



## Senate Rejects Ryan Budget; House to Vote on Increasing Debt Limit

### *Budget Wars*

Senate Democrats have yet to introduce their budget version of FY 2012 spending limits. This did not stop **Senate Majority Leader Harry Reid** from forcing a vote to bring H.Con.Res. 34, the House-passed Ryan budget, to the Senate floor. The maneuver failed on a 40-57 vote with **Republican Senators Brown, Collins, Murkowski, Paul and Snowe** joining 52 Democrats in rejecting the House changes to Medicare and other FY 2012 spending cuts. Republicans countered with their own maneuver in an attempt to bring up a vote on **President Obama's** FY 2012 budget proposal. However, Democrats joined all Republicans in a 97-0 vote to reject the maneuver with Democrats stating the Obama spending blueprint now being used by Vice President Biden in his budget negotiations preempts the earlier proposal. **Senate Minority Leader Mitch McConnell** said he still intends to insist that spending caps be placed on appropriations for FY 2012-2013 and on major reforms to Medicare and other health programs in order for him to support an increase in the \$14.294 trillion federal debt ceiling. **House Speaker John Boehner** also said he stands firm in his position that spending cuts should exceed the amount of any increase in the debt limit. The office of **Senator Reid** commented that "Republicans are holding the United States' credit hostage to ram through their plan to end Medicare. They are now saying they won't accept any plan to

reduce the deficit unless it also cuts Medicare. Voters have resoundingly rejected this ideological agenda. Republicans should drop it and move on." Taking up this cudgel, the House has scheduled a vote this week to increase the debt ceiling limit, H.R. 1954, but without any spending caps or changes to Medicare and other federal health programs. The move is designed to fail, thus showing the need in the House for stern measures to rail in Medicare spending and the growing federal debt. The burden to reach a negotiated settlement on federal spending levels for the next few years thus falls on the budget summitters led by **Vice President Joe Biden**. The bipartisan leadership group is expected to continue their talks in an effort to reach agreement in time to meet the August 2nd deadline for a debt ceiling vote demanded by **Treasury Secretary Timothy Geithner**. However,

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**Senator McConnell** and 16 other Republican senators sent a letter to the Treasury Secretary dressing him down for statements that could “sow the seeds of doubt in the market regarding the full faith and credit of the United States.” Other Republicans are urging **Secretary Geithner** to prepare for a realignment of federal payment and spending priorities in the event the August deadline is breached.

### ***Appropriations Matters***

The House was able to proceed on the FY 2012

appropriations front given this body’s earlier adoption of the Ryan budget. This week the Military Construction, Veterans Affairs and Related Agencies Appropriations Act of 2012 is expected to be called up in the House for a final vote. Committee action on the Agriculture/FDA appropriations bill is also expected to be completed. In other House action, the Defense authorization bill, H.R. 1540, was passed with numerous provisions affecting military-related health care and health research programs. The House also passed H.R. 1216 on a 234-85 vote, PPACA-related legislation

that would subject the mandatory funding for training at health centers to annual appropriations. The PPACA provided \$230 million to health centers to establish or expand primary care training programs for medical residents in FY 2011-2015. The House also adopted an amendment that would prohibit health center funding from being used to provide abortions (with some exceptions) as well as training to doctors on how to provide abortions.

## **Republican Alternative to PPACA Debated**

**A**t a House Energy and Commerce Health Subcommittee hearing on Rep. Marsha Blackburn’s legislation to repeal the PPACA Title I employer and individual health coverage mandates, Democrats leveled criticism at the bill’s provisions allowing health insurers to sell policies approved in one state to individuals and groups in all other states. The Director of the CMS Center for Consumer Information and Insurance Oversight testified that “The proposition of allowing interstate sales of insurance in a way that eliminates or overrides a state’s own authority to protect or assist insurance consumers in their market is, while well-intentioned, a step backward in the effort to provide accessible, affordable, and fair health insurance coverage to all citizens.” However, the spokesman for some health insurers supported the legislation, testifying that state mandated benefits have been a major reason why health insurance, particularly in the individual and small group markets, has become too expensive for many consumers.

## **Single-Payer System for Vermont**

**V**ermont has enacted legislation to establish a single-payer health system for individuals in the state who are not covered under Medicare and self-insured ERISA protected health plans. The legislation creates the Green Mountain Care Board, a five-person board that would oversee financing for the health care system and establish rates for health care providers. The state is expected to seek a waiver from HHS to move Medicaid beneficiaries into the new single-payer system. The state will likely have to seek an exemption from certain PPACA provisions in order to make the system fully operational when the federal law becomes effective in 2014.

## **New Grants for State Health Exchanges**

**H**HS announced that more than \$35 million will be granted to Indiana, Rhode Island and Washington to help establish their state-based health insurance exchanges under the PPACA.

