



House Returns to Deal with Appropriations and Federal Debt Debate

Appropriations Issues

The House approved and sent to the Senate H.R. 2055, the FY 2012 Military Construction/Veterans Affairs appropriations bill, which provides the VA with \$128 billion (a \$2.4 billion increase over last year). During consideration of the legislation, the House voted 402-1 to reject splitting the VA portion from the military construction portion of the legislation. However this move is expected to be repeated with other spending bills. The House also passed H.R. 2112, the Agriculture/Rural Development/FDA spending bill for FY 2012, on a 217-203 vote with Democrats objecting to spending reductions, especially for the FDA. This week the House is scheduled to take up H.R. 2219, the FY 2012 Department of Defense Appropriations Act containing significant funding for defense health programs.

Federal Debt Limit Negotiations

The bipartisan/bi-chamber budget negotiators led by **Vice President Joseph Biden** met three times last week and an Obama/Biden/Boehner/Kasich “golf summit” on Saturday could help move up the timetable for an agreement expected to top \$2 trillion in deficit reduction over ten years. The Vice President said negotiators have discussed the entire federal budget and have reached agreement on a number of spending cuts, including changes affecting federal workers, but **Rep. Chris Van Hollen** said that nothing is agreed to unless the group comes together on other big ticket items,

including entitlement program changes. Congressional Democrats are skeptical of including Medicare changes and hope to keep opposition to the Ryan Medicare “premium support” proposal front and center for the 2012 elections. Backtracking somewhat, **Rep. Paul Ryan** said he is open to changes in his proposal. Keeping up the pressure for Medicare changes, 44 Senate Republicans sent a letter to the President reminding him that federal law requires the Administration to submit a plan to bring Medicare into balance, given the Medicare trustee report that the program has significant funding shortages. Democrat **Senators Harkin, Murray, Schumer, Stabenow and Whitehouse** responded with a letter to **Senate Minority Leader Mitch McConnell** suggesting that any changes avoid Medicare benefit cuts and instead follow along the lines for delivery reform already adopted under the PPACA. The Biden group also has the benefit of MedPAC recommendations that would shift

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high-cost Medicare beneficiaries to managed care plans and that would streamline copayments and deductibles under Part A and B. It is expected that Medicaid spending reductions may lead the

extent of any entitlement reform changes, with Republicans and governors calling for an end to the PPACA Medicaid eligibility “maintenance of effort” mandate. House Democrats have also offered up an idea under H.R. 2190 to require Part D drug manufacturers

to provide prescription rebates to Medicare/Medicaid dual eligibles. Beginning in 2013, such rebates would be equal to the difference between the average rebate to private Part D drug plans and 23.1% of a drug’s average price.

Republicans Call for PPACA Regulatory Review

Rep. Cliff Stearns, Chairman of the House Energy and Commerce Subcommittee on Oversight and Investigations has called upon HHS to again review PPACA regulations on medical loss ratios (MLR), grandfathered insurance plans and accountable care organizations due to their complexity and burdens imposed. He said HHS has the authority for such a review under the President’s executive order No. 13563 which requires agencies to review their regulatory processes to ensure that regulations are promulgated transparently and in the least burdensome way possible. Democrats defended the current regulations and HHS resisted the call for PPACA regulatory revisions. HHS also defended the MLR rules which include agent commissions as administrative expenses, but said the agency is monitoring NAIC deliberations that may make recommendations to amend the rule so as to ameliorate some of the reductions in income for health insurance agents resulting from the rule. CMS also

has released to the committee requested information on the waivers from PPACA benefit rules for so-called mini-med plans. GAO issued a report finding that employers, unions and health plans that were allowed to delay implementing restrictions on annual benefit limits would otherwise see premium increases of more than 10% and a significant decrease in access to health coverage for their employees. HHS is reviewing the waiver data and will stop considering waivers after September 22nd. HHS is also waiting for an IOM report on suggested “essential health benefits” before issuing proposed rules on this PPACA requirement in October or November. CMS also rebutted a recent McKinsey & Co. report stating that an estimated 30% of employers will drop their employee health coverage in 2014. Democrats are demanding that the company supply detailed information on their survey and procedures.

