



## Health Policy Briefing

October 5, 2015

### Progress Made on Reconciliation Bill to Repeal Parts of the ACA

The three House committees charged with crafting a reconciliation bill have approved language to repeal parts of the Affordable Care Act (ACA) and defund Planned Parenthood. The House Ways and Means Committee, Energy and Commerce Committee, and Education and the Workforce Committee each passed reconciliation language out of committee along party lines. The House Budget Committee will take up the measures passed by the three committees and combine the bills before they are sent to the House floor. The reconciliation bill could be marked up as early as this week and be brought to the floor by House leadership later this month. The reconciliation bill would repeal a number of provisions in the ACA, including the individual and employer mandates, as well as the 2.3 percent medical device tax and the 40 percent “Cadillac tax” on high-cost health plans that will go into place in 2018. Language to repeal the Independent Payment Advisory Board (IPAB), the board charged with making cuts to the Medicare program if spending exceeds a certain level, will also be included. Additionally, the bill would defund the Prevention and Public Health Fund, which currently receives \$1 billion per year, rising to \$2 billion starting in 2022. Reconciliation will also repeal the requirement that large companies with 200 or more employees auto-enroll their employees in health coverage. Repealing parts of the 2010 health care law was the original purpose of reconciliation outlined in the instructions within the fiscal year (FY) 2016 budget resolution passed early this year. But the fast-track budget process will also be used to defund Planned Parenthood for one year while lawmakers investigate claims that the organization violated laws surrounding the procurement of fetal tissue. The \$235 million saved from defunding the group would be shifted to community health centers. Movement on reconciliation allowed for the passage of a clean continuing resolution (CR) funding the federal government past September 30 detached from the Planned Parenthood language. The Senate is expected to take up the reconciliation legislation after it is passed by the House. Reconciliation

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requires only a majority of votes for passage, allowing the measures to bypass a filibuster by Senate Democrats. While Republicans are aware that the President will veto any such reconciliation bill that reaches his desk, the vote will appease conservative members of congress who have demanded defunding of Planned Parenthood and an opportunity to pass legislation that scales back the ACA. Proponents of the legislation do not have the two-thirds majority necessary to override an expected presidential veto.

### ***Congress Avoids Government Shutdown, Passes Continuing Resolution***

Last week, the House and the Senate passed a clean continuing resolution (CR) that funds the government from October 1, the start of fiscal year (FY) 2016, through December 11 of this year. The stopgap spending measure provides funding for federal agencies at a rate of \$1.017 trillion, approximately flat compared to fiscal 2015 levels. The CR keeps federal funding for Planned Parenthood intact. The CR was first passed by the Senate by a vote of 78-20 before being sent to the House. All 20 Senate votes in opposition came from Republicans. In the House, the CR passed by a vote of 277-151. The bill garnered 91 Republican votes in favor of passage, with no Democrats in opposition. The President signed the bill into law on Wednesday evening. Negotiations will now begin on a longer-term budget deal. Democrats and the White House are sure to push to end sequestration spending limits. Republican leadership will be under pressure to include reforms to entitlement programs in exchange for raising of the spending caps. The goal of negotiations will be to strike a deal on top-line budget figures for both FY 2016 and FY 2017, so as to avoid a funding debate during an election year. President Obama has vowed not to sign another short-term funding measure should lawmakers be unable to agree upon a long-term budget agreement by December 11.

### ***Deadline Set for Raising the Debt Limit***

Last week, Treasury Secretary Jack Lew announced a November 5 deadline for raising the debt limit in order to avoid a potential default on current loans. This date is earlier than many experts had predicted. The current limit is set at \$18.1 trillion. In his letter, Lew explained that by November 5 the government will have less than \$30 billion on hand, falling short of \$60 billion often needed to pay government bills on a particular day. The administration has said that the President will not negotiate a raising of the debt limit. Additionally, both outgoing Speaker of the House John Boehner (R-Ohio) and Senate Majority Leader Mitch McConnell (R-Ky.) have stressed that default is not up for debate. The government technically met its borrowing limit in March, but since then the Treasury has been able to employ extraordinary measures to delay reaching the debt limit.

### ***Republicans to Hold Leadership Elections This Week***

Following the surprise resignation announcement of Speaker of the House John Boehner (R-Ohio), Republicans are preparing for closed door House Republican conference leadership election to be held this Thursday. However, Speaker Boehner is being asked to consider delaying the votes for Majority Leader and Majority Whip. Rep. Mick Mulvaney (R-S.C.) is circulating a letter requesting such a delay. In addition, there is widespread interest in considering a change in internal party rules that would force candidates to resign chairmanships and leadership slots to run for new office. Majority Leader Kevin McCarthy (R-Calif.) is widely seen as John Boehner's most likely replacement. Rep. McCarthy has served in the House since 2007. He has worked as chief deputy whip and majority whip before replacing Eric Cantor (R-Va.) as Majority Leader. Rep. Daniel Webster (R-Fla.) and Chairman of the House Oversight Committee Jason Chaffetz (R-Utah) have also announced bids for the leadership role. There are at least four members seeking the majority leader post, including House Majority Whip Steve Scalise (R-La.), House Budget Committee Chairman Tom Price (R-Ga.), and Rep. Peter Roskam (R-Ill.). Those angling for the majority whip position should Rep. Scalise become majority leader include Chief Deputy Whip Patrick McHenry (R-N.C.), Deputy Whip Dennis Ross (R-Fla.), Chairman of the Rules Committee Pete Sessions (R-Texas) and Rep. Markwayne Mullin (R-Okla.). Candidates will require a majority of votes in the House – 218 — in order to secure the leadership position. The new speaker will be responsible for dealing with the debt ceiling, expiring tax breaks, and negotiating a way to fund the federal government past December 11.

