



Rhetoric Remains Calm After First White House Fiscal Cliff Negotiating Session

Fiscal Cliff Negotiations Begin

President Obama called the newly reelected congressional leaders to the White House on Friday to begin the first of the tense negotiations that will determine whether federal defense and non-defense discretionary spending will each be cut by \$54.7 billion in FY 2013 pursuant to the Budget Control Act mandate and whether the Bush tax cuts will be allowed to expire this year. The President said “We’ve got to make sure that taxes don’t go up on middle-class families, that our economy remains strong. That’s an agenda that Democrats and Republicans and independents, people all across the country, share. So our challenge is to make sure that we are able to cooperate together, work together, find some common ground, make some tough compromises, and build some consensus to do the people’s business.”

The chief negotiator for House Republicans, **Speaker John Boehner**, said he presented an overall deficit reduction framework that includes increased revenues. **Senate Minority Leader Mitch McConnell** concurred.

Although the **President** and **Speaker Boehner** did not make a big deal about their differences over increased tax rates for those earning over \$250,000, the President and congressional Democrats have made it clear that an extension of the Bush tax cuts for “the wealthy” is a non-starter.

House Minority Leader Nancy Pelosi, elected by House Democrats to another two-year term, said she would favor a \$4 trillion ten-year deficit reduction goal. However, it is highly unlikely that a compromise on the specifics of tax and entitlement reform will come together this year.

For the President and Congress to agree on a \$4 trillion or other long-term deficit reduction goal would be seen as enough progress this year to avoid severe public criticism and a possible market meltdown. **Senate Majority Leader Harry Reid** weighed-in to say that Social Security cash-benefits changes should not be on the table, but that as to the other fiscal cliff issues “they cannot be pushed down the road.... We’re going to work during the Thanksgiving recess”. The President also conducted “listening” sessions with various Democratic-leaning

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interest groups and another group representative of large businesses.

Medical Groups Oppose Sequestration

Health/Medical groups have pleaded with the White House and Congress to forego the sequestration cuts which, for example, would result in a 2% cut to Medicare payments, a cut of 8.2% to HHS/CMS administrative accounts, a cut of \$2.5 billion in NIH accounts, a cut of about \$500 million to the CDC, and a cut of \$319 billion to FDA spending. Looking to the long-term health of Medicare the AMA's House

of Delegates voted to support an effort to convert Medicare into a defined-contribution program, with a payment baseline adjusted for increasing health costs, while still allowing beneficiaries to purchase traditional FFS coverage as well as coverage from private health insurers. Another senior/physician/patient-advocacy group said Congress should pay for any sequestration relief, including relief from the 27% cut in 2013 Medicare physician payments, by tapping unspent funds (OCO funds) previously allocated to fighting the wars in Iraq and Afghanistan. **Rep. Phil Gingrey**, co-chair of the Republican "Doctors' Caucus", indicated he is "pretty confident" that Congress will approve a one-year fix to avert the 27% cut to

Medicare payments.

Health Legislation Passes Senate

The Senate passed S. 1440, legislation to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy and to reduce infant mortality caused by premature birth. By unanimous consent, the Senate also sent to **President Obama** for his signature the following bill: H.R. 6118, The Taking Essential Steps for Testing Act of 2012, which provides CMS with more flexibility in sanctioning laboratories that send test samples to other labs for analysis.

Information Due from States on Health Insurance Exchanges

Last Wednesday, the Republican Governors Association sent a letter to the President asking the administration to give states more time to meet the deadlines set by HHS regarding the routes states will take in establishing, or not, state-run PPACA health insurance exchanges. The letter stated: "From the financial obligations and complex technicalities to ensuring the healthcare workforce and infrastructure will be in place to meet the new demand, the timeframe and many of the provisions in the [PPACA] are simply unworkable...." HHS responded that a state may submit both a letter of intent and an application to operate a state-based exchange until December 14th and may submit a letter of intent and blueprint application for a state-federal partnership exchange until February 15th. In addition, HHS said

that a state will be able to operate its own exchange in years subsequent to the initial year, 2014, regardless of the initial decision a state makes at this time. Governors have criticized HHS for the lack of final regulations affecting the exchanges and the benefits to be offered under the exchanges. Even with the lack of guidance, the governor of Colorado announced his state will establish a state-based exchange. However, the governors of Alabama, Kansas and Missouri said they will not go ahead with state-based exchanges. It was reported that the OMB has under review the regulations relating to health insurance market rules and standards for "essential health benefits" which, when released, will provide much needed guidance on the offerings required under state-based exchanges and the default federal exchange.