Options for Alleviating Medicare Physician Pay Cuts

CBO released a report estimating the cost of eliminating the scheduled 29.4% Medicare physician reimbursement reductions next year. Eliminating the current increase would cost over \$300 billion between 2012 and 2021. The so-called “cliff” alternative would cost about \$107.7 billion. This option would override the 29.4% reduction in 2012 and revert to the payment rate that would have been calculated in the year immediately following

the override, adjusted for changes in the targets and payment rates. The so-called “clawback” option would cost about \$218.5 billion. Under this option, payment rates would be frozen in 2012 and then the SGR would be used to recapture spending during the following several years. CBO also said the SGR could instead be replaced with a specified update such as a freeze, the Medicare Economic Index or a 2% increase.

MedPAC Reports to Congress

The June 15th MedPAC Report to Congress on Medicare payment reform included recommendations to “change Medicare’s payment systems to reward quality and efficiency” rather than increased volume and intensity. Recommendations on quality

improvement organizations (QIOs) and ancillary services were also included. The report also contains an analysis of the current payment formula problems that stem from the sustainable growth rate (SGR) formula and said that a major issue is whether to maintain an expenditure target

just for physicians, for example, or for all of Medicare. MedPAC recommended the creation of a notification and authorization program for providers who order a significantly higher volume of in-office advanced diagnostic imaging services than their peers.

Medicare Fraud Detection Technology

HHS announced that a new state-of-the-art analytic technology will be used under Medicare to identify fraudulent claims before they are

paid. Funding of \$100 million under the Small Business Jobs Act of 2010 was used to award contracts for the initial startup and first year of the predictive modeling

technology to a partnership of Northrop Grumman Corp., Federal Network Systems LLC and National Government Services (NGS).

Mental Health Center Standards Proposed

CMS issued a proposed rule which would establish new conditions of participation that community mental health centers would have to meet to participate in the Medicare program. The conditions would focus on the care provided to the client, establish requirements for staff and provider operations and encourage clients to participate in their care plan and treatment.

HHS National Prevention Strategy

HHS announced a National Prevention Strategy to promote healthy lifestyles among Americans at every stage of life. Seven priority areas include: tobacco-free living; preventing drug abuse and excessive alcohol use; healthy eating; active living; injury and violence-free living; reproductive and sexual health; and mental and emotional well-being.

Upcoming Hearings on Health Related Topics

House Energy and Commerce, Subcommittee on Health, to hold a hearing June 21, “Dual-Eligibles: Understanding This Vulnerable Population and How To Improve Their Care.”

Senate Health, Education, Labor and Pensions Committee will hold a hearing titled “Senior Hunger and the Older Americans Act” on June 21.

House Ways and Means, Subcommittee on Health, to hold hearings June 22 on the recently released 2011 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds.

House Energy and Commerce Subcommittee on Oversight and Investigations will hold a hearing titled “Protecting Medicare with Improvements to the Secondary Payer Regime” on June 22.

Senate Homeland Security and Governmental Affairs Committee will hold a hearing titled “Transforming Lives Through Diabetes Research” on June 22nd.

The Defense Subcommittee of Senate Appropriations Committee will hold hearings June 22nd on proposed fiscal 2012 appropriations for departments, programs and agencies under its jurisdiction.

Senate Finance Committee will hold a hearing on June 23rd titled “Health Care Entitlements: The Road Forward.”

House Appropriations Committee will mark up draft legislation that would make fiscal 2012 appropriations for programs related to labor, health, human services, education and related agencies, subject to LHHS subcommittee markup on July 26.

S. 1190 (MEN'S HEALTH), to reduce disparities and improve access to effective and cost-efficient diagnosis and treatment of prostate cancer through advances in testing, research, and education, including through telehealth, comparative effectiveness research, and identification of best practices in patient education and outreach, particularly with respect to underserved racial, ethnic and rural populations and men with a family history of prostate cancer, to establish a directive on what constitutes clinically appropriate prostate cancer imaging, and to create a prostate cancer scientific advisory board for the Office of the Chief Scientist at the Food and Drug Administration to accelerate real-time sharing of the latest research and accelerate movement of new medicines to patients; TESTER; to the Committee on Health, Education, Labor, and Pensions, June 14.

H.R. 2159 (MEN'S HEALTH), to reduce disparities and improve access to effective and cost-efficient diagnosis and treatment of prostate cancer through advances in testing, research, and education, including through telehealth, comparative effectiveness research, and identification of best practices in patient education and outreach, particularly with respect to underserved racial, ethnic and rural populations and men with a family history of prostate cancer, to establish a directive on what constitutes clinically appropriate prostate cancer imaging, and to create a prostate cancer scientific advisory board for the Office of the Chief Scientist at the Food and

Drug Administration to accelerate real-time sharing of the latest research and accelerate movement of new medicines to patients; TOWNS; jointly, to the committees on Energy and Commerce, Veterans' Affairs, and Armed Services, June 14.