### ***ACA Small Employer Legislation Sent to the President***

Last week, the Senate passed a bill to change the definition of a small employer under the Affordable Care Act (ACA) from 100 employees or less to 50 employees or less with bipartisan support. The legislation will allow states to decide whether or not to expand the small group market beginning in 2016. The bill will also put \$205 million into the Medicare Improvement Fund that was cut under the 2010 health care law. The Protecting Affordable Coverage for Employees (PACE) Act (H.R. 1624) was introduced by Rep. Brett Guthrie (R-Ky.) and Rep. Tony Cárdenas (D-Calif.). The bill had the support of mid-sized businesses, which were concerned that if included in the small-group market they would be forced to seek new coverage, resulting in disruption in the market and higher premiums. The House had previously approved the measure by voice vote. President Obama is expected to sign the bill into law.

## **Medicare and Medicaid News**

### ***Policymakers Urge CMS Not to Cut Reimbursement for Colorectal Cancer Screening***

Bipartisan members of both the **House of Representatives** and the **Senate** have written to the Centers for Medicare and Medicaid Services (CMS) in opposition to proposed cuts to Medicare reimbursement rates for colorectal cancer screening. The agency proposed cuts of 10 to 20 percent for colonoscopy services. The U.S. Department of Health and Human Services' (HHS) goal is to achieve an 80 percent screening rate for the recommended population by 2018. While rates of colorectal cancer are improving among the Medicare population, lawmakers expressed concerns that such a rate change could hamper the progress being made in colorectal cancer prevention and detection efforts.

### ***GAO Report Outlines Impact of Value-Based Purchasing***

The Government Accountability Office (GAO) has released a **report** that reviews the impact of value-based purchasing programs. The GAO finds that such programs negatively impact safety-net hospitals. While the gap has narrowed over time, safety-net hospitals generally received smaller bonuses or larger penalties than hospitals overall. Additionally, the report shows that small urban hospitals perform better than hospitals overall. There was only one noticeable change in hospital performance on quality measures. Hospitals improved on readmissions, which the GAO interpreted as an indication that financial penalties can promote enhanced quality in some circumstances. Hospitals attested to the fact that the Hospital Value Based Purchasing Program only helped to reinforce their already ongoing efforts to improve quality, but did not shift their focus, and also argued that the most common barrier to improving quality was difficulties with information technology systems.

### ***Study Finds Rise in Part D Premiums***

Over 80 percent of Medicare Part D beneficiaries will see an eight percent rise on average in their premiums next year, according to a new **report** by Avalere. For the first time in the program's history, the average premium will be more than \$40. The study also reveals that fewer plans will be offered in the coming year – 886 plans down from 1,001. The study examined seniors enrolled in the 10 most popular Part D plans. Avalere also finds that while 81 percent of Medicare Advantage enrollees will have access to a \$0 premium plan, compared to 78 percent in 2015, the drug benefits available to Medicare Advantage enrollees may become less generous. Additionally, the average Medicare Advantage premium will drop 1 percent in 2016 to \$32.60.

## Upcoming Congressional Meetings and Hearings

*House Agriculture Committee: hearing titled “2015 Dietary Guidelines for Americans;” 9:00 a.m., 1300 Longworth Bldg., Oct. 7*

*House Veterans’ Affairs Committee: hearing titled “A Call for System-Wide Change: Evaluating the Independent Assessment of the Veterans Health Administration;” 10:30 a.m., 334 Cannon Bldg., Oct. 7*

*Senate Appropriations Labor, Health and Human Services, Education and Related Agencies Subcommittee: hearing on the National Institutes of Health; 10:00 a.m., 124 Dirksen Bldg., Oct. 7*

*Energy and Commerce Health Subcommittee: hearing titled “Examining Legislative Proposals to Combat our Nation’s Drug Abuse Crisis;” 10:15 a.m., 2322 Rayburn Bldg.; Oct. 8*

*House Veterans’ Affairs Health Subcommittee: hearing titled “Evaluating VA Primary Care Delivery, Workload, and Cost;” 10:00 a.m., 334 Cannon Bldg., Oct. 22*

## Health Legislation Recently Introduced

*H.R. 3629 (introduced by Rep. DeGette for herself and Rep. Coffman): A bill to amend the Controlled Substances Act to provide that Federal law shall not preempt State law; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; September 28*

*H.R.3637 (introduced by Rep. Mark Pocan): A bill to amend title XIX of the Social Security Act to provide for payment for Medicaid services furnished by Ryan White part C grantees under a cost-based prospective payment system; to the House Committee on Energy and Commerce; September 29*

*H.R.3639 (introduced by Rep. Ron Kind): A bill to amend the Public Health Service Act to designate certain medical facilities of the Department of Veterans Affairs as health professional shortage areas, and for other purposes; to the House Committee on Energy and Commerce; September 29*

*H.R.3640 (introduced by Rep. Carlos Curbelo): A bill to provide for the issuance of a Mental Health Awareness Semipostal Stamp; to the Committee on Oversight and Government Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; September 29*

*H.R.3641 (introduced by Rep. Karen Bass): A bill to amend title XIX of the Social Security Act to ensure health insurance coverage continuity for former foster youth; to the House Committee on Energy and Commerce; September 29*

*H.R.3648 (introduced by Rep. Tim Ryan): A bill to amend the Federal Food, Drug, and Cosmetic Act to require the label of drugs intended for human use to contain a parenthetical statement identifying the source of any ingredient constituting or derived from a grain or starch-containing ingredient; to the House Committee on Energy and Commerce; September 29*

*H.R. