



Republican Jobs bill Targets PPACA; Super Committee Gets Health Recommendations

JOBS Bills Resurrect Health Issues

Last week both Republicans and Democrats turned back **Senate Majority Leader Harry Reid's** revised JOBS Act (S.1660), on a 50-49 vote, which failed to get the 60 votes necessary to suspend a filibuster by Republicans. The President said he would now work with Senate Democrats on piecemeal legislation which can garner the Democrat votes to pass the Senate. In response, Senate Republicans unveiled their own jobs plan to reduce job barriers and unemployment. Among the provisions is one which would repeal the PPACA. Also, the bill would revamp the tax code, leaving the Senate Finance Committee to recommend changes in tax credits and deductions to make the tax reform proposals revenue neutral. The prospect for piecemeal legislation remains to be seen, especially given House Republican insistence on finding spending or revenue measures to offset the cost of the jobs initiative. It is likely that members in both parties would rather not take revenue enhancements off the table until the Joint Select Committee on Deficit Reduction (Super Committee) has had a chance to formulate their recommendations for deficit reduction which may also include some jobs initiatives.

Appropriations Issues

To put pressure on House Republicans to scotch any plans they may have had for passing an omnibus FY 2012 appropriations bill, the **Senate Majority Leader Harry Reid** said his intent is to finish as

many of the twelve bills as possible before the Super Committee issues its deficit reduction recommendations by November 23rd. The first of several "minibus" bills is expected to reach the Senate floor this week and will include the Agriculture/FDA bill, H.R. 2112, the Commerce/Justice/Science bill, H.R. 2596, and the Transportation/HUD bill, S. 1596. The first minibus could be followed by another which could include several or all of the following appropriations for: Defense, H.R. 2219, Energy/Water, Homeland Security, the Legislative Branch and State/Foreign Operations. The disposition of the Labor/HHS/Education bill remains uncertain given the partisan vote on this bill in the Senate Appropriations Committee and the lack of House action on this measure. House Republicans will likely insist that all spending bills adhere to a Budget Control Act provision capping all FY 2012 spending at \$1.019 trillion.

continued page two

Inside

CLASS Dismissed!	2
House W&Ms Committee Curtails PPACA Subsidies	2
House Narrows PPACA Benefits	2
PPACA Petition Filed with Supreme Court	2
Risk Adjustment Database Opposed	3
Senators Seek Goals of Public Health Fund	3
Joint CMS/FDA Review of Medical Devices	3
HHS Posts Health Insurance Rate Increases	3
NIH Issues	
Recently Introduced Health Legislation	4

from page one

Members Finalize Recommendations to Super Committee

Faced with last Friday's deadline for committees to provide their recommendations to the Joint Select Committee on Deficit Reduction, members in both houses delivered their recommended priorities for spending reductions and for saving various health-related program spending levels. Given the partisan divide over spending and tax issues, bipartisan recommendations were not marked up in any committee. **Senate HELP Committee Chairman Tom Harkin** told the Super Committee

to avoid cutting the PPACA's Prevention and Public Health Fund which is slated to receive \$15 billion over ten years and funding for state health insurance exchanges. He instead steered the committee to find savings by streamlining the development process for biologic drugs and by expanding hospital drug discount programs for Medicaid patients. In contrast, Senate Finance Committee Republicans suggested the committee repeal the PPACA, consider raising the Medicare eligibility age, block grant Medicaid, and reduce waste-fraud-abuse under federal health programs among other recommendations. In related news, the Senate Special Committee on Aging held hearings on the

financial challenges facing Medicare. Witnesses testified that provider reimbursement cuts could save a significant amount of money over the next 10 years, but that such changes would not adequately address the program's actuarial deficit and that fundamental reform is needed, including delivery system reforms that would change the fee-for-service structure.

Senator Herb Kohl sent the Super Committee recommendations he said would save \$140 billion over ten years, including speeding generic drugs to the market by ending pay-for-delay settlements and allowing CMS to directly negotiate prescription drug prices under Medicare Part D.

CLASS Dismissed!

HHS Secretary Kathleen Sebelius responded to Republican calls for hearings and information on the viability of the PPACA long-term care CLASS Act by writing to **House Speaker John Boehner** that HHS had pulled the plug on the program. She said that "...despite our best analytical efforts, I do not see a viable path forward for CLASS implementation at this time..." A full report is to be sent to Congress on the results of the 19-month analysis of the program. **Senate HELP Committee Ranking Member Mike Enzi** said "The CLASS Act was unsustainable and fiscally unsound from the start and **Secretary Sebelius** made the right decision not to implement this program." The demise of the program leaves a hole in the financing of the PPACA given that premiums would be paid for three years before benefits under the program would begin.

