



Congress Returns to Budget/Appropriations Debate

Senate to Rethink Budget Resolution

As Congress turns this week from a two week recess, the sparring over the House budget and the Senate's insistence on the \$1.047 trillion spending cap under the Budget Control Act will likely continue to impede a two-house compromise on the final spending targets for all

twelve FY 2013 appropriations bills. Although **Senate Majority Leader Harry Reid** has declared the House budget resolution all but dead in that body, **Senate Budget Chairman Kent Conrad** has indicated that his committee will, nonetheless, go ahead and try to garner enough votes to pass their own version of an FY 2013 spending plan.

Republicans Question IRS PPACA Funding

House Ways and Means Committee Chairman Dave Camp and Oversight Subcommittee Chairman Charles Boustany sent a letter last week to the **IRS Commissioner Douglas Shulman** asking the service to provide detailed information on IRS funding needs to implement the PPACA and to explain how many new employees are being hired to implement the law and which of the tax increases in the law they will be working on. They also sought information on any requests for money from the Department of Health and Human Services Health Insurance Reform Implementation Fund since May

13, 2011 and explain whether the IRS intends to seek additional funds from HHS. Apparently the Administration has transferred an additional \$500 million to the IRS while the President's FY 2012 budget requested \$473 million and another \$360 million for FY 2013.

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No Plan for Adverse Supreme Court Decision

HHS Secretary **Kathleen Sebelius** said that while it is “probably” a good idea for the department to have a contingency plan for the PPACA in the event the Supreme Court strikes down some or all of the law’s provisions, she indicated that a backup plan is not “where conversations we are headed right now.” The Administration also

called into question Medicare Trustee Charles Blahous’ estimate of the real ten year costs of the PPACA. His Mercatus Center paper, *The Fiscal Consequences of the Affordable Care Act*, said the law would add \$346 billion to the federal deficit in 2012-2021 under an optimistic scenario and as much as \$527 billion under a pessimistic scenario. The White

House responded that this was just “another attempt to refight the battles of the past” and that “one former Bush Administration official is wrongly claiming that some of the savings in the Affordable Care Act are ‘double-counted’ and that the law actually increases the deficit. This claim is false.”

Report on Medicare Wage Index System

HHS transmitted to Congress the PPACA mandated report on how the Medicare inpatient prospective payment system (IPPS) should use a comprehensively reformed wage index system to better reflect geographic differences

in the cost of labor. Instead of using the current wage indices for general labor market areas, not for individual hospitals, the report suggests using a Commuting Based Wage Index (CBWI) that utilizes commuting data to establish a labor market area and wage index value

for each hospital. HHS said using the CBWI could accomplish the major goals of moving towards a wage index system that yields greater accuracy and less distortion. Statutory and regulatory changes would be required to implement the proposed change.

Medicare Shared Savings Program Participants Announced

CMS said that 27 accountable care organizations have been selected to participate in the first wave of the Medicare Shared Savings Program (MSSP). The ACOs selected agree to be responsible for improving care for nearly 375,000 beneficiaries in 18 states through better coordination among more than 10,000 physicians, 10 hospitals and 13 smaller physician-driven organizations in both urban and rural areas.

Physician Payment Sunshine Act Implementation

Senators **Grassley and Kohl** have sent a letter to Acting CMS Administrator Marilyn Tavenner demanding that CMS issue final regulations to implement the Physician Payment Sunshine Act by this June. The Act, requiring manufacturers and group purchasing organizations to disclose information about physician ownership and investment interests, includes a \$150,000 fine for failing to report such gifts or a \$1 million fine for knowingly not reporting such gifts. The Senators asked CMS to respond by April 18.

FDA Issues

The FDA has issued a series of voluntary guidelines that are intended to limit the use of antibiotics in animal feed for non-medical purposes and prevent the creation of antibiotic resistant bacteria that could affect

treatments for various infections in humans. The guidance asks the farming industry to phase out the use of “medically important drugs” that accelerate animal growth; asks drug manufacturers to voluntarily remove production

uses of antibiotics from FDA-approved labels; and provides draft regulations that provide veterinarians with strategies on how to authorize the use of certain drugs in animal.

Delay in ICD Compliance Date

CMS released a proposed rule that would delay the compliance date for the International Classification of Diseases, 10th Revision (ICD-10) code set from October 1, 2013 until October 1, 2014. The rule also includes a requirement for health plans to adopt a unique health plan identifier for all HIPAA transactions. When implemented the new code set will be applicable to all transactions subject to HIPAA, including outpatient and inpatient claims.

Medicare Coverage for LSG

CMS has invoked its coverage-with-evidence-development policy to propose coverage under Medicare for specific clinical trials for laparoscopic sleeve gastrectomy (LSG) as a bariatric surgery option for the treatment of obesity. The procedure will be covered only under certain conditions in randomized controlled trials. The proposal also includes a sunset provision whereby any studies must be approved within two years after publication of the final decision memorandum.