S. 1203 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under Medicare; SNOWE; to the Committee on Finance, June 15.

S. 1206 (MEDICARE), to amend Title XVIII of the Social Security Act to require drug rebates for drugs dispensed to low-income individuals under the Medicare prescription drug benefit program; ROCKEFELLER; to the Committee on Finance, June 15.

S. 1211 (DRUGS), to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; FEINSTEIN; to the Committee on Health, Education, Labor, and Pensions, June 15.

H.R. 2182 (INFECTIOUS DISEASE), to provide incentives for the development of qualified infectious disease products; GINGREY of Georgia; to the Committee on Energy and Commerce, June 15.

H.R. 2187 (NURSES), to amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio

requirements in hospitals, and for other purposes; SCHAKOWSKY; jointly, to the committees on Energy and Commerce and Ways and Means, June 15.

H.R. 2190 (MEDICARE), to amend Title XVIII of the Social Security Act to require drug rebates for drugs dispensed to low-income individuals under the Medicare prescription drug benefit program; WAXMAN; jointly, to the committees on Energy and Commerce and Committee on Ways and Means, June 15.

H.R. 2194 (DIABETES), to provide grants to better understand and reduce gestational diabetes, and for other purposes; ENGEL; to the Committee on Energy and Commerce, June 15.

H.R. 2195 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under Medicare; ENGEL; jointly, to the committees on Energy and Commerce and Ways and Means, June 15.

H.R. 2201 (MEDICARE), to amend Title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; SMITH of Washington; jointly, to the committees on Ways and Means and Energy and Commerce, June 15.

S. 1217 (MEDICARE), to amend Title XVIII of the Social Security Act to provide coverage for custom

fabricated breast prostheses following a mastectomy; SNOWE; to the Committee on Finance, June 16.

S. 1221 (DIABETES), to provide grants to better understand and reduce gestational diabetes, and for other purposes; SHAHEEN; to the Committee on Health, Education, Labor, and Pensions, June 16.

H.R. 2205 (HEALTH LAW), to improve the medical justice system by encouraging the prompt and fair resolution of disputes, enhancing the quality of care, ensuring patient access to health care services, fostering alternatives to litigation, and combating defensive medicine, and for other purposes; DENT; jointly, to the committees on Energy and Commerce and the Judiciary, June 16.

H.R. 2206 (REFORM), to repeal a requirement that new employees of certain employers be automatically enrolled in the employer's health benefits plan; GUINTA; to the Committee on Education and the Workforce, June 16.

H.R. 2224 (MEDICARE), to amend Title XVIII of the Social Security Act to provide opportunities for additional residency slots in participating teaching hospitals and to expand the primary care bonus to certain underserved specialties and to amend the Internal Revenue Code of 1986 to provide tax incentives for practicing-teaching physicians; GRIMM; jointly, to the committees on Ways and Means and Energy and Commerce, June 16.

H.R. 2227 (MEDICAL GASES), to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of medical gases, taking into account the special characteristics of medical gases, the special techniques and processes required to produce medical gases, and the established history of safe and effective use of medical gases; LANCE; to the Committee on Energy and Commerce, June 16.

H.R. 2229 (NURSES), to make demonstration grants to eligible local educational agencies for the purpose of reducing the student-to-school nurse ratio in public elementary schools and secondary schools; MCCARTHY of New York; jointly, to the committees on Education and the Workforce and Energy and Commerce, June 16.

H.R. 2233 (MEDICARE), to amend Title XVIII of the Social Security Act to provide coverage for custom fabricated breast prostheses following a mastectomy; ROSS of Arkansas; jointly, to the committees on Energy and Commerce and Ways and Means, June 16.

H.R. 2239 (DISEASE RESEARCH), to expand the research activities of the National Institutes of Health with respect to functional gastrointestinal and motility disorders, and for other purposes; SENSENBRENNER; to the Committee on Energy and Commerce, June 16.

H. RES. 313 (DISEASE AWARENESS), recognizing that the occurrence of prostate cancer in African-American men has

reached epidemic proportions and urging federal agencies to address that health crisis by designating additional funds for research, education, awareness outreach, and early detection; MEEKS; to the Committee on Energy and Commerce, June 16.