



House Passes CLASS Act Repeal; Payroll Extension Conferees Discuss Long-Term Doc Fix

House Proceedings on Budget Bills and CLASS Act

Last week the House voted 267 to 159 to pass H.R. 1173, legislation which would repeal the PPACA CLASS Act. Also, the House passed H.R. 3578, the Baseline Reform Act of 2011, which would change CBO rules for setting the discretionary spending baseline by preventing the use of inflation and population growth in baseline determinations. Although the Senate is unlikely to consider the legislation, the adoption of such a rule change would result in appropriations projections falling below the Budget Control Act statutory caps. This week the House is expected to take up two additional budget bills: H.R. 3521, the Expedited Legislative Line-Item Veto and Rescissions Act of 2011; and H.R. 3581, the Budget and Accounting Transparency Act of 2011. Also, the House could also consider possible motions to instruct conferees on H.R. 3650, the Temporary Payroll Tax Cut Continuation Act of 2011. Conferees met on the latter bill last week and there appeared to be a push among several Republicans and Democrats to find \$300+ billion over ten years in order to pay for a long-term fix to the Medicare Physician Payment System's "sustainable growth rate" problem. Several conferees suggested using unspent defense funding for the Iraq and Afghanistan wars (i.e. the Overseas Contingency Operations fund); however, the conference chairman, **Rep. Dave Camp**, said such funding would be outside the scope of the

conference. CBO also suggested that such a move could violate the PayGo budget rules. **Rep. Henry Waxman** suggested that the funding could also come from the closing of corporate tax loopholes, cutting tax breaks for oil companies and increasing taxes on those with annual income of more than \$1 million. **Senators Joseph Lieberman and Tom Coburn** wrote Senate leaders asking them not to use the OCO to pay for a doc fix. If the conference members, who are expected to meet three times this week, decide to seek a long-term fix, it is likely that the upcoming February 29, 2012 deadline will be extended in order for other payfors to be considered. The CBO issued a report stating that just maintaining the current Medicare physician payment rates over ten years would cost about \$316 billion. The report also said that Medicare spending would rise 90% to over \$1 trillion by 2022 and that Medicaid spending would amount to \$605 billion in that year.

Inside

HHS Promotes PPACA's Reduction of Medicare Beneficiary Drug Costs	2
CMS Seeks to Maintain Current EMTALA Rule	2
IOM Recommendations on Chronic Disease	2
MA Premiums Decrease	2
FDA on PDUFA and Adviser Rules	2
Recently Introduced Health Legislation	3

CMS Seeks to Maintain Current EMTALA Rule

CMS gave notice that it is seeking comment for the next 60 days on its decision to continue current hospital responsibilities to provide emergency care under the Emergency Medical Treatment

and Labor Act (EMTALA). The current policy states “if an individual ‘comes to the hospital’s emergency department’ as we have defined that term in regulation, and the hospital provides an appropriate medical screening examination

and determines that an emergency medical condition exists, and then admits the individual in good faith in order to stabilize the EMC, that hospital has satisfied its EMTALA obligation towards that patient.”

IOM Recommendations on Chronic Disease

A report issued by the Institute of Medicine says that about 133 million Americans have a chronic disease--such as arthritis, cancer, dementia, depression, schizophrenia, Type 2 diabetes, etc.--with a quarter having two or more such conditions. The IOM said that

Medical costs associated with such conditions total about \$1.5 trillion annually and constitute about 75% of all national health care spending. The report makes seventeen recommendations to help streamline chronic disease care and to improve the quality of life for patients. It recommends that the

CDC target a variety of chronic illnesses and avoid addressing conditions that already have dedicated public health programs, such as cardiovascular disease; and that HHS help states develop comprehensive plans to manage chronic illnesses.

HHS Promotes PPACA’s Reduction of Medicare Beneficiary Drug Costs

HHS announced that, as a result of provisions under the health reform law to close the Medicare Part D “doughnut hole”, 3.6 million beneficiaries will pay \$2.1 billion less in 2011, or about \$604 per beneficiary. HHS also projected that the PPACA will save each Medicare beneficiary about \$4,200 between 2011 and 2021 through drug discounts, subsidies, no-cost preventive services, slower growth in Medicare Part B premiums and slower growth in cost sharing under Medicare Part A and Part B.

MA Premiums Decrease

HHS announced that the average premium charged for Medicare Advantage coverage will decrease to \$31.54 in 2012 from \$33.97 in 2011. The HHS Secretary also said that MA enrollment is also likely to increase between 10-15% in 2012.

