



# FEDERAL UPDATE

The Report on Congressional & Administration Activities  
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## WASHINGTON UPDATE

In October, both the House of Representatives and Senate passed respective Fiscal Year (FY) 2018 budget resolutions. In an effort to make conference negotiations unnecessary and to provide a vehicle for tax reform legislation, the House agreed with the Senate-passed version and passed the budget resolution on Oct. 26.

Despite this budget action, Congress must still take up other legislation to complete FY 2018 appropriations before the continuing resolution that funds federal programs expires on Dec. 8. The University of California (UC) Office Federal Governmental Relations (FGR) remains actively engaged in budget and appropriations advocacy efforts and is working with the California congressional delegation and other key policymakers to support the university's key priorities in

advance of the passage of final federal FY 2018 appropriations legislation.

Since the Sept. 5 announcement that the Trump Administration would end the Deferred Action for Childhood Arrivals (DACA) program, effective March 5, 2018, UC has continued its efforts to encourage a bipartisan legislative solution to protect DACA recipients, including participating in "Protect Dreamers Higher Education Theme Week." Details on UC's ongoing advocacy are below.

On Oct. 12, President Trump announce that that his administration will not continue making cost-sharing reduction (CSR) subsidy payments to health exchange insurance issuers that help cover the costs of providing lower-income exchange enrollees with private health care coverage. UC has consistently advocated for continuation of CSR payments.

More details about these and additional topics are below.

## BUDGET AND APPROPRIATIONS

On Oct. 5, the House passed [H.Con.Res.71](#), the FY 2018 budget resolution by a vote of 219-206. This legislation provides an avenue for tax cut legislation and calls for \$203 billion in cuts to entitlement programs over the next 10 years. On Oct. 19, the Senate passed its version, [S. Con. Res. 25](#), by a vote of 51-49, with all Democrats voting no. The resolution sets up a reconciliation process for approving tax cut legislation with 51 votes in the Senate, and allows for an addition of \$1.5 trillion to the deficit over the next decade.

In an effort to make conference negotiations unnecessary, House leaders agreed with Senate leaders on an amendment by Sen. Michael Enzi (R-WY) that substitutes the Senate language into the House resolution and strikes the entitlement cuts required by the House measure. The goal of this maneuver is to create an easier, accelerated path for Republicans in both chambers to begin writing tax cut legislation. The full House passed the Senate resolution on Oct. 26 by a vote of 216-212, with 20 Republicans voting no.

Despite this budget action, Congress must still take up other legislation to complete FY 2018 appropriations before the Continuing Resolution that funds federal programs expires on Dec. 8. After two years of partial relief enacted under the Bipartisan Budget Act of 2015, the full impact of the lower sequestration caps established by the 2011 Budget Control Act (BCA) returns for FY 2018.

New changes to the underlying 2011 BCA budget law would have to be enacted to alter the overall FY 2018 discretionary spending cap of \$1.065 trillion, and to revise the caps for the defense and non-defense categories. Unlike tax reconciliation, however, changing the statutory BCA caps will require negotiations between congressional Republicans and Democrats because 60 Senate votes are required, instead of a simple majority. It is expected that Congressional leaders will focus on reaching an agreement that would raise the discretionary caps for two years.

Throughout the summer and early fall, the House and Senate each advanced regular FY 2018 funding bills, assuming different defense and non-defense budgetary caps. The full House passed its versions of all 12 appropriations bills, which would cut non-defense programs by \$8 billion below FY 2017 levels, and increase defense spending by \$70 billion over FY 2017. The Senate has been operating under a more conservative plan – roughly adhering to FY 2017 spending caps. As of Oct. 24, eight bills have passed out of the Senate Appropriations Committee, and none out of the full Senate.

FGR continues to advocate, in partnership with our campus and laboratory colleagues, for the university's research, education and health care priorities throughout the budget and appropriations processes. For additional information, please contact Marjorie Duske at [Marjorie.Duske@ucdc.edu](mailto:Marjorie.Duske@ucdc.edu) or 202-974-6306, Julie Clements at [Julie.Clements@ucdc.edu](mailto:Julie.Clements@ucdc.edu) or 202-974-6309, or Crystal Martinez at [Crystal.Martinez@ucdc.edu](mailto:Crystal.Martinez@ucdc.edu) or 202-974-6308.

