



Senate Likely to take Lead in Lifting Debt Ceiling with no Obama “Big Deal” on Deficit

Stalled Deficit Reduction Talks Results in Name Calling

After **House Majority Leader Eric Cantor** refused to budge on including a 4 to 1 ratio of new revenues to spending cuts in the “big deal” on federal deficit reduction, the President said that any Republican refusal to increase the federal debt limit would result in “a tax increase on everybody” because of the likely financial market response for increased interest rates on federal debt obligations. He also said he would not sign a short-term debt limit increase nor bow to the demand by some Republicans for a balanced-budget amendment to the Constitution. The likely result is for Senate Republicans and Democrats to forge a compromise measure that could pass in the Senate and then force the House to vote for the measure, or trigger a default by the U.S. government. The President said he could not guarantee that Social Security benefits would go out on time if the Congress fails to act before the August 2nd deadline set by **Treasury Secretary Timothy Geithner**. With a significant portion of House “Tea Party” Republicans likely to vote against any debt limit increase, or revenue increase, the President would have to encourage enough House Democrats to vote for any Senate compromise. **Senate Minority Leader Mitch McConnell** has proposed a “last choice” plan to break the stalemate which would require the President to seek congressional authority to raise the debt ceiling by \$2.5

trillion over three installments in the next 18 months. Each installment would require the President to propose spending reductions of an equal amount with Congress debating the reductions under normal appropriations procedures. **Senate Majority Leader Harry Reid** said he would work with **Senator McConnell** to improve the plan in the event negotiations with the White House fail. **House Speaker John Boehner** did not immediately pour cold water on the proposal, but other House Republicans said they would not vote for such a move. In addition, **Senate Budget Committee Chairman Kent Conrad** expressed displeasure with the proposal given his preference for a longer-term deficit reduction plan. His so-called “Gang of Five” has crafted a ten year proposal that would cut the deficit by over \$3.6 trillion by, among other things, eliminating the

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alternative minimum tax, providing entitlement reform and cutting various domestic spending programs. Whether the details will be released will likely await a final resolution of the White House negotiations. Any “big deal” would almost surely include changes to Medicare, Medicaid and Social Security. **President Obama** has said he could support even higher Medicare premiums and higher copays for higher-income beneficiaries who already pay higher Part B premiums. The Biden negotiations also identified Medicare and Medicaid savings at \$334-353 billion and another \$260 billion in savings from other entitlements. A “big deal” would also likely include an increase in the Medicare eligibility age from 65 to 67 and limits on Medigap policies to totally fill in Medicare

deductibles and copays. House Democrats continue to express opposition to Medicare cuts with the latest volley being from 64 members who oppose any reduction in graduate medical education payments to hospitals. House Republicans stepped up the pressure on the President and CMS to provide Congress with a plan to keep Medicare solvent, citing the MMA Act requirement for such a plan in light of the Medicare Board of Trustees’ funding warning that general tax revenues could exceed 45% of Medicare funding at some point in the near future.

Appropriations Issues

The Senate took up the House-passed FY 2012 Military Construction/VA appropriations measure last week, H.R. 2055, but further action will be delayed until this week in the face of Senator

Jeff Sessions’ budget point of order maintaining that the bill violates budget rules given the Senate’s failure to pass an FY 2012 budget resolution. The Senate substitute would provide \$52.5 billion in FY 2013 advance funding for veterans’ medical care. Senator Sessions said that the 1974 Budget Act prohibits spending money until there is a budget in place. He also said he intends to offer an amendment to require a 60 vote total, rather than the current majority, to waive such budget points of order. The House is also scheduled to take up H.R. 2560, the Cut, Cap and Balance Act, legislation sponsored by Rep. Jason Chaffetz that would, subject to certain war-related adjustments and direct spending limits, prohibit FY 2012 discretionary spending above \$1,019,402,000,000 in new budget authority and \$1,224,568,000,000 in outlays.

PPACA IPAB Under Fire

At a House Budget Committee hearing, **HHS Secretary Kathleen Sebelius** defended the Independent Payment Advisory Board created under the PPACA when asked by **Chairman Paul Ryan** how medical care for beneficiaries could avoid being disrupted when the IPAB suggests various Medicare spending reductions. The Secretary said that the IPAB cannot eliminate benefits, increase premiums or shift costs. At another hearing held by the House Energy and Commerce Health Subcommittee, both

Chairman Joe Pitts and Ranking Member Frank Pallone expressed their reservations with the IPAB. A Democrat on the House Budget Committee, **Rep. Allyson Schwartz**, testified that the IPAB should be repealed. Legislation to repeal the board has been introduced in both the House and Senate (S. 668 and H.R. 452). House leaders have suggested that a repeal of the IPAB may be the only other part of the PPACA that can be passed in this congress.

Minimum Standards for Health Insurance Exchanges

HHS issued a proposed rule including standards that state health insurance exchanges must meet to be certified by HHS under the PPACA. HHS said the proposal gives states flexibility to design exchanges and to form multi-state exchanges and to partner with HHS. States can be given full approval by 2013 or conditional approval subject to meeting all requirements by the 2014 effective date. Exchanges would have to offer benefit packages meeting the PPACA minimum “essential health benefits” rule which is first being considered by the Institute of Medicine. **Senators Orrin Hatch and Mike Enzi** have written the IOM urging the agency

to avoid recommending a “one size fits all” benefits package and consider the impact that such mandates will have on the cost of health insurance and access to coverage. Comments are due within 75 days on the proposal. In related news, the NAIC approved three white papers related to state health insurance exchanges, including one on governance, another on adverse selection and a third on the role of agents and brokers. However, the NAIC did not endorse H.R. 1206, legislation introduced by **Rep. Mike Rogers** that would eliminate agent and broker commissions from the definition of “expenses” in determining minimum medical loss ratios.

