



House Passes Repeal of PPACA Device Tax and Several FY 2013 Appropriations Bills

House Passes Bill to Kill PPACA Medical Device Tax

As scheduled, the House voted 270-146 to pass the PPACA-related omnibus bill H.R. 436, which would repeal the PPACA medical device tax, repeal the ban on the use of tax-free money in flexible spending arrangements (FSAs) and health savings accounts (HSAs) to purchase over-the-counter medicines without a prescription and allow up to \$500 of unspent money in FSAs to be returned to account holders. The \$37 billion cost of the bill is offset by requiring individuals to return to the Treasury any PPACA premium assistance tax credits which are made in error. Senate Republicans will attempt to overcome Democrat leadership opposition to take up the bill. The White House issued a veto threat on the bill, objecting mainly to the offset mechanism.

its version this Tuesday. Although the House is likely to act on the Labor/HHS bill, it also appears more and more likely that this bill, among other spending bills, will be folded into a CR to get final budget negotiations into a lame-duck session this fall. The House Agriculture/FDA Appropriations Subcommittee voice voted its FY 2013 spending bill which provides for \$2.5 billion in discretionary spending for the FDA. The bill does not include an allocation for biosimilar and generic drug user fees, pending the resolution of an authorization for the new FDA program in a House/Senate conference (yet to begin) on the user fee legislation. Last week the House also approved the FY 2013 Homeland Security, Energy and Water and Legislative Branch appropriations bills.

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LHHS and FDA FY 2013 Appropriations

The Chairman of the House Labor/HHS/Education Appropriations Subcommittee intends to unveil the subcommittee's FY 2013 spending bill by June 20th. The Ryan budget resolution, which controls FY 2013 spending in the House, allows for \$150 billion in discretionary budget authority for the year which is about \$7 billion below this year's spending level. Apparently the chairman has obtained sufficient Republican votes to move the bill to full committee. The Senate Labor/HHS/Education Appropriations Subcommittee plans to mark up

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House Judiciary Committee Moves Pharma Legislation

The House Judiciary Committee passed legislation, H.R. 3668, which would make the criminal penalties for

counterfeiting drugs the same as counterfeiting military goods, e.g. allowing maximum fines and prison terms of \$5 million or 20 years, or both, for an individual's first offense. The Senate passed a similar measure, S. 1886, on March 6th. The committee also passed H.R. 4223, legislation that

would increase penalties for the theft of pre-retail medical products, including drugs, medical devices and infant formula. This bill parallels a similar bill, S. 1002, passed by the Senate Judiciary Committee on March 8th.

CMS Enhanced Payments for High Quality Primary Care

CMS announced a demonstration project, the Comprehensive Primary Care Initiative (CPCI), under which 45 commercial, federal and state insurers in seven markets have agreed to make enhanced payments to primary care practices that provide high-quality care. The Center for

Medicare and Medicaid Innovation (CMMI) will pay primary care practices a care management fee of \$20 per beneficiary per month to support enhanced, coordinated services in the first and second year and \$15 in the third and fourth years.

PCORI Report on Comparative Effectiveness

The Patient-Centered Outcomes Research Institute unveiled a methodology committee draft report containing proposed standards and research methods that future applicants for PCORI funding can use to develop comparative effectiveness research. Applications for the first round of funding are due July 31st.

Health Insurance Exchange Enrollment and Assistance

A CMS collaboration with 13 states, 8 charitable foundations and a design firm have developed a self-service online enrollment process for health insurance exchanges. The design will be made available at no cost to all states and the federal government to customize as they may need. In another instance, HHS announced it will grant \$30 million under the PPACA Consumer Assistance Program (CAP) to support state-based health insurance consumer assistance or ombudsman programs. Applications are due July 9th.

Medicaid Fraud Efforts and CMS Medicare Contractors Come Under Fire

The House Energy and Commerce Subcommittee on Oversight and Investigations held a hearing which the subcommittee said was to obtain more information on why CMS lacks accurate data on the performance of Medicare program integrity contractors. **Chairman Stearns** said that “complacency shown by CMS toward this

committee’s oversight efforts, their repeated indifference to GAO’s recommendations since, and their disregard for the HHS OIG’s extensive body of work in this area must end today.” In a hearing held by the House Committee on Oversight and Government Reform Subcommittee on Government Organization, Efficiency and Financial Management, the office

of the HHS OIG said there have been significant shortcomings in the data available to conduct efficient, national Medicaid program oversight via data analysis and data mining. As in the first hearing, CMS’ operation of its Recovery Audit Contractor (RAC) program was also criticized for failing to recover improper Medicare payments.

New CMS Data Office

CMS announced the creation of a new office, the Office of Information Products and Data Analysis (OIPDA), that is designed to modernize the use and dissemination of data and information as value based purchasing becomes more prevalent under Medicare and Medicaid in the post PPACA world. In another data move, HHS announced that it asked for OMB approval to collect more information on SCHIP programs in all states leading up to the implementation of the PPACA.

ESRD Network Standards

CMS announced that it has redesigned the ESRD network statement of work (SOW) to incorporate new priorities in health care, including establishing relationships with patients, families and facilities. The three goals are: Better Care for the Individual through Beneficiary and Family Centered Care; Better Health for the ESRD Population; and Reduce Costs of ESRD Care by Improving Care.

MD Members Seek Time to Reform SGR

Republican House Doctors Caucus members Tom Price and Charles Boustany, Jr. have announced plans to introduce legislation which would provide for annual Medicare physician payment updates, based on a medical index, over five years during which a new payment system would be developed to replace the flawed current payment system.

CBO Publishes Health Expenditure Growth

CBO issued a report, the 2012 Long-Term Budget Outlook, which includes estimates that federal health care program spending will increase from more than 5% of GDP today to almost 10% of GDP in 2037 with Medicare growth likely to outpace Medicaid’s. The report also said the high rates of growth cannot continue indefinitely or health care spending would eventually consume all of the United States’ economic output. The White House also issued a report on the President’s executive order mandating the review of regulations in an effort to reduce unnecessary burdens. It said HHS will soon propose new revisions which are estimated to save \$4 billion over five years by reducing burdens on hospitals and other health care providers.

H.R. 5894 (REFORM), to repeal Section 4004 of the PPACA (authorizing an education and outreach campaign); FLAKE; jointly, to the committees on Energy and Commerce and Appropriations, June 5.

H. RES. 674 (DISEASE AWARENESS), expressing support for designation of June 2012 as National Aphasia Awareness Month and supporting efforts to increase awareness

of aphasia; MARKEY; to the Committee on Energy and Commerce, June 5.

H. RES. 675 (MEDICARE), expressing the sense of the House of Representatives that, as part of any agreement on Medicare reform, Medicare should not be changed for any citizens of the United States older than 55, and any agreement should provide a detailed plan to end waste, fraud, and abuse in the program;

RIGELL; jointly, to the committees on Ways and Means and Energy and Commerce, June 5.

H.R. 5888 (PHYSICIANS), to establish a demonstration program to facilitate physician re-entry into clinical practice to provide required primary health services; SARBANES; to the Committee on Energy and Commerce, June 1.