a SEP, the Centers for Medicare and Medicaid Services announced Monday, after previewing the policy to CNN this morning ([here](#)).
- **Free coverage for Americans during a SEP that lasts through Dec 31, 2022.** Most people will be able to select plans with no premiums, while others may have to pay a few dollars. CMS is launching advertising and outreach campaigns about the new special enrollment period, which lasts for the rest of the year. The effort will also target those experiencing certain life changes, such as losing job-based coverage, getting divorced or aging out of a parent's policy, which have always allowed them to sign up for Obamacare policies during the year.
- **As a reminder, longer term "Medicaid Gap" funding waits in the wings.** As a reminder, BBB would have provided coverage to those 12 holdout states. With BBB stalled, given Manchin & Sinema commentary, as well as Biden low approval during a significant geopolitical situation, we note that the coverage band aid announced today is helpful.
- **American Rescue Plan subsidies have boosted enrollment during the public health emergency (PHE).** CMS has worked to expand health care coverage to a record 14.5 M people through the Health Insurance Marketplaces, encouraged states to extend Medicaid coverage for a full 12 months after childbirth, and expanded access to home and community-based services for seniors and people with disabilities.
- **ARP related sign-ups were particularly strong in States that have not expanded Medicaid to low-income adults.** It has been popular among those with lower incomes nationwide: Some 4.6 M consumers who earned up to 150% of the poverty line enrolled in 2022 coverage, a 21% increase from the prior year.