



Doc Fix Still Undecided As Fiscal Cliff Looms After November 6th Elections

Second Presidential Debate Yields Little Information on Obama Post-Election Fiscal Plans

Last week's debate between **President Obama** and **GOP challenger Mitt Romney** revealed little about the tax, health and other fiscal policies the current Administration will attempt to persuade the lame-duck Congress to pass. The CEOs of several major financial institutions alerted Congress and the Administration to their concern that the credit rating of the United States could be downgraded and interest rates could spike if an agreement on fiscal matters cannot be achieved after the election. In this regard, at least one negotiating position seems to be clear, given statements by a White House spokesman declaring that the President will veto any legislation that extends the Bush-era tax cuts for upper income individuals.

Without an agreement to delay or modify the upcoming sequestration cuts mandated by the Budget Control Act, discretionary health spending would be cut by about 8.2% and Medicare providers would see payments decrease by about \$11.1 billion in this fiscal year.

Whether Congress will tackle appropriations for the period remaining after the March 27th cut-off date set under the current CR also remains to be seen.

Also, with Medicare Part B physicians facing a 27% cut in payments in January, even a temporary revenue neutral "doc fix" may be difficult for Congress to craft, absent a more comprehensive agreement on spending and taxes. Nonetheless, the AMA and 100+ medical societies sent a letter to the Senate Finance Committee urging a longer-term solution to the Medicare Part B payment problem. They said a first step would be to eliminate the current sustainable growth rate (SGR) formula and make subsequent changes such as stable payment updates, delivery system reform and rewards for physicians who achieve savings in delivering health care.

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Republicans Criticize MedMal Research Grants

Senators Chuck Grassley and Orrin Hatch and Rep. Lamar Smith sent a letter to **HHS Secretary Kathleen Sebelius** requesting an explanation of how the \$23.2 million HHS has granted for medical malpractice reform research relates to “traditional”

medical malpractice reforms aimed at reducing frivolous lawsuits, inflated jury awards and high attorney fees. They said that the President clearly implied in a speech that such reforms would be considered when the Agency for Healthcare Research and Quality

(AHRQ) makes such awards. They also asked for information on whether Congress expressly approved the demonstration, planning and evaluation projects and the authority for using appropriated funds for such research.

House Oversight Committee Threatens to Subpoena MA DEMO Documents

In a letter sent last week to **HHS Secretary Kathleen Sebelius**, the Chairman of the House Oversight and Government Reform Committee, Darrell Issa, said the committee would begin proceedings to compel HHS to provide certain previously requested documents related to the 10-

year \$8.3 billion Medicare Advantage Quality Bonus Payment Demonstration unless the information is released by October 18th. In general, Republicans maintain the program is but an election year ploy to cover up the cuts to Medicare Advantage insurers which are mandated under the PPACA.

CMS MPPR Policy Criticized

In a CMS rule proposed in July, the agency said it would expand the so-called multiple procedure payment reductions (MPPR) policy to the technical component of certain cardiovascular and ophthalmology diagnostic services resulting in a 25% reduction for services beyond the initial service on the same day. Sixty House members sent a letter to CMS asking the agency to withdraw this component because, according to the members, the policy would create financial disincentives for specialists providing care for seniors.

Senators Seek Release of FPS Report

Senators Orrin Hatch and Tom Coburn sent a letter to CMS asking the agency to release within three days a report due October 1st on the fraud prevention system (FPS) which CMS established in 2011 to predict fraud among Medicare fee-for-service claims. The senators said they are concerned that the system has not been effective in carrying out its mission to detect fraud. Also of note, **Rep. Sam Graves** introduced H.R. 6575, legislation that would limit the documentation requests that Medicare contractors can make of hospitals when investigating potential Medicare fraud.

Meaningful Use Payments Top \$7 Billion

CMS announced that health care providers who demonstrate meaningful use of certified EHR systems have qualified for \$7.7 billion in incentives to date, as follows: \$4.8 billion to eligible hospitals; \$1.4 billion to Medicare eligible health care professionals; and \$1.2 billion to Medicaid eligible professionals. In related news, **Senators John Thune, Tom**

Coburn, Richard Burr and Pat Roberts sent a letter to **HHS Secretary Kathleen Sebelius** for a briefing on the meaningful use program and its impact on health care spending. They asked for answers to the following questions: is the EHR incentive program resulting in higher utilization of diagnostic testing and what is the Administration's strategy for addressing any higher health

care spending as a result of EHR adoption; have some providers received federal EHR incentives for technology they adopted prior to the meaningful use program and how will the Administration recoup improper payments to program participants; has EHR use among providers resulted in higher Medicare billings; and what is the Administration's strategy for interoperability.

Recently Introduced Health Legislation

H.R. 6573 (HUMAN ORGANS TRAFFICKING), to combat trafficking in human organs and for other purposes; **ROS-LEHTINEN**; to the Committee on Foreign Affairs, Oct. 12.

H.R. 6575 (MEDICARE), to amend Title XVIII of the Social Security Act to improve operations of recovery auditors under the Medicare Integrity Program, to increase transparency and accuracy in audits conducted by contractors, and for other purposes; **GRAVES** of Missouri; jointly, to the committees on Ways and Means and Energy and Commerce, Oct. 16.