## CONGRESSIONAL LEGISLATIVE ACTIVITY

### **Federal Perkins Loan Program Reauthorization**

Authorization for the Federal Perkins Loan Program expired on Sept. 30, and as a consequence, the U.S. Department of Education has taken initial steps to wind down the program. When the program previously expired the same guidance was issued but never implemented because the program was extended. There is still hope for an extension being rolled into an end of the year continuing resolution or omnibus package. Perkins Loans, which in 2015-16 provided nearly 16,000 very low-income UC students with almost \$25 million in financial aid, are a vital resource to those students who otherwise would have difficulty accessing funds from a private lender. Bipartisan legislation to extend the authorization of the program was introduced in both houses of Congress, but Chairman Lamar Alexander (R-TN) of the Senate's Health, Education, Labor and Pensions (HELP) Committee is the driving force preventing the bill from reaching the Senate floor for a vote. The legislation would not require

additional funds from the federal government, as revolving funds in individual institutions' accounts support the creation of new loans. For additional information, please contact Crystal Martinez at [Crystal.Martinez@ucdc.edu](mailto:Crystal.Martinez@ucdc.edu) or 202-974-6308.

### **Children's Health Insurance Plan (CHIP) Reauthorization**

Authorization for CHIP expired on Oct. 1, though many states have sufficient reserve funds to continue providing care to covered children for several additional months. California's funding will not be fully exhausted until March 2018. UC FGR continues to advocate for CHIP reauthorization and funding with key members of the California congressional delegation. Minnesota, Washington and Arizona have already requested supplemental funds from the Centers for Medicare and Medicaid Services (CMS) to ensure the continued viability of their CHIP programs, and more states will need to request additional assistance if reauthorization is not reached in the weeks ahead. While the House and Senate have agreed to reauthorize CHIP for a five-year period, and fund it with the Affordable Care Act's (ACA) enhanced matching rate of 23 percent for two more years, they have yet to find consensus on funding offsets. For additional information, please contact Julie Clements at [Julie.Clements@ucdc.edu](mailto:Julie.Clements@ucdc.edu) or 202-974-6309.

### **Delay of Disproportionate Share Hospital (DSH) Cuts**

Provisions in a recent bill to provide funding for a number of programs – including the Children's Health Insurance Plan – also provides for the delay of Medicaid DSH cuts that had previously been slated to go into effect in FY 2018. Medicaid DSH payments are allotments from the federal government that are provided to qualifying hospitals, such as those in UC Health's system, that serve a large number of Medicaid and uninsured individuals. The House version of this legislation would eliminate DSH cuts for the current fiscal year, postponing them by one year, while extending them into FY 2026 and 2027. Each of these provisions was not included in previous drafts of this legislation. UC and its partners have been advocating for a two-year postponement of Medicaid DSH cuts, with no cuts occurring in FY 2026 or 2027. For additional information, please contact Julie Clements at [Julie.Clements@ucdc.edu](mailto:Julie.Clements@ucdc.edu) or 202-974-6309.

## **POLICY AND REGULATORY UPDATE**

### **Title IX**

On Sept. 22, the U.S. Department of Education (ED) announced it was rescinding the Obama Administration's 2011 guidance that provided clarity for schools on how to respond to incidents of sexual harassment and violence. As part of the rescission announcement, ED released a [Question and Answer document](#) on campus sexual misconduct. To date, no notice has been posted in the Federal Register, which is a required step in the federal rulemaking process. FGR will continue to monitor this issue to ensure that the university's interests are appropriately represented during the discussions and negotiations that are part of the federal rulemaking process. For additional information, please contact Crystal Martinez at [Crystal.Martinez@ucdc.edu](mailto:Crystal.Martinez@ucdc.edu) or 202-974-6308.

### **President Trump Issues Executive Order Providing for Sale of Skinny Health Plans**

On Oct. 12, President Trump signed an executive order that would make it easier for consumers to purchase less costly forms of "skinny" health care coverage including association health plans (AHPs), short-term stop gap insurance policies and health retirement savings accounts (HRSAs). The ACA had reduced the number of these products as they often provided inadequate levels of health care coverage.