PCORI Seeks Research Proposals on Comparative Effectiveness

The Patient-Centered Outcomes Research Institute has requested applications for up to 14 research projects designed to improve the

methods used in comparative effectiveness research. Letters of intent are due by January 31, 2013.

Compounding Pharmacies Come Under Fire in House Hearing

In a hearing held by the House Energy and Commerce Oversight and Investigations Subcommittee, **FDA Commissioner Margaret Hamburg** testified that her agency needs additional authority, including current good manufacturing practice standards, over mass-production nontraditional compounding pharmacies to help prevent the type of problems one pharmacy experienced in creating a recent

outbreak of fungal meningitis. The commissioner also expressed support for H.R. 6584, legislation that **Rep. Ed Markey** introduced to help ensure that compounding pharmacies operating as drug manufacturers are regulated by the FDA as drug manufacturers. **Rep. Fred Upton** said the FDA has not provided all the information the E&C Committee has requested on the issue and that additional hearings will be held before a decision is made on any possible

legislation. The Senate HELP Committee also held a hearing on the matter during which **Chairman Tom Harkin** said the committee intends to pursue legislation to ensure the safety of compounding pharmacies. Regarding the responsibility that both the FDA and state boards of pharmacy have over compounding pharmacies, **Senator Lamar Alexander** said “Let’s stop this dual responsibility....”

Pitch for New House Committee on Health Legislation

Reps. Doc Hastings, Reid Ribble and Rob Woodall proposed that the House Republican Conference take action to create a new “House Committee on Health Care” to show Republican commitment in efforts to repeal Obamacare and to take jurisdiction over Medicare, Medicaid and other federal health programs. While the proposal was unsuccessful, this effort is an early indication of the resolve that House Republicans will have in giving Obamacare “relentless oversight”. Last Wednesday HHS was issued a subpoena from the House Ways and Means Committee for information on the agency spending that was used to promote the passage and implementation of Obamacare.

Recently Introduced Health Legislation

S. 3628 (BREAST CANCER), to amend the Public Health Service Act to raise awareness of and to educate breast cancer patients anticipating surgery regarding the availability and coverage of breast reconstruction, prostheses, and other options; BLUNT; to the Committee on Health, Education, Labor and Pensions, Nov. 14.

CMS Announces Medicare Premiums and Deductibles

CMS announced Part A Hospital benefits in CY 2013: the deductible will rise to \$1,184, a \$28 increase; the coinsurance amounts will increase to \$296 for the 61st through 90th day of hospitalization in a benefit period, to \$592 for lifetime reserve days, and to \$148 for the 21st through 100th day of extended care services in a SNF in a benefit period; and the unreduced premium will decline from \$451 to \$441. CMS announced that for Part B Medical benefits in CY 2013: monthly premiums will increase from \$99.90 to \$104.90 (subject to a factor increase for higher-income individuals); and that the annual deductible will increase from \$140 to \$147.

HIT Takes a Hit at House Hearing

At a hearing held by the House Science Subcommittee on Technology and Innovation, the National Coordinator for Health Information Technology testified that more than 50% of the nation’s eligible medical professionals and 75% of hospitals have registered to participate in the Medicare or Medicaid Health Information Technology program which provides financial incentives for adopting electronic medical records. However, **Rep. Dana Rohrabacher** said the \$20 billion program expenditure is “an awfully high price tag for something the private sector seems to be doing and offering....” **Chairman Ben Quayle** also expressed concerns over the lack of interoperability of health IT systems which could curb the potential benefits of HIT. Nonetheless, the Coordinator testified that the progress made to date in placing electronic health systems has helped to improve public health.