FDA on PDUFA and Adviser Rules

At a House Energy and Commerce Health Subcommittee hearing, the **FDA Commissioner, Margaret Hamburg**, testified that current conflict-of-interest rules applicable to advisers on FDA boards should not be changed or eased. Amid congressional concerns over the selection process, she said that the waiver process is adequate to obtain enough advisers who are free from conflict. The Commissioner also pledged to work with Congress to reauthorize Prescription Drug User Fee Act (PDUFA) and to make prescription drugs safer. The proposed FDA/industry agreement on new user fees is projected to raise \$713 million in FY 2013 which the commissioner said would support the timely review of critical prescription drugs; advance the development of drugs for rare diseases; provide for enhanced communication with small or emerging companies; increase the use of standardized electronic data to improve quality and efficiency; and foster the use of new clinical endpoints that improve drug development times and help address unmet medical needs. In related news, **Senator Charles Grassley** has written the FDA Commissioner asking whether the agency has terminated or punished employees who he says have expressed safety concerns to Congress about radiological devices.

S. 2403 (PUBLIC HEALTH), to amend Title XXVII of the Public Health Service Act to provide religious conscience protections for individuals and organizations; RUBIO; to the Committee on Health, Education, Labor, and Pensions, Jan. 30.

H.R. 3839 (DRUG SHORTAGES), to address critical drug shortages; CARNEY; jointly, to the committees on Energy and Commerce and the Judiciary, Jan. 31.

H.R. 3844 (FEDERAL BUDGET), to provide for greater transparency and honesty in the federal budget process; ROBY; jointly, to the committees on the Budget, Rules, and Oversight and Government Reform, Jan. 31.

H.R. 3847 (MEDICAL DEVICES), to amend the Federal Food, Drug, and Cosmetic Act to ensure that a medical device is not marketed based on a determination that the device is substantially equivalent to a predicate device that has been recalled, corrected, or removed from the market because of an intrinsic flaw in technology or design that adversely affects safety, and for other purposes; MARKEY; to the Committee on Energy and Commerce, Jan. 31.

H. RES. 531 (CANCER AWARENESS), recognizing the 40th anniversary of the National Cancer Act of 1971 and the more than 12 million survivors of cancer alive today because of the commitment of the United States to cancer research and advances in cancer prevention, detection, diagnosis, and treatment; ISRAEL; to the Committee on Energy and Commerce, Jan. 31.

S. 2057 (MEDICARE), to amend Title XVIII of the Social Security Act to allow physician assistants, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation programs; SCHUMER; to the Committee on Finance, Feb. 1.

H.R. 3859 (MEDICARE), to amend Title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under Medicare, and for other purposes; MCMORRIS RODGERS; jointly, to the committees on Energy and Commerce and Ways and Means, Feb. 1.

H.R. 3862 (FEDERAL CONSENT DECREES/SETTLEMENT AGREEMENTS), to impose certain limitations on consent decrees and settlement agreements by agencies that require the agencies to take regulatory action in accordance with the terms thereof, and for other purposes; QUAYLE; to the Committee on the Judiciary, Feb. 1.

S. 2067 (MEDICAL DEVICES), to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device regulation, and for other purposes; CASEY; to the Committee on Health, Education, Labor, and Pensions, Feb. 2.

S. 2068 (HEALTH INSURANCE), to amend Title XXVII of the Public Health Service Act to preserve consumer and employer access to licensed independent insurance producers; LANDRIEU; to the Committee on Health, Education, Labor, and Pensions, Feb. 2.

S. 2069 (PUBLIC HEALTH), to amend the Public Health Service Act to speed American innovation in research and drug development for the leading causes of death that are the most costly chronic conditions for our nation, to save American families and the federal and state governments money, and to help family caregivers; MIKULSKI; to the Committee on Health, Education, Labor, and Pensions, Feb. 2.

H.R. 3884 (EMERGENCY MEDICAL RESPONDERS), to amend the Public Health Service Act to provide grants to state emergency medical service departments to provide for the expedited training and licensing of veterans with prior medical training, and for other purposes; CAPPS; to the Committee on Energy and Commerce, Feb. 2.

H.R. 3887 (EARLY RETIREES INSURANCE PROGRAM), to provide increased funding for the reinsurance for early retirees program; HOLT; jointly, to the committees on Education and the Workforce and Energy and Commerce, Feb. 2.

H.R. 3891 (PUBLIC HEALTH), to amend the Public Health Service Act to speed American innovation in research and drug development for the leading causes of death that are the most costly chronic conditions for our nation, to save American families and the federal and state governments money, and to help family caregivers; MARKEY; to the Committee on Energy and Commerce, Feb. 2.