## GOP Questions HHS Waivers from PPACA Standards/ACO Rules

**H**ouse Ways and Means Committee Chairman **Dave Camp** and Senator **Orrin Hatch** have written to HHS demanding specific information on the process under which 1,400 waivers from PPACA annual limits the agency has granted to various employer and union plans. They said “The Administration’s refusal to make public the names of those companies and entities which have been denied waivers, and the reasons for why those waivers were denied, are prime examples of the lack of transparency which

has become a hallmark of this Administration.” Also, **Senator Tom Coburn** and six other Senate Finance Republicans wrote **HHS Secretary Kathleen Sebelius** urging her to withdraw the proposed accountable care organization (ACO) rule that would implement the Medicare Shared Savings Program. They said CMS and HHS should re-engage experienced stakeholders to craft a new rule that fulfills the promise of ACOs. Democrats also continue to show support for the PPACA with **Senator John D. Rockefeller**

issuing a report from his Senate Committee on Commerce, Science and Transportation stating that health insurance policyholders would have received rebates totaling almost \$2 billion in 2010 if the PPACA minimum medical loss ratio 80% rule had been in effect for that year. The report also found that consumer rebates of about \$1.1 billion would not have been paid if agent and broker commissions were excluded from expense calculations under the loss ratio, as has been proposed by Republican members.

## Proposed HIPAA Privacy Rule

**T**he HHS Office for Civil Rights has released a proposed rule that would revise the HIPAA privacy rule regarding the accounting of disclosure standards and to add new requirements that covered entities be able to report to patients about who has accessed their electronic health records. The

rules would allow individuals to request a full accounting of how and which of their protected health information, in electronic or paper form, has been accessed and shared and allow patients to request information about who has accessed their personal health information in electronic form. Under the proposed rule, covered

entities and business associates that have adopted EHR technology after January 1, 2009, would be required to comply with access report requirements beginning January 1, 2013. Covered entities and business associates with older EHR technologies would be required to comply by January 1, 2014.

## HHS Review of Existing Regulations

**H**HS announced a preliminary plan for the review of existing regulations and eliminating or changing ones that are out of date, unnecessary, excessively burdensome or in conflict with other rules. Among the rules on the list are the Medicare “Conditions for Participation of Hospitals” and FDA efforts to revise its regulations to increase the use of electronic information in submissions of clinical study data for drug trials, post-market reporting for drugs and biological products and registration and listing of drugs and medical devices.

## Proposed Changes to Medicare Physician Payment RVUs

**C**MS announced it is seeking comments on a proposed change to the manner in which the agency calculates work relative value units (RVUs) and corresponding changes to the practice expense and malpractice RVUs affecting payment for physician services. Any revisions are expected to become effective for services provided beginning January 1, 2012.

## Medicaid Reform

**H**ouse Energy and Commerce Chairman Fred Upton and Senator Orrin Hatch have written the nation's governors asking them for their recommendations on how to reform Medicaid to enable cash-strapped states to meet their federal obligations. They said that the welfare reforms enacted by Congress in the mid-1990s might serve as a model for such changes.

## FDA Issues

Senate Finance Committee Chairman Max Baucus and Senator Chuck Grassley sent a letter to the FDA urging the agency to require lobbying groups to disclose their financial ties to major drug companies. Senator Grassley said he is concerned that drug companies are paying lobbyists to lobby the FDA against generic drugs.

## Upcoming Health Related Committee Hearings and Markups

**House Foreign Affairs, Africa, Global Health and Human Rights Subcommittee**, to hold a hearing titled "Global Perspectives on Autism - A Growing Public Health Crisis" on May 31.

**House Appropriations, Full Committee**, to meet May 31 to mark up FY 2012 Agriculture/FDA appropriations bill.

**House Oversight & Government Reform, Subcommittee on Health Care**, District of Columbia, Census and the National Archives, to hold a hearing titled "FDA Medical Device Approval: Is There a Better Way?" on June 2.

**House Energy and Commerce Committee, Subcommittee on Health**, to hold a hearing titled "PPACA's Effects on Maintaining Health Coverage and Jobs: A Review of the Health Care Law's Regulatory Burden" on June 2.

**House Education and the Workforce Committee, Subcommittee on Health, Employment, Labor, and Pensions**, to hold a field hearing titled "The Recent Health Care Law: Consequences for Indiana Families and Workers" on June 7.

**House Veterans' Affairs Committee**, to hold a hearing titled "Mental Health: Bridging the Gap Between Care and Compensation for Veterans" on June 14.

**House Appropriations, Full Committee**, to meet August 2 to mark up FY 2012 LHHS appropriations bill subject to July 26 subcommittee markup.

**S. 1042 (MEDICARE)**, to amend Title XVIII of the Social Security Act to establish a Medicare payment option for patients and physicians or practitioners to freely contract, without penalty, for Medicare fee-for-service items and services, while allowing Medicare beneficiaries to use their Medicare benefits; MURKOWSKI; to the Committee on Finance, May 23.

**S. 1045 (HEALTH CARE COVERAGE)**, to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, burns, infection, tumor, or disease; LANDRIEU; to the Committee on Health, Education, Labor, and Pensions, May 23.

**S. 1049 (HEALTH INSURANCE PREMIUMS)**, to lower health premiums and increase choice for small business; KYL; to the Committee on Finance, May 23. H.R. 1933 (NURSES), to amend the Immigration and Nationality Act to modify the requirements for admission of nonimmigrant nurses in health professional shortage areas; SMITH of Texas; to the Committee on the Judiciary, May 23.

**H.R. 1936 (MEDICARE)**, to amend Title XVIII of the Social Security Act to exempt blood glucose self-testing equipment and supplies furnished (regardless

of method of delivery) by small retail community pharmacies from Medicare competitive acquisition programs and pricing; SCHOCK; jointly, to the committees on Energy and Commerce and Ways and Means, May 23.

**H.R. 1943 (ANTITRUST)**, to restore the application of the federal antitrust laws to the business of health insurance to protect competition and consumers; DEFAZIO; to the Committee on the Judiciary, May 23.

**H.R. 1946 (ANTITRUST)**, to ensure and foster continued safety and quality of care and a competitive marketplace by exempting independent pharmacies from the antitrust laws in their negotiations with health plans and health insurance insurers; MARINO; to the Committee on the Judiciary, May 23.

**H. RES. 272 (DISEASE AWARENESS)**, expressing support for designation of May 2011 as National Huntington's Disease Awareness Month; LANGEVIN; to the Committee on Energy and Commerce, May 23.

**S. 1052 (CHILDREN'S HEALTH)**, to amend the Public Health Service Act to create a National Childhood Brain Tumor Prevention Network to provide grants and coordinate research with respect to the causes of and risk factors associated with childhood brain tumors, and for other purposes; SCHUMER; to the Committee on Health, Education, Labor, and Pensions, May 24.

**S. 1058 (PHARMACY BENEFIT MANAGERS)**, to amend the Public Health Service Act to ensure transparency and proper operation of pharmacy benefit managers; PRYOR; to the Committee on Health, Education, Labor, and Pensions, May 24.

**H.R. 1955 (HEALTH CARE COVERAGE)**, to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, burns, infection, tumor, or disease; TIBERI; jointly, to the committees on Energy and Commerce, Ways and Means and Education and the Workforce, May 24.

**H.R. 1958 (MEDICARE)**, to amend Title XVIII of the Social Security Act to modify the designation of accreditation organizations for orthotics and prosthetics, to apply accreditation and licensure requirements to suppliers of such devices and items for purposes of payment under Medicare, and to modify the payment rules for such devices and items under such program to account for practitioner qualifications and complexity of care; BERKLEY; jointly, to the committees on Energy and Commerce and Ways and Means, May 24.

**H.R. 1970 (CHILDREN'S HEALTH)**, to amend the Public Health Service Act to create a National Childhood Brain Tumor Prevention Network to provide grants and coordinate research with respect to the causes of and risk factors associated with childhood brain tumors, and for other purposes; LEE of California; to the Committee on Energy and Commerce, May 24.

**H.R. 1971 (PHARMACY BENEFIT MANAGERS)**, to amend the Public Health Service Act to ensure transparency and proper operation of pharmacy benefit managers; MCMORRIS RODGERS; jointly, to the committees on Energy and Commerce, Ways and Means and Education and the Workforce, May 24.

**S. 1094 (AUTISM)**, to reauthorize the Combating Autism Act of 2006 (Pub. L. 109-416); MENENDEZ; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1095 (PRIMARY HEALTH)**, to include geriatrics and gerontology in the definition of "primary health services" under the National Health Service Corps program; BOXER; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1096 (MEDICARE)**, to amend Title XVIII of the Social Security Act to improve access to, and utilization of, bone mass measurement benefits under the Medicare Part B program by extending the minimum payment amount for bone mass

measurement under such program through 2013; SNOWE; to the Committee on Finance, May 26.

**S. 1098 (HEALTH SAVINGS ACCOUNTS)**, to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; HATCH; to the Committee on Finance, May 26.

**S. 1099 (ACCESS)**, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; BLUNT; to the Committee on the Judiciary, May 26.

**S. 1101 (MEDICAID)**, to require the Secretary of Health and Human Services to approve waivers under Medicaid under Title XIX of the Social Security Act that are related to state provider taxes that exempt certain retirement communities; BOOZMAN; to the Committee on Finance, May 26.

