



House Committees Advance FY 2013 Reconciliation Instructions; Vote on FDA User Fees

Health Targeted in House FY 2013 Budget Cuts

Before recessing for this week, the House Energy and Commerce Committee voted mainly along party lines to pass the Republican FY 2013 spending proposal which includes cuts to the PPACA and Medicaid. The PPACA spending reductions include: repealing the Prevention and Public Health Fund (see House double-down on this move below); eliminating grants to states for establishing health insurance exchanges; canceling funding for consumer-governed health insurance plans, CO-OPs; and eliminating scheduled bonuses to hospitals that serve low-income patients. The Medicaid provisions include: repealing the PPACA mandated maintenance-of-effort requirements for Medicaid and SCHIP eligibility; repealing the increase in the Medicaid matching rate for U.S. territories from 55% to 50%; reducing the state provider tax threshold from 6% to 5.5%; and eliminating performance bonus payments to states that increase their enrollment of children in Medicaid. In addition, both the House Energy and Commerce Committee and the House Judiciary Committee approved restrictions on state medical malpractice cases along the lines of H.R. 5 as passed by the House. The Energy and Commerce Committee did not adopt the Ryan budget proposal to change Medicare to a so-called premium support system. However, the committee held hearings on the issue during which several

witnesses said the premium support approach is the only bipartisan way to address Medicare insolvency. The committees' provisions will be packaged together with the reconciliation instructions approved by other committees, pursuant to the House budget plan (H.Con. Res. 112), and sent to the House floor sometime in May. In accord with the Republican budget plan, the House Appropriations Committee released their recommendations for the twelve FY 2013 appropriations bills to be acted on by the House this summer. It is likely the Labor, Health and Human Services and Education bill, which would cap spending at \$150 billion (\$6.3 billion less than this year), will again be the last bill considered. The House is expected to spend about \$8 billion more on

continued page two

Inside

| | |
|---|---|
| Student Loan Bill Repeals Prevention and Public Health Fund | 2 |
| Verification of PPACA Individual Subsidies | 2 |
| PPACA Minimum Value Determinations | 2 |
| Stop-Loss for Small Self-Insured Plans Targeted | 2 |
| Consumer Education Grants | 2 |
| Medicare Trustees Report | 3 |
| PPACA Home Care Rules | 3 |
| Medicare Hospital Payment Increase | 3 |
| Medicaid and SCHIP Demo Guidance | 3 |
| National Provider Identifier Rule | 3 |
| FDA Issues | 4 |
| Recently Introduced Health Legislation | 4 |

from page one

defense than the Senate with offsets coming mainly from Labor, Health and Human Services. This move is designed to head off the first year of \$500 billion in 10-year cuts to defense under the Budget Control

Act mandate. Of note, Office of Management and Budget told the Government Accountability Office that the Budget Control Act's automatic sequestration cuts will not apply to Veterans Affairs health programs. Without agreement

with the Senate on the level of Labor, Health and Human Services cuts, as is expected, a continuing resolution could be in the cards in order to fund government until after the November elections.

Student Loan Bill Repeals Prevention and Public Health Fund

As part of a 215-195 vote in the House to pass H.R. 4628, legislation to maintain the Stafford student loan rate at current levels for one year, the cost of the bill was offset by

repealing the PPACA Prevention and Public Health Fund. The PPHF has been targeted by House Republicans in reconciliation (see above) and in a previous measure to extend the payroll tax break this

year. The White House issued a Statement of Administration Policy (SAP) pledging to veto the student loan bill if it includes the PPHF repeal.

Verification of PPACA Individual Subsidies

HHS issued a bulletin serving notice that the Center for Consumer Information and Insurance Oversight intends to develop a standardized method for individuals and employers to determine eligibility for PPACA health insurance exchange subsidies for 2014 and 2015. Comments were requested on the proposal as well as on the development of a long-term verification strategy in the Verification of Access to Employer-Sponsored Coverage initiative.

Stop-Loss for Small Self-Insured Plans Targeted

The Internal Revenue Service, Department of Labor, and Department of Health and Human Services issued a request for information on the use of stop-loss coverage by small self-insured plans focusing on "the prevalence and consequences of stop loss insurance at low attachment points." The NAIC also is considering possible changes to its model state law on the use of stop-loss coverage for small group health plans.

Consumer Education Grants

HHS announced that about \$2.5 million in federal grants will be made available under a limited competition process to educate consumers about health insurance coverage enrollment, appeals and other provisions.

PPACA Minimum Value Determinations

The IRS issued notice requesting comments on three options that health insurers and group health plans can use to determine "minimum value" of employer sponsored or other health insurance coverage in which individuals are enrolled and which would preclude subsidies for their duplicate coverage under an exchange. HHS is scheduled to provide an actuarial value calculator for use by qualified health plans and plans in the small group market. However, HHS and the IRS will jointly develop a minimum value calculator for employer-sponsored self-insured plans and large insured group plans. The IRS also asked for comments on PPACA reporting requirements under IRC Section 6055 and 6056 that apply to coverage provided in 2014 and later. In addition, the IRS asked for comments on proposed rules that will allow for the disclosure to HHS of return information under IRC Section 6103(1)(21) to carry out eligibility requirements under the PPACA.

The trustees of the Medicare Part A Hospital Trust Fund and Part B Supplemental Medical Insurance Trust Fund issued their annual report which stated that the hospital fund will remain solvent until 2024, the same year as projected last year, although expenses continue to exceed revenues. Part A growth is expected to be about 5.3% annually and Part B costs are projected to grow by 7.6% if Congress mitigates scheduled physician payment cuts. Of note, the trustee report contained another

Medicare Trustees Report

“Medicare funding warning” that general revenues will exceed 45% of Medicare funding for any of the first seven fiscal years of the projection period. **Treasury Secretary Timothy Geithner** said that “the financial projections in this report indicate a need for additional steps to address Medicare’s remaining financial challenges...at the same time, adjustments to Social Security and Medicare must be balanced and evenhanded...We will not support proposals that sow the seeds of their destruction in the name of

reform, or that shift the cost of health care to seniors in order to sustain tax cuts for the most fortunate Americans....” **House Budget Committee Chairman Paul Ryan** responded that the Administration was choosing “to play politics with seniors’ care rather than advance a Medicare reform proposal.” In another report issued by CMS, the Office of the Actuary projected that the PPACA will save Medicare more than \$200 billion through 2016.

CMS issued a final rule under the PPACA that establishes a new Medicaid option, Community First Choice, for states to provide home and community-based services. The rule becomes effective in July. CMS also asked

PPACA Home Care Rules

for comments on a proposed rule that would revise Medicaid regulations to allow states to design home and community-based services to better meet the needs of Medicaid enrollees, particularly the elderly and disabled. In a

related announcement, CMS said it has selected the first sixteen participating organizations for a demonstration project allowing up to 10,000 Medicare patients with chronic conditions to receive care at home.

National Provider Identifier Rule

CMS issued a final rule under which all providers and suppliers who qualify for a National Provider Identifier (NPI) will be required to include the NPI

on any enrollment applications and claims made under Medicare and Medicaid. The rule also requires physicians and other professionals who are allowed to order and

certify covered items and services for Medicare beneficiaries to be enrolled in Medicare and retain certain documents.

Medicare Hospital Payment Increase

CMS issued a rule stating that Medicare hospital reimbursements would increase 0.9% in FY 2013 and that Long Term Care Hospital Medicare reimbursements would rise 1.9%. The proposed rule would also implement the PPACA value-based purchasing program and the hospital readmissions reduction program.

Medicaid and SCHIP Demo Guidance

CMS issued guidance on the process the agency will use to evaluate Public Health Service Act Section 1115 state demonstration projects under Medicaid and the SCHIP programs. The final rule was effective April 27th.

FDA Issues

The Senate HELP Committee released and voted to approve legislation to reauthorize FDA user fees for drugs, biosimilars and medical devices from FY 2013-2017. The FDA also would be able to collect generic drug user fees of \$299 million each year over the period. Biosimilar user fees would be

based on inflation-adjusted prescription drug user fee amounts for each fiscal year. The House Energy and Commerce Committee postponed a vote on their similar bill until May 8 when the House returns from a week-long recess.

S. 2301 (PUBLIC HEALTH), to help prevent the occurrence of cancer resulting from the use of ultraviolet tanning lamps by providing sufficient information to consumers regarding the health risks associated with the use of such devices; REED; to the Committee on Health, Education, Labor, and Pensions, April 19.

S. 2304 (MEDICARE), to amend Title XVIII of the Social Security Act to allow chiropractors to provide items and services through private contracts under Medicare; MIKULSKI; to the Committee on Finance, April 19.

S. 2321 (TOURETTE SYNDROME), to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the programs and activities of the National Institutes of Health with respect to Tourette syndrome; MENENDEZ; to the Committee on Health, Education, Labor, and Pensions, April 19.

S. 2323 (APPROPRIATIONS), making appropriations for Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending Sept. 30, 2013, and for other

purposes; MIKULSKI; from the Committee on Appropriations; placed on the calendar, April 19.

H.R. 4404 (INSPECTORS GENERAL), to create a centralized website on reports issued by the Inspectors General, and for other purposes; CRAWFORD; to the Committee on Oversight and Government Reform, April 19.

H.R. 4470 (HEALTH CARE COVERAGE), to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 5, United States Code, to require individual and group health insurance coverage and group health plans and federal employees health benefit plans to provide coverage for routine HIV screening; WATERS; jointly, to the committees on Energy and Commerce, Ways and Means, Education and the Workforce, and Oversight and Government Reform, April 19.

H. CON. RES. 120 (ALZHEIMER'S DISEASE), supporting the goal of preventing and effectively treating Alzheimer's

disease by 2025, as articulated in the draft National Plan to Address Alzheimer's Disease from the Department of Health and Human Services; MARKEY; to the Committee on Energy and Commerce, April 24.

S. 2347 (MEDICARE), to amend Title XVIII of the Social Security Act to ensure the continued access of Medicare beneficiaries to diagnostic imaging services; CARDIN; to the Committee on Finance, April 25.

S. 2367. A bill to strike the word "lunatic" from Federal law, and for other purposes; CONRAD; to the Committee on Banking, Housing, and Urban Affairs, April 25.