

# 2016 Election & What It Means for Post-Acute Care

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# Republicans in Charge for Two Years – Possibly Four

- 2016 Senate breakdown
  - 48 Democrats
  - 52 Republicans
- 2016 House breakdown
  - 196 Democrats
  - 239 Republicans
- 2018 Senate election landscape
  - Democrats defend 25 seats
  - Republicans defend 8 seats

# Change Means Multiple Opportunities, One Big Challenge

- More business-friendly
- More provider-friendly
- Challenge on Medicaid

# Immediate Priorities for Administration & Congressional Republicans

- ACA repeal
  - Reconciliation
- Appointments
  - Cabinet
  - Supreme court
- Regulatory relief (PBJ, rules)
- Tax reform
- Entitlement/Medicaid reform
- Infrastructure

# Timing and Process?

2017

Jan.

Feb.

Mar.

Loaded calendar—1<sup>st</sup> reconciliation, nominations, tax work

Deadline for reconciliation instructions, deadline for gov't funding

Apr.

May.

June

Potential for regular order, less likely

July

~~Aug.~~  
(recess)

Sep.

Potential for regular order

Oct.

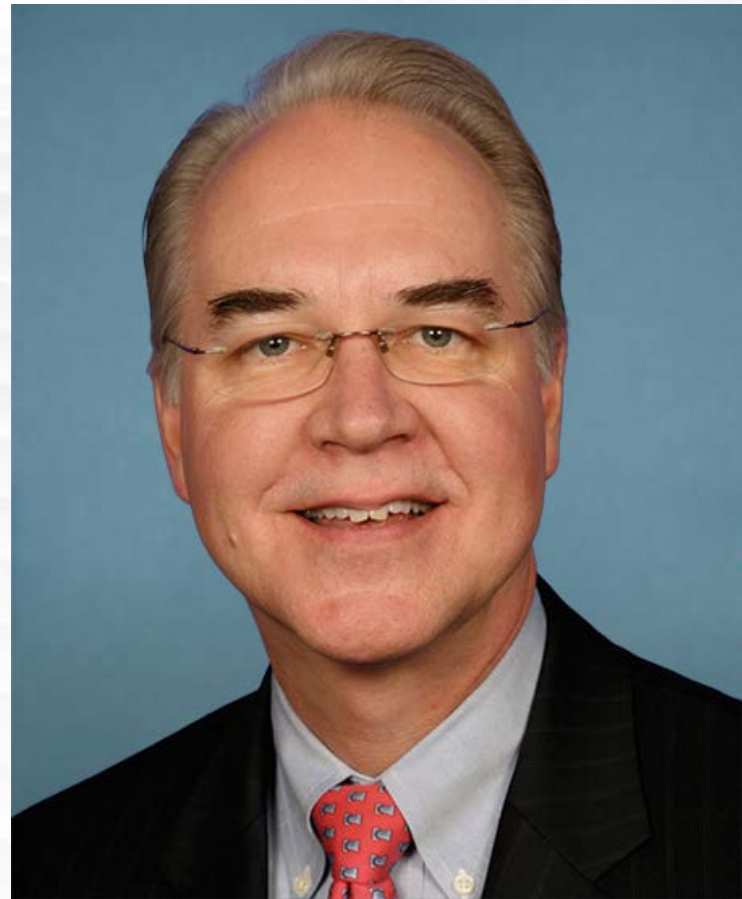
Nov.

Dec.

# New Sec. HHS Nominee

Rep. Tom Price,  
HHS Nominee

- Republican  
Congressman from  
Georgia
- Former head of House  
Budget
- Member of Ways and  
Means Health  
subcommittee



# Potential Sec. Price Priorities

- Emphasis on Physician/Provider/Patient freedom
  - Orthopedic surgeon with history of sponsoring legislation giving providers and doctors more freedom
- Less regulation/demonstrations
  - Written many letters condemning recent CMS regulations and demos
- Anti-ACA
  - Primary architect of the legislation repealing Obamacare
- Market-driven solutions
  - Price-sponsored ACA replacement legislation focuses on tax credits for insurance, interstate health markets, and medical malpractice reform.

# New CMS Admin. Nominee

Seema Verma  
CMS Nominee

- Founder/CEO of health care consulting firm SVC, Inc.
- Worked closely with Midwest Governors, including VP-elect Pence
- Medicaid waiver/expansion expertise





# Potential Admin. Verma Priorities

- Medicaid reform
  - Architect or partial architect of of Indiana, Ohio, Iowa, Tennessee, Michigan, and Kentucky Medicaid programs
  - Was working on Medicaid efforts in Maine at time Trump announcement
  - Emphasized HSAs and employment requirements
- State-by-state emphasis
  - Little national experience with health markets, may try to tailor policy to regional needs
- Less emphasis on Medicare

# Our Asks and Priorities

## For Congress

- ACA repeal
  - Employer mandate
  - IPAB (less likely)
  - CMMI (less likely)
  - Eliminate future productivity adjustments
- Repeal Requirements of Participation using CRA
- Stopping or shaping Medicaid reform
- Payment Reform
- Medicaid carve-out

## For HHS/CMS

- Clean payment rule
- Survey relief
- Observation stays
- Therapy relief
- Regulatory relief (PBJ, recent rules, etc.)

# Opportunity for Change or Repeal

- The change in Congress and White House provide an opportunity to make changes to statutes and rules that adversely impact SNFs.
- The methods of repealing or changing depends on how the “requirement” is specified
  - Statute
  - Executive Order
  - Rules
  - Sub-regulatory guidance

# Challenge is Medicaid

- Timing is key
- Likely per capita caps
- Strategy is to both stop and shape
- Carve-out for aged/blind/disabled population

# There Will be Other Positives to Business Climate

- Arbitration
- Labor issues in general

# Rule Change Opportunity--Exec. Action

Regulation	Effective Dates	Constitutional Strategy*	CRA Strategy	APA Strategy
CMS, Medicare Program; Medicare Shared Savings Program; Accountable Care Organizations--Revised Benchmark Rebasing Methodology, Facilitating Transition to Performance-Based Risk, and Administrative Finality of Financial Calculations (see page 8 of the CRS memo)	Proposed Rule	N/A	N/A	X
CMS, Medicare Program; Advancing Care Coordination through Episode Payment Models (EPMs); Cardiac Rehabilitation Incentive Payment Model; and Changes to the Comprehensive Care for Joint Replacement Model (CJR)	Proposed Rule	N/A	N/A	X

\*Allows new President to delay effective date by 60 days

# Rule Change Opportunity via CRA

Regulation	Effective Dates	Constitutional Strategy*	CRA Strategy	APA Strategy
CMS, Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2017, SNF Value-Based Purchasing Program, SNF Quality Reporting Program, and SNF Payment Models Research	6/20/16	N/A	X	X
CMS, Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers	11/15/16 <sup>1</sup>	N/A	X	X
CMS, Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities	11/28/16 <sup>2</sup>	N/A	X	X
DOL, Establishing Paid Sick Leave for Federal Contractors	11/29/16	N/A	X	X
DOL, Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees	Effective Date 12/1/16 <sup>3</sup>	N/A	N/A	X

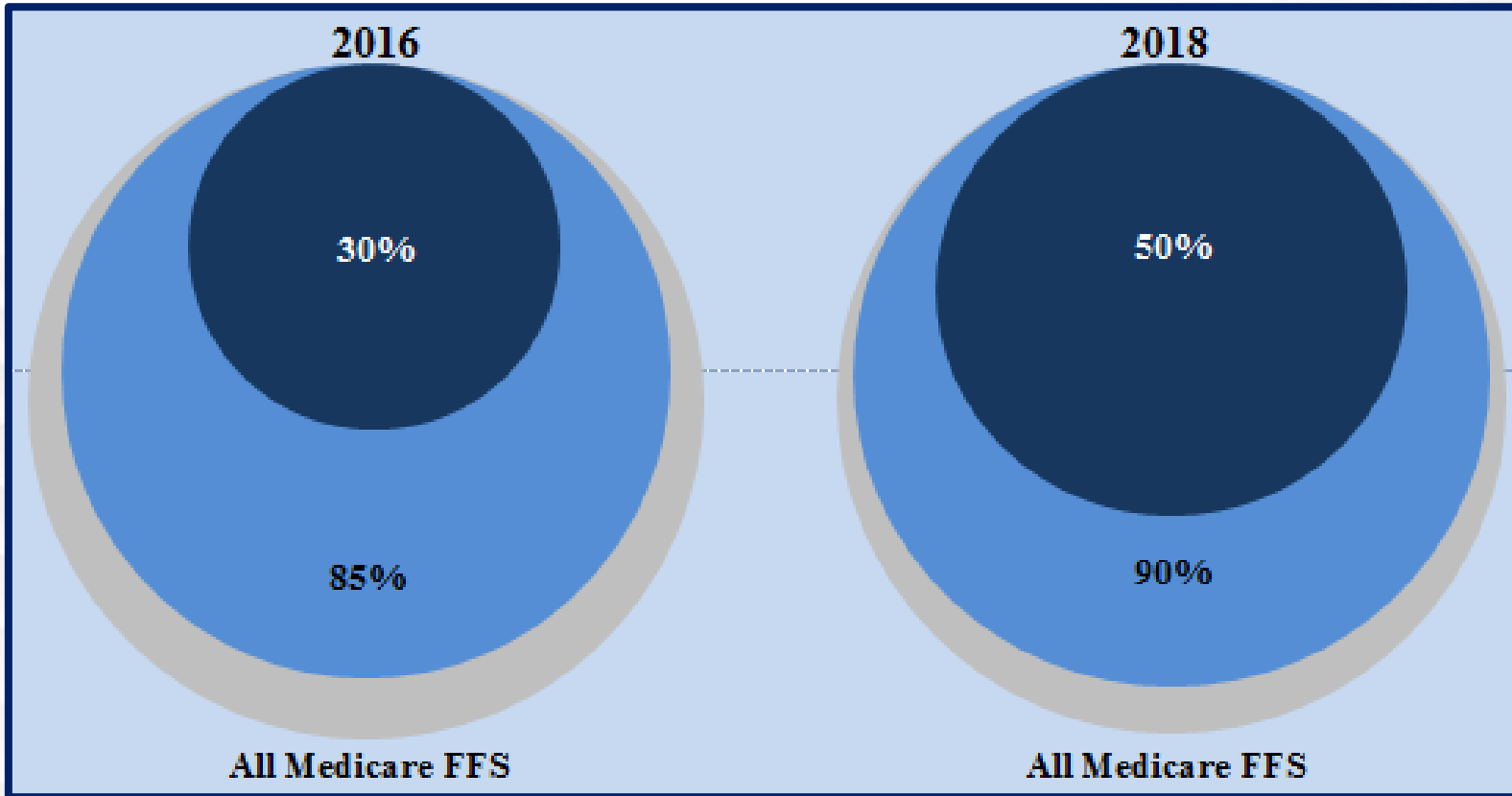
\*Allows new President to delay effective date by 60 days

1 Implementation date 11/15/17 – it is legally uncertain if implementation dates apply to this mechanism.

2 Implementation dates 11/28/16, 11/28/17, and 11/28/19 – it is legally uncertain if implementation dates apply to this mechanism.

3 Note: A federal judge has temporarily delayed the implementation date

# Payment Change Forecast



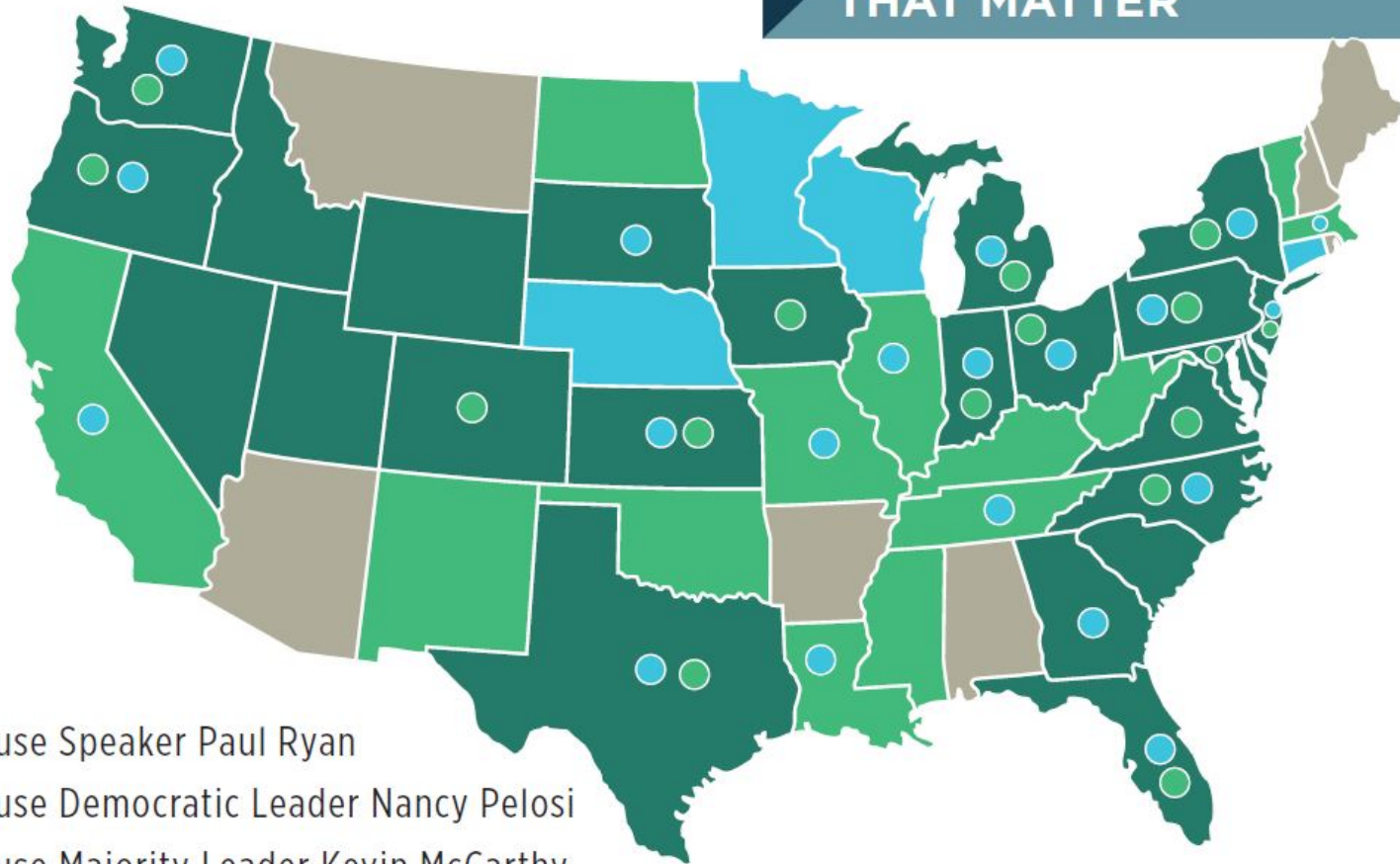
FFS Linked to Quality

Alternative Payment Models



# BUILDING LONG TERM RELATIONSHIPS

# THAT MATTER



- ▶ House Speaker Paul Ryan
- ▶ House Democratic Leader Nancy Pelosi
- ▶ House Majority Leader Kevin McCarthy
- ▶ Senate Majority Leader Mitch McConnell
- ▶ Senate Democratic Leader Harry Reid
- ▶ Senate Democratic Policy Committee Chair Chuck Schumer

- House Energy and Commerce Committee Member
- House Ways and Means Committee Member
- Senate Finance Committee Member

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