**S. 1107 (DISEASE RESEARCH)**, to authorize and support psoriasis and psoriatic arthritis data collection, to express the sense of the Congress to encourage and leverage public and private investment in psoriasis research with a particular focus on interdisciplinary collaborative research on the relationship between psoriasis and its comorbid conditions, and for other purposes; MENENDEZ; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1117 (TAXATION)**, to amend Section 35 of the Internal Revenue Code of 1986 to improve the health coverage tax credit, and for other purposes; ROCKEFELLER; to the Committee on Finance, May 26.

**S. 1124 (VETERAN'S HEALTH)**, to amend Title 38, United States Code, to improve the utilization of teleconsultation, teleretinal imaging, telemedicine, and telehealth coordination services for the provision of health care to veterans, and for other purposes; CONRAD; to the Committee on Veterans' Affairs, May 26.

**S. 1127 (VETERAN'S HEALTH)**, to amend Title 38, United States Code, to establish centers of excellence for rural health research, education, and clinical activities and to recognize the rural health resource centers in the Office of Rural Health, and for other purposes; CONRAD; to the Committee on Veterans' Affairs, May 26.

**S. 1128 (AUTISM)**, to establish a National Autism Spectrum Disorder Initiative and for other purposes; MENENDEZ; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1131 (CHILDREN'S HEALTH)**, to authorize the secretary of health and human services, acting through the director of the Centers for Disease Control and Prevention, to establish and implement a birth defects prevention, risk reduction, and public awareness program; HAGAN; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1132 (AUTISM)**, to establish programs to provide services to individuals with autism and the families of such individuals and for other purposes; MENENDEZ; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1137 (MEDICINES)**, to provide incentives for investment in research and development for new medicines, to enhance access to new medicines, and for other purposes; SANDERS; to the Committee on Health, Education, Labor, and Pensions, May 26.

**S. 1138 (HIV/AIDS)**, to de-link research and development incentives from drug prices for new medicines to treat HIV/AIDS and to stimulate greater sharing of scientific knowledge; SANDERS; to the Committee on Health, Education, Labor, and Pensions, May 26.

**H.R. 2005 (AUTISM)**, to reauthorize the Combating Autism Act of 2006; SMITH of New Jersey; to the Committee on Energy and Commerce, May 26.

**H.R. 2006 (AUTISM)**, to establish a National Autism Spectrum Disorders Initiative, and for other purposes; SMITH of New Jersey; to the Committee on Energy and Commerce, May 26.

**H.R. 2007 (AUTISM)**, to establish programs to provide services to individuals with autism and the families of such individuals, and to increase public education and awareness of autism, and for other purposes; SMITH of New Jersey; to the Committee on Energy and

Commerce, May 26.

**H.R. 2010 (HEALTH SAVINGS ACCOUNTS)**, to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; PAULSEN; jointly, to the committees on Ways and Means, the Judiciary, and Energy and Commerce, May 26.

**H.R. 2013 (MEDICAID/SCHIP)**, to empower states with programmatic flexibility and financial predictability to improve their Medicaid programs and State Children's Health Insurance programs by ensuring better health care for low-income pregnant women, children, and families, and for elderly individuals and disabled individuals in need of long-term care services and supports, whose income and resources are insufficient to meet the costs of necessary medical services; NUNES; jointly, to the committees on Energy and Commerce, Ways and Means, Education and the Workforce, House Administration, Natural Resources, the Judiciary, Rules, and Appropriations, May 26.

**H.R. 2020 (MEDICARE)**, to amend Title XVIII of the Social Security Act to improve access to, and utilization of, bone mass measurement benefits under the Medicare Part B program by extending the minimum payment amount for bone mass measurement under such program through 2013; BURGESS; jointly, to the committees on Energy and Commerce and Ways and Means, May 26.

**H.R. 2029 (CHILDREN'S HEALTH)**, to authorize the secretary of health and human services, acting through the director of the Centers for Disease Control and Prevention, to establish and implement a birth defects prevention, risk reduction, and public awareness program; DELAURO; to the Committee on Energy and Commerce, May 26.

**H.R. 2033 (DISEASE RESEARCH)**, to authorize and support psoriasis and psoriatic arthritis data collection, to express the sense of the Congress to encourage and leverage public and private investment in psoriasis research with a particular focus on interdisciplinary collaborative research on the relationship between psoriasis and its comorbid conditions, and for other purposes; GERLACH; to the Committee on Energy and Commerce, May 26.

**H.R. 2035 (REFORM)**, to amend the PPACA to provide for greater disclosure in the process for waiving annual limitation requirements under that act; GRIFFIN of Arkansas; to the Committee on Energy and Commerce, May 26.

**H. RES. 285 (DISEASE AWARENESS)**, expressing support for designation of June 2011 as "National Aphasia Awareness Month" and supporting efforts to increase awareness of aphasia; MARKEY; to the Committee on Energy and Commerce, May 26.