Under the executive order, small-business owners, trade groups and unions could band together to purchase AHPs sold across state lines. Additionally, the executive order would roll back ACA restrictions on short-term health insurance plans, permitting insurers to once again sell stopgap policies, and lengthen the policy period for short-term plans from a current three-month limit to one year. These forms of health care coverage, along with HRSAs, would be exempt from ACA rules, such as requirements to cover a minimum percentage of enrollees' health care costs and carry essential health benefits, including prescription drug coverage, maternity benefits or mental health benefits.

The university, along with other health care providers, is concerned that "skinny" health plans would destabilize state health insurance exchanges and increase exchange enrollees' out-of-pocket costs by allowing for the creation of separate competing risk pools, likely to be primarily accessed by younger, healthier insurance enrollees than older, sicker enrollees requiring more expensive, comprehensive state health exchange marketplace plans.

To push the sale of more AHPs, HRSAs and short-term stopgap insurance policies, the administration must reinterpret the Employee Retirement Income Security Act (ERISA), a federal statute governing most workplace healthcare benefits, so it can govern the sale of these plans. Should the administration succeed in permitting the sale of AHPs and short-term health insurance plans, the future of ACA state health exchanges would be undermined.

The president's executive order does not constitute a law or regulation. It would allow the agencies to draft rules using the public notice and comment period required by the Administrative Procedures Act to implement rules providing for the sale of these more affordable skinnier health plans. FGR will continue to monitor this issue. For additional information, please contact Julie Clements at [Julie.Clements@ucdc.edu](mailto:Julie.Clements@ucdc.edu) or 202-974-6309.

### **Ending Payment of Cost-Sharing Reduction Subsidies**

President Trump announced on Oct. 12 that his administration will stop making CSR subsidy payments to health exchange insurance issuers that help cover the costs of providing lower-income exchange enrollees with private health care coverage. Payment of the CSRs costs the federal government \$7 billion annually. Insurers' willingness to stay in the state exchanges, as well as keep premiums affordable, depends upon reliable monthly CSR payments. In 2017, 7 million people, or 58 percent of all state marketplace enrollees, qualified for CSRs.

Recognizing that President Trump may terminate making CSR payments, California's health exchange, Covered California, announced its insurance issuers' intention to raise premiums for mid-level ("silver") exchange plans by 12.4 percent in 2018 to offset the Administration stopping CSR payments to exchange insurance issuers. Covered California consumers who were recipients of CSR subsidies from the government will not experience higher out-of-pocket costs, as the federal tax credits provided to enrollees eligible for CSRs rise with any increases insurance issuers make to their insurance premiums.

UC has consistently advocated for continuation of CSR payments. UC supports legislation negotiated by Senate HELP Committee Chairman Alexander and Ranking Member Patty Murray (D-WA) that would require continued payment of CSRs for up to at least two more years, along with offering states some flexibility in the makeup of health care plans they sell to their

exchange enrollees, so long as the plans they devise remain comparable in affordability to current ACA exchange plans, and retain certain ACA protections, like essential health benefits and not being able to discriminate against enrollees on the basis of their health status. During legislative visits with members and staff of the California delegation, FGR has emphasized that CSR payments are necessary to many Californians retaining health care coverage. For additional information, please contact Julie Clements at [Julie.Clements@ucdc.edu](mailto:Julie.Clements@ucdc.edu) or 202-974-6309.

### **Administration Proposal Cuts Safety Net Hospitals' Reimbursement for Medicare Drugs**

This past summer, the Center for Medicare and Medicaid Services (CMS) introduced a proposed Medicare payment rule that proposed to cut by 28.5 percent the Medicare reimbursement that safety net hospitals receive on Part B drugs prescribed to Medicare beneficiaries. The proposal would uniquely apply to hospitals that have a high percentage of annually delivered uncompensated care and therefore, qualify for discounts from pharmaceutical manufacturers for the purchase of most outpatient prescription drugs.

FGR worked with UC Health to draft comments to CMS opposing this proposal. UC Health's comment letter explains that the current Medicare reimbursement formula for Part B drugs is imperative to its being able to operate primary and specialty care clinics throughout remote and inner-city areas of California, as well as provide costly life-sustaining medications to vulnerable patients treated at its five medical centers. UC FGR recently collaborated with partner health care provider groups to draft a legislative sign-on letter from congressional members to CMS Administrator Seema Verma imploring CMS to not finalize this proposal, and thereby compromise safety net hospitals' capacity to provide needed care; the letters have received sign-ons from a majority of members in each chamber, with 228 signatures in the House and 57 in the Senate. For additional information, please contact Julie Clements at [Julie.Clements@ucdc.edu](mailto:Julie.Clements@ucdc.edu) or 202-974-6309.