Hearing on Children’s Hospital Training Funds

At a House Energy and Commerce Health Subcommittee hearing last week, **Chairman Joe Pitts** said that he opposes

the Administration’s budget recommendation to eliminate payments under the children’s hospital graduate medical education program. There

appeared to be bipartisan support for H.R. 1852, legislation which would reauthorize the program through FY 2016 at \$330 annually.

School-Based Health Center Grants

HHS announced that it will provide \$95 million in grants to 278 school-based health centers to help them expand and provide more health services across the country. The PPACA made \$200 million available to fund capital projects at school-based health centers.

FDA Issues

FDA Guidelines on Early FDA Engagement on Drug Development

The FDA released draft guidelines to ease the development of diagnostic tests which would assist doctors in deciding on whether or not to use a particular drug and the dose to give. The FDA said “it is the agency’s goal to help stimulate early collaborations between drug and device makers so they can develop the best medical products for treating patients....” In related news, the FDA said that a newly proposed agency reorganization is designed to be budget neutral.

H.R. 2461 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under Medicare; DAVIS of Kentucky; jointly, to the committees on Energy and Commerce, and Ways and Means, July 8.

H.R. 2468 (MEDICARE), to ensure that home health agencies can assign the most appropriate skilled professional to conduct the initial assessment visit and complete the comprehensive assessment for home health services for Medicare beneficiaries requiring rehabilitation therapy under a home health plan of care, based upon physician referral; BOUSTANY; jointly, to the committees on Ways and Means and Energy and Commerce, July 8.

H.R. 2470 (VETERANS' HEALTH), to improve the electronic health information systems and capabilities of the Department of Defense and the Department of Veterans Affairs; DONNELLY of Indiana; jointly, to the committees on Armed Services and Veterans' Affairs, July 8.

H.R. 2472 (PEER REVIEW), to amend the Health Care Quality Improvement Act of 1986 to prohibit health care entities from reporting certain professional review actions against health care professionals before adequate notice and hearing procedures are afforded to such professionals, and for other purposes; HECK; to the Committee on Energy and Commerce, July 8.

H. RES. 343 (PATIENT PRIVACY), expressing disapproval of the decision by the Supreme Court in *Sorrell v. IMS Health Inc.*; MARKEY; jointly, to the committee on Energy and Commerce and the Judiciary, July 8.

H.R. 2486 (PUBLIC HEALTH), amend the Public Health Service Act to provide for health data regarding Native Hawaiians and other Pacific Islanders; BORDALLO; to the Committee on Energy and Commerce, July 11.

S. 1350 (DISEASE RESEARCH), to expand the research, prevention, and awareness activities of the Centers for Disease Control and Prevention and the National Institutes of Health with respect to pulmonary fibrosis, and for other purposes; COONS; to the Committee on Health, Education, Labor, and Pensions, July 12.

H.R. 2499 (MEDICARE), to amend Title XVIII of the Social Security Act to improve the diagnosis and treatment of lymphedema under Medicare and to reduce costs under such program related to the treatment of lymphedema; KISSELL; jointly, to the committees on Energy and Commerce and Ways and Means, July 12.

H.R. 2500 (MEDICARE/ MEDICAID), to amend titles XVIII and XIX of the Social Security Act to clarify the application of EHR payment incentives in cases of multi-campus hospitals; BURGESS; jointly,

to the committees on Ways and Means and Energy and Commerce, July 12.

H.R. 2505 (DISEASE RESEARCH), to expand the research, prevention, and awareness activities of the Centers for Disease Control and Prevention and the National Institutes of Health with respect to pulmonary fibrosis, and for other purposes; PAULSEN; to the Committee on Energy and Commerce, July 12.

S. 1356 (MEDICAID), to amend Title XIX of the Social Security Act to encourage states to increase generic drug utilization under Medicaid, and for other purposes; BROWN of Massachusetts; to the Committee on Finance, July 13.

H.R. 2510 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for timely access to post-mastectomy items under Medicare; SUTTON; jointly, to the committees on Energy and Commerce and Ways and Means, July 13.

H.R. 2518 (DISEASE PREVENTION), to extend for five years the authorization of appropriations for the sickle cell disease prevention and treatment demonstration program; DAVIS of Illinois; to the Committee on Energy and Commerce, July 13.

H.R. 2522 (MEDICARE/ MEDICAID), to amend titles XVIII and XIX of the Social Security Act to improve oversight of nursing facilities under Medicare and Medicaid by preventing

inappropriate influence over surveyors, and for other purposes; ROYBAL-ALLARD; jointly, to the committee on Ways and Means and Energy and Commerce, July 13.

H.R. 2523 (PHYSICIANS), to assure that the services of a nonemergency department physician are available to hospital patients 24 hours a day, seven days a week in all non-federal hospitals with at least 100

licensed beds; SCHAKOWSKY; to the Committee on Energy and Commerce, July 13.

S. 1368 (REFORM), to amend the PPACA to repeal distributions for medicine qualified only if for prescribed drug or insulin; ROBERTS; to the Committee on Finance, July 14.

H.R. 2529 (REFORM), to amend the PPACA to repeal

distributions for medicine qualified only if for prescribed drug or insulin; JENKINS; jointly, to the committees on Ways and Means and Appropriations, July 14.