



BCA Sequestration Effects to be Revealed; CR Likely to Extend FY 2013 Appropriations

Senate Approves Sequestration Reporting Bill

Without a dissenting vote, the Senate approved the House-passed bill (H.R. 5872) that requires the Administration to detail how agency programs would be affected if the Budget Control Act's \$109 billion sequestration is allowed to be implemented next year. The Administration has 30 days from the date of enactment to provide Congress with the details. The dimming economic outlook, the looming tax increase from the expiring Bush tax cuts and sequestration puts Congress and the President in a tough post-election position to sort out a compromise on all of these matters. The House is scheduled to take up legislation that would fast-track tax reform next year, a move that may be acceptable to Senate Finance Committee Chairman Max Baucus.

Status of FY 2013 Appropriations Uncertain

Indicating that a House/Senate deal is in the making to push major decisions on FY 2013 appropriations past the election and possibly to next April via a continuing resolution, the House Appropriations Committee halted further consideration of the Labor/HHS/Education FY 2013 appropriations bill. A six-month CR would probably force House Republican hawks to accept the BCA discretionary spending total and step back from the \$19 billion reduction adopted in the House budget resolution. In another budget squabble, twenty-four House

members asked Defense Secretary Leon Panetta for an explanation for why the department plans to redirect \$708 million from the Defense Health Program after the department proposed to increase beneficiary fees under TRICARE.

House Passes Bill Imposing New Regulatory Restrictions

After a typo glitch, on a second attempt the House passed H.R. 4078, the Red Tape Reduction Act, which: would prohibit executive agencies from promulgating new regulations until the unemployment rate falls to or below 6%; would prohibit the promulgation of "midnight rules"; and includes other provisions intended to reduce or streamline the federal regulatory process. The bill also expands and modifies the Unfunded Mandates Reform Act by requiring independent agencies to conduct analyses of their proposed rules and by requiring all federal agencies to consult with the private sector when developing rules.

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Rush to Exchange

The CMS Center for Consumer Information and Insurance Oversight (CCIIO) has made it known that key elements necessary for states to establish PPACA health insurance exchanges will be unveiled in August. A proposed rule defining “essential health benefits” and additional guidance on the operational details of the “federally facilitated exchange” are likely to be released in August or early September. The minimum benefit information is essential for health insurers to develop their benefit

plans to be offered in exchanges during the open enrollment period beginning in October, 2013. The fall-back federal exchange is also expected to be operational before the open enrollment period. Providers have questioned on what basis payment levels will be made under the exchanges--whether on Medicare, Medicaid or commercial insurance levels--but such details are apparently left to insurer/provider negotiations without further guidance under the PPACA. In related news, **Virginia Governor Robert McDonnell** has

criticized as “wholly inadequate” the CMS response to the RNA’s “thirty questions” the governors said they need answered in order to make decisions on whether their states should participate in the PPACA Medicaid expansion. Such decisions will also have an impact on the establishment of state-run health insurance exchanges. The only substantive response so far from CMS is that the agency would not put a deadline on a state’s participation in Medicaid expansion.

CBO Scores SOTUS Decision on PPACA Costs

CBO’s latest estimate of the costs of the PPACA states that federal Medicaid and SCHIP costs will decrease by about \$289 billion over ten years. The decrease is due to an assumption that all states will not implement the Medicaid expansion as defined under the law. However, the lack of Medicaid expansion would make individuals otherwise eligible for Medicaid to be newly eligible for coverage and federal tax credits and subsidies under health exchanges (at a cost of about \$210 billion). CBO also said the entire repeal of the law, as pushed by Republicans and presidential candidate **Mitt Romney**, would result in an increase in federal deficits amounting to about \$109 billion over ten years.

Additional Guidance on ACOs

CMS released additional guidance in the form of Q&As for the Medicare Shared Savings Program and accountable care organization mergers and acquisitions.

Another Hearing on Medicare MD Payment Reform

At a House Ways and Means Health Subcommittee hearing, six physician group witnesses offered numerous means for Congress to develop an alternative Medicare physician payment system to replace the current SGR-based system. Calling the current system “broken”, they said a new system is needed to offer physicians incentives to encourage team-based care and to create a culture of quality. They agreed that the current fee-for-service system is defective and should be

replaced eventually. They said that performance based payments should be made, especially for participating in medical home and coordinated care. It was said that health information technology improvements are essential in successfully managing quality initiatives. **Subcommittee Chairman Wally Herger** said that, while current provider incentive programs, such as e-prescribing, are a step in the right direction, he is concerned that Congress not take a “top down government-centered” approach to rewarding

improvements in the quality of care. In another hearing held by the House Oversight and Government Reform Committee, Republicans continued their relentless criticism of the PPACA, this time accusing the Administration of delaying PPACA driven Medicare managed care cuts through the MA Quality Bonus Payment Demonstration project. They said the GAO-criticized demo was politically driven by delaying potential PPACA MA cuts until after the November elections.

Anti-Fraud Partnership Announced

HHS and DOJ announced a new initiative, the National Fraud Prevention Partnership, under which CMS and major health insurance organizations will share information and compare claims data in an effort to reduce health care fraud. The names of providers and suppliers being investigated for fraud will become a focus of the effort.

Medicare Payment Increases for IRFs/Hospices/Nursing Homes

CMS announced that FY 2013 payment rates for inpatient rehabilitation facilities will be increased by 2.1%. The \$140 million increase will apply to Medicare beneficiary discharges beginning on or after October 1st. CMS also announced that FY 2013 Medicare payments to nursing homes will increase by 1.8%, or about \$670 million. In addition, CMS said that FY 2013 payments to hospice facilities will increase by 0.9% percent.

H.R. 6176 (HOSPITALS), amend the Social Security Act to permit hospitals to make incentive payments to physicians to promote quality and efficiency; BOUSTANY; jointly, to the committees on Energy and Commerce, Ways and Means, and the Judiciary, July 24.

S. 3430 (DIABETES), to amend the Public Health Service Act to foster more effective implementation and coordination of clinical care for people with pre-diabetes and diabetes; SHAHEEN; to the Committee on Health,

Education, Labor and Pensions, July 25.

S. 3431 (ANABOLIC STEROIDS), to amend the Controlled Substances Act to more effectively regulate anabolic steroids; WHITEHOUSE; to the Committee on the Judiciary, July 25.

H.R. 6187 (HIV/AIDS), to establish a research program under the Congressionally Directed Medical Research Program of the Department of Defense to discover a cure for HIV/AIDS; HIMES;

jointly, to the committees on Armed Services and Energy and Commerce, July 25.

H.R. 6218 (AUTOIMMUNE DISEASES), to provide for the establishment of the Autoimmune Diseases Interdepartmental Coordinating Committee, and for other purposes; BUERKLE; to the Committee on Energy and Commerce, July 26.