House W&Ms Committee Curtails PPACA Subsidies

The House Ways and Means Committee voted 23-12 to pass H.R. 2576, legislation amending the PPACA to count Social Security benefits as income for purposes of determining low-income person eligibility for Medicaid and health insurance exchange premium tax credit subsidies beginning in 2014. Proponents argued that, unless the change was made, some early retirees receiving Social Security benefits could be made eligible for Medicaid. Opponents said that about 500,000 people could lose their eligibility for the subsidies.

House Narrows PPACA Benefits

On a near party-line 251-172 vote, the House passed H.R. 358, legislation amending the PPACA to prevent coverage of abortion services under health insurance plans to be offered on state exchanges and that receive federal subsidies. It would also strengthen conscience protections for hospitals and medical providers.

PPACA Petition Filed with Supreme Court

Adding to the number of petitions to the Supreme Court to hear PPACA cases, last week Liberty University and two individuals filed a petition asking the court to review a decision by a three-judge panel of

the 4th Circuit Court of Appeals to dismiss their lawsuit challenging the constitutionality of the law's individual mandate. The lower court said the mandate's financial penalties amount to a tax and that the court does not have jurisdiction

to rule on whether the mandate is constitutional because the federal Anti-Injunction Act requires U.S. residents to wait to oppose a tax until after it is collected.

Senators Seek Goals of Public Health Fund

The PPACA Prevention and Public Health Fund took another hit at a Senate HELP Committee hearing during which **Senators Pat Roberts** and **Sheldon Whitehouse** asked the HHS Assistant Secretary for Health

to explain what performance measures the agency used to determine the success of disease prevention strategies financed under the Fund. The \$15 billion Fund has been criticized as lacking specific goals and **Senator Roberts**

suggested the Super Committee would likely ask for how the \$1.25 billion already allocated has been used and for what specific purposes.

Joint CMS/FDA Review of Medical Devices

CMS and the FDA announced they have begun accepting submissions for a new voluntary pilot program for a parallel review of medical devices for Medicare coverage. They also issued procedures for participation and guiding

principles they will follow during product review. The agencies said the intent of a parallel review is to reduce the time between FDA market approval and CMS national coverage determinations for medical products. In related news, eight Republicans on the

House Energy and Commerce Committee introduced a series of ten legislative proposals entitled "Saving American Jobs and Saving American Patients" which are intended to reform the FDA medical device review process in order to protect innovation.

Risk Adjustment Database Opposed

Several House Republicans, led by **Rep. Tim Huelskamp**, wrote Appropriations Committee **Chairman Hal Rogers** suggesting that his committee withhold funding for the claims database under the HHS rule "Standards Related to Reinsurance, Risk Corridors and Risk Adjustment" issued pursuant to the PPACA directive. They said the rule would require the use of raw claims data which could include extremely sensitive private health care information, such as they type of care received, the amount paid for services, demographics, etc.

HHS Posts Health Insurance Rate Increases

HHS announced that it will post on their HealthCare website the explanations they have received from health insurers with respect to proposed rate increases of 10% or more. However, the PPACA does not empower HHS to take action to deny or modify such increases for individual and small group coverage. HHS also has asked OMB for the go ahead to include information on association health plans as well.

NIH Issues

NIH announced the granting of about \$150 million to four companies to develop antibiotic and antiviral drugs to combat a range of disease-causing bacteria and viruses many of which have developed resistance to existing treatments. NIH said the grants would focus on potential broad-spectrum therapies that can be used against classes of pathogens rather than being agent-specific.

S. 1662 (NANOTECHNOLOGY), to amend the Federal Food, Drug, and Cosmetic Act to establish a nanotechnology regulatory science program; PRYOR; to the Committee on Health, Education, Labor, and Pensions, Oct. 6.

H.R. 3130 (ABORTION), to ensure that women seeking an abortion receive an ultrasound and an opportunity to review the ultrasound before giving informed consent to receive an abortion; BACHMANN; to the Committee on Energy and Commerce, Oct. 6.

S. 1680 (MEDICARE), to amend Title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under Medicare, and for other purposes;

CONRAD; to the Committee on Finance, Oct. 11.

H.R. 3149 (HEALTH INSURANCE HIGH RISK POOLS), to amend Title I of the PPACA to expand access to high risk pools; PRICE of North Carolina; to the Committee on Energy and Commerce, Oct. 11.

H.R. 3150 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for coverage, as supplies associated with the injection of insulin, of containment, removal, decontamination, and disposal of home-generated needles, syringes, and other sharps through a sharps container, decontamination/destruction device, or sharps-by-mail program

or similar program under Part D of Medicare; WHITFIELD; jointly, to the committees on Energy and Commerce and Ways and Means, Oct. 11.

S. 1699 (MEDICARE), to reduce the costs of prescription drugs under Medicare, and for other purposes; KOHL; to the Committee on Finance, Oct. 12.

H.R. 3161 (WOMEN'S HEALTH), to amend the Public Health Service Act to provide for activities to increase the awareness and knowledge of health care providers and women with respect to ovarian and cervical cancer, and for other purposes; VELAZQUEZ; to the Committee on Energy and Commerce, Oct. 12.