### **ADVOCACY UPDATE**

#### **Deferred Action for Childhood Arrivals Advocacy Update**

FGR continues to engage policymakers, congressional staff and the UC Advocacy Network (UCAN) in the drive towards a permanent, bipartisan legislative solution that will allow DACA recipients to continue to study, work and live in the U.S.

On Oct. 16, FGR distributed a [DACA advocacy toolkit](#) that includes talking points, a fact sheet, a guide for DACA-related congressional meetings and a phone script for advocates who prefer to call their elected representatives, as well as other tools individuals can use to advocate for a bipartisan legislative solution to protect the DACA program. It was shared widely with the UC and higher education advocacy communities.

On Oct. 16, during the "Protect Dreamers Higher Education Theme Week," UC FGR shared a [letter](#) from UC President Napolitano and the 10 university chancellors with the California congressional delegation reiterating the urgent need for a bipartisan solution to DACA, and encouraging the California delegation to serve as leaders in this effort. UC also published an [article](#) and put out a press release highlighting the letter, which were then leveraged on social media. Additionally, the UC system and all 10 campuses signed onto a higher education community [letter](#) sent to congressional leadership on Oct. 19 by the American Council on Education, which obtained 774 institutional sign-ons.

On Oct. 20-22, the Latino Medical Student Association held its annual national policy summit in Washington, D.C., focusing its advocacy campaign on DACA and related immigration issues. FGR helped coordinate Capitol Hill meetings, including with member offices outside of the California delegation and on both sides of the political spectrum. Delegates from UC, including DACA recipients, actively participated in the Hill meetings. Select social media coverage is online [here](#), [here](#) and [here](#).

Additionally, both at the system and campus levels, UC has increased its meetings and engagement with congressional members and staff, including with member offices from both political parties and outside of the delegation. One meeting to highlight took place between FGR and Speaker Paul Ryan's office. For additional information, please contact Crystal Martinez at [Crystal.Martinez@ucdc.edu](mailto:Crystal.Martinez@ucdc.edu) or 202-974-6308.

### **National Association of Graduate-Professional Students (NAGPS) Fall Legislative Action Days**

On Oct. 2-3, FGR facilitated congressional visits and provided advocacy materials for a delegation of UC graduate student representatives from UC Davis and UC San Diego participating in the NAGPS Legislative Action Days. Delegates met with staff of nine members of the California congressional delegation, [including Rep. Scott Peters \(D-CA\)](#), and urged members to support a long-term legislative fix for DACA. In addition to advocacy on this issue, the delegation encouraged legislators to support funding for graduate research opportunities and stronger protections against sexual harassment and assault in academic settings. NAGPS advocacy is an important complement to UC's efforts on all of these issues, where we share common priorities. For additional information, please contact Crystal Martinez at [Crystal.Martinez@ucdc.edu](mailto:Crystal.Martinez@ucdc.edu) or 202-974-6308.

### **FEDERAL CAMPUS ENGAGEMENT**

- On Oct. 6, **Rep. Salud Carbajal** (CA-24) attended the **UC Santa Barbara** alumni banquet.
- On Oct. 11, **Sen. Kamala Harris** (CA) attended a rally for undocumented students at **UC Irvine** hosted by the Coalition for Humane Immigrant Rights of Los Angeles and the Korean Resource Center.
- On Oct. 20, **Rep. Scott Peters** (CA-52) met with undocumented students at **UC San Diego**.
- On Oct. 20, **Rep. Peter Aguilar** (CA-31) attended Transfer Student Day at **UC Riverside**.
- On Oct. 20, **Rep. Paul Cook** (CA-08) visited **UC Riverside** and met with Chancellor Kim Wilcox.
- On Oct. 23, **Lawrence Tabak**, principal deputy director of the National Institutes of Health, visited **UC Berkeley** to participate in the "How to Support PIs and Increase the Scientific, Ethical, Social and Psychological Health of Research Groups" program.

**Federal Update**

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