



Congress Recesses and Agrees to Take Up CR to Fund Government into Next Year

Congress Wraps Up Legislation Before August Recess

Before recessing for the month-long “district work period”, the House passed two election year statements regarding taxes: H.R. 6169, The Pathway to Job Creation through a Simpler, Fairer Tax Code Act which would fast-track the consideration of comprehensive tax reform early next year; and H.R. 8, the Job Protection and Recession Prevention Act, which extends all of the 2001 and 2003 tax cuts for another year. In addition, the House passed H.R. 1627, legislation to provide medical benefits to individuals exposed to contaminated water several decades ago at Marine Camp Lejeune. The House will remain in pro-forma session throughout the recess because the adjournment resolution failed on a 150 to 265 vote.

In the Senate, the Finance Committee passed the recurring tax extenders legislation after a contentious debate to trim tax “earmarks.” Also, the Senate Appropriations Committee approved the FY 2013 Defense appropriations bill which is unlikely to see floor action, given the agreement by House and Senate leaders to take up in September a continuing resolution (CR) to fund federal agencies through next March. The agreement will reflect the \$1.047 trillion FY 2013 spending limit adopted last year in the Budget Control Act (BCA). Of note, **House Speaker John Boehner** (R-OH-08)

said that he will immediately call the House back into session if the Senate takes action to avert the “threat” to the economy posed by the BCA defense sequestration and the potential expiration of the Bush tax cuts. The Administration’s line on the scheduled sequestration of defense program spending was to announce that it would exempt personnel from the defense cuts and that it will send out letters to federal agencies over the next few months delineating how they are to administer the sequester. The latter disclosure will be enforced by the enactment of H.R. 5872, legislation requiring the Administration to detail how agency programs will be affected if the Budget Control Act’s \$109 billion sequestration is allowed to be implemented next year.

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Republicans Unleash Another Shot at PPACA

At a House Oversight and Government Reform Committee hearing on the IRS role under the Patient Protection and Affordable Care Act (PPACA), **Chairman Darrell Issa** (R-CA-49) said that the IRS acted illegally in issuing a rule which would provide federal premium subsidies and cost-sharing subsidies for low-income participants under the fall-back federal health insurance exchange. Although the health reform law clearly provides for such subsidies under state-run exchanges, a witness from the CATO Institute testified that the law does not provide for such subsidies under the federal exchange and that the

legislative history is consistent under this reading of the statute. However, **IRS Commissioner Douglas Shulman** testified that the regulation “does not rewrite the law....Our legal experts believe this was a correct reading of the law.” Employers with at least 50 employees who are mandated to offer coverage under the PPACA, but who do not, are penalized for each employee who receives federal subsidies under exchanges. The CATO witness said that such employers would face an “illegal tax” in the event the IRS goes forward and penalizes non-complying employers beginning in 2014. On another front, the Government Accountability Office

(GAO) responded to a request from **Senator Chuck Grassley** (R-IA) on the readiness of states for the expansion of Medicaid in 2014 under the PPACA. The GAO report said that states are looking for more guidance from the Centers for Medicare and Medicaid Services (CMS) and that states “reported operational challenges that could affect their ability to meet Medicaid expansion and system development deadlines, such as lengthy state procurement processes, the complexities of developing new systems, coordination of multiple programs and systems, and resource limitations....”

Administration Touts PPACA Benefits

The Department of Health and Human Services (HHS) released an issue brief stating that 47 million women will be eligible August 1st for preventive care health services without paying out-of-pocket fees under a provision of the PPACA. However, affiliates of religious organizations that oppose contraception and abortifacients that are covered as preventive services have an extra year for their health plans to comply with the rule for these

services. The latter provisions are the subject of several federal lawsuits contesting the provision and recently a federal district court judge in Colorado granted an injunction preventing HHS from enforcing the contraception mandate on a company that is not a religious organization. In another announcement, CMS said it has provided the Colorado Health Insurance Cooperative Inc. with a \$69.4 million low-interest loan under PPACA CO-OP program.

Senators Call for Halt to Certain Medicaid MD Payments

Responding to a GAO report finding that about 7,000 health care providers in Florida, New York and Texas who received \$6.6 billion in Medicaid payments owe about \$791 million in back taxes, **Senator Tom Coburn** (R-OK) said that “People who cheat on their taxes show a

clear disregard for the law, so they might be more likely to defraud Medicaid or even harm patients.” **Senators Carl Levin** (D-MI), **Chuck Grassley** (R-IA) and others suggested that CMS “ought to prohibit health care providers with unpaid taxes from enrolling in Medicaid, allow continuous

levies on health care providers’ Medicaid payments to recover unpaid taxes and authorize tax levies on Medicaid payments to managed care organizations whose doctors or other principals are tax-delinquent.”

CBO Estimates Cost of Delaying Medicare SGR Physician Payment Cuts

The Congressional Budget Office (CBO) released an analysis stating that if Congress were to continue 2012 Medicare physician payment levels into next year, rather than letting the scheduled 27% cut due to the Sustainable Growth Rate (SGR) formula go into effect, it would result in a cost of about \$18.5 billion over 10 years and again trigger a 26% cut in payment levels beginning in 2014. The payment freeze would cost \$11.1 billion in CY 2013 alone.

Medicare Payment Increases for Hospitals/LTCH/SNFs/IPFs

CMS released a final rule under which payments to inpatient hospitals will increase by 2.8%, about \$2 billion, in FY 2013. Medicare payments for long-term care hospitals (LTCH) are will also increase by 1.7%, about \$92 million. Payments to skilled nursing facilities (SNF) will increase by 1.8% and by 1.9% for inpatient psychiatric facilities (IPF). Medicare payments could be cut by up to 2% if the BCA budget sequestration is allowed to go into effect next year.

Demo to Expand APRNs

CMS announced that it will award five hospitals in five states up to \$200 million over four years under a new “Graduate Nurse Education Demonstration” that is designed to help train more advanced practice registered nurses (APRNs). Under the demonstration, about one-half of the clinical training must occur in nonhospital settings in the community and must provide APRNs with the primary care, preventive care, transitional care and chronic care management skills needed to provide effective and well-coordinated care.

New NIGMS Office of Emergency Care

The NIH announced that a new Office of Emergency Care Research is to be established under the National Institute of General Medical Sciences (NIGMS). The office will not fund grants, but identify funding sources to incorporate different elements of basic, clinical and translational emergency care research and training from existing NIH programs.

New Medicare Coverage for Platelet-Rich Plasma (PRP)

CMS announced that Medicare coverage will become available under certain clinical research studies for autologous platelet-rich plasma (PRP) gel for the treatment of diabetic, pressure and venous ulcerous wounds.

S. 3461 (NATIONAL PEDIATRIC RESEARCH NETWORK), to amend Title IV of the Public Health Service Act to provide for a National Pediatric Research Network, including with respect to pediatric rare diseases or conditions; BROWN of Ohio; to the Committee on Health, Education, Labor, and Pensions, July 31.

S. 3463 (MEDICARE), to amend Title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries; FRANKEN; to the Committee on Finance, July 31.

S. J. RES. 48 (TAXATION), disapproving the rule submitted by the Internal Revenue Service relating to the health insurance premium tax credit; JOHNSON of Wisconsin; to the Committee on Finance, July 31.

H.R. 6232 (MEDICARE), to establish a program to provide incentive payments to participating Medicare beneficiaries who voluntarily establish and maintain better health; PAULSEN; jointly, to the committees on Ways and Means and Energy and Commerce, July 31.

H.R. 6234 (REFORM), to amend the Patient Protection and Affordable Care Act to provide for savings to the federal government by permitting pass-through funding for state authorized public entity health benefits pools; HALL; jointly, to the committees on Energy and Commerce and Ways and Means, July 31.

H. RES. 749 (HIV/AIDS), expressing support for the XIX International AIDS Conference and the sense of the House of Representatives that continued commitment by the United States to HIV/AIDS research, prevention, and treatment programs is crucial to protecting global health; HASTINGS of Florida; jointly, to the committees on Foreign Affairs and Energy and Commerce, July 31.

H.R. 6256 (MEDICAID), to ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions; CARSON of Indiana; jointly, to the committees on Ways and Means, Energy and Commerce, Aug. 1.

H.R. 6258 (MEDICAID), to amend Title XIX of the Social Security Act to provide medical assistance to uninsured newborns under Medicaid; DEGETTE; to the Committee on Energy and Commerce, Aug. 1.

H.R. 6266 (MILITARY HEALTH CARE COSTS), to amend Title 10, United States Code, to limit increases in certain costs of health care services under the health care programs of the Department of Defense, and for other purposes; RUNYAN; to the Committee on Armed Services, Aug. 1.

H. RES. 753 (PROSTATE CANCER 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 supporting education, awareness outreach, and research specifically focused on how prostate cancer affects African American men; MEEKS; to the Committee on Energy and Commerce, Aug. 1.

S. 3482 (FEDERAL BUDGET), to cut, cap, and balance the federal budget; LEE; to the Committee on the Budget, Aug. 2.

S. 3496 (MEDICARE), to amend title XVIII of the Social Security Act to permit direct payment to pharmacies for certain compounded drugs that are prepared by the pharmacies for a specific beneficiary for use through an implanted infusion pump; COCHRAN; to the Committee on Finance, Aug. 2.

S. 3506 (CLINICAL TESTING), to eliminate requirements to undertake duplicative clinical testing of new pharmaceutical drugs, vaccines, biological products, or medical devices, when such duplication is inconsistent with relevant ethical norms; SANDERS; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

H.R. 6272 (CLINICAL TRIAL REGISTRY DATA BANK), to amend Title IV of the Public Health Service Act to expand the clinical trial registry data bank, and for other purposes; MARKEY; to the Committee on Energy and

Commerce, Aug. 2.

H.R. 6283 (HIGH RISK POOLS), to enable states to establish reinsurance programs or high risk pools to ensure that high risk individuals are able to access health insurance; BURGESS; jointly, to the committees on Energy and Commerce, Ways and Means, and Education and the Workforce, Aug. 2.

H.R. 6288 (FDA FAST TRACK APPROVAL), to amend Chapter V of the Federal Food, Drug, and Cosmetic Act to permit provisional approval of fast track products; BILBRAY; to the Committee on Energy and Commerce, Aug. 2.

H.R. 6299 (HEALTH INSURANCE), to repeal the federally subsidized loan program for nonprofit health insurance, to provide for association health plans, and for other purposes; BLACK; jointly, to the committees on Energy and Commerce, Ways and Means, and Education and the Workforce, Aug. 2.

H.R. 6300 (LONG-TERM CARE), to provide adequate technical assistance and other support to states for long-term care partnership programs, and for other purposes; BOUSTANY; jointly, to the committees on Energy and Commerce and Ways and Means, Aug. 2.

H.R. 6309 (DIABETES), to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that act; DEGETTE; to the Committee on

Energy and Commerce, Aug. 2.

H.R. 6312 (SYNTHETIC DRUGS), to amend the Controlled Substances Act to place certain synthetic drugs in Schedule I; EMERSON; jointly, to the committees on Energy and Commerce and the Judiciary, Aug. 2.

H.R. 6320 (REFORM), to amend the Patient Protection and Affordable Care Act so as to eliminate the authority of the secretary of health and human services to limit the ability of medical providers to conduct lawful business, and for other purposes; GINGREY of Georgia; to the Committee on Energy and Commerce, Aug. 2.

H.R. 6326 (MEDICARE), to amend Title XVIII of the Social Security Act to permit direct payment to pharmacies for certain compounded drugs that are prepared by the pharmacies for a specific beneficiary for use through an implanted infusion pump; HARPER; jointly, to the committees on Energy and Commerce and Ways and Means, Aug. 2.

H.R. 6327 (PRE-EXISTING CONDITION INSURANCE PROGRAM), to amend the Patient Protection and Affordable Care Act to improve eligibility requirements for uninsured individuals with a pre-existing condition for coverage under the Pre-existing Condition Insurance Program (PCIP); HASTINGS of Florida; to the Committee on Energy and Commerce, Aug. 2.

H.R. 6332 (MEDICAID), to establish a grant program to provide states with funds to detect fraud, waste, and abuse in the state Medicaid programs under Title XIX of the Social Security Act and to recover improper payments resulting from such fraud, waste, and abuse; ISRAEL; to the Committee on Energy and Commerce, Aug. 2.

H.R. 6334 (REFORM), to provide that the individual mandate under the Patient Protection and Affordable Care Act shall not be construed as a tax; LABRADOR; to the Committee on Ways and Means, Aug. 2.

H.R. 6335 (MEDICAL MARIJUANA), to amend the Controlled Substances Act so as to exempt real property from civil forfeiture due to medical-marijuana-related conduct that is authorized by state law; LEE of California; jointly, to the committees on the Judiciary and Energy and Commerce, Aug. 2.

H.R. 6352 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes; SCHOCK; jointly, to the committees on Ways and Means and Energy and Commerce, Aug. 2.

H.R. 6353 (TAXATION), to amend the Internal Revenue Code of 1986 to allow a deduction for patent box profit from the use of United States patents; SCHWARTZ; to the Committee on Ways and Means, Aug. 2.