

Parliamentarian Scraps Reconciliation Provision That Would End Silver Loading

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A provision that would stop the popular Affordable Care Act (ACA) insurer practice known as “silver loading” violates the Byrd rule, the Senate parliamentarian ruled Thursday (June 26), blocking it from advancing in the GOP’s reconciliation package unless Republicans rewrite it.

The axed reconciliation provision would reinstate direct cost sharing reductions payments to insurers starting in 2026, as originally required under the ACA. These payments were halted in 2017 when the Trump administration deemed them unconstitutional without a dedicated appropriation from Congress. In response, insurers increased premiums on silver-tier plans to offset the funding loss -- a workaround that became known as “silver loading.”

Ending direct CSR payments made coverage more affordable for many low- and middle-income consumers since premium subsidies are tied to the cost of silver-tier plans. Subsidies rise with the silver plan premiums, making insurance cheaper for those who qualify.

While Republicans didn’t plan on explicitly banning silver loading in the reconciliation bill, reinstating federal CSR payments would stop insurers from having any justification to continue the practice. But silver plan premiums would likely fall under this change, shrinking the value of subsidies and potentially raising out-of-pocket costs for some enrollees. The Congressional Budget Office (CBO) estimates the change would have increased the number of uninsured people by 300,000 through 2034, while reducing the federal deficit by \$31 million.

The parliamentarian also determined that the Byrd rule applies to the provision in the reconciliation bill that would prohibit federal cost-sharing reduction payments to qualified health plans that cover abortion services.

The Byrd rule requires provisions in reconciliation bills to primarily impact federal spending or revenue, rather than primarily serve political or policy purposes. Because the parliamentarian deemed the provision to have failed that test, it would need 60 votes to pass in the Senate instead of a simple majority.

Unless Republicans can somehow modify the provision to comply with the Byrd rule, it will be left out of the party's reconciliation bill since Senate Republicans are unlikely to win any support from Democrats who’ve been strongly opposed to the party’s health care reforms, especially when it comes to slashing federal Medicaid funding.

“The Byrd Rule must be enforced, and Republicans shouldn’t get away with circumventing the rules of reconciliation,” ranking Senate Budget Committee Democrat Jeff Merkley (OR) said in a statement Thursday. “Democrats will continue to make the case against every provision in this Big, Beautiful Betrayal of a bill that violates Senate rules and hurts families, students, and workers. Democrats are fighting hard against Republicans’ plans to increase out-of-pocket health care costs and restrict access to reproductive care.” -- *Jalen Brown* (jbrown@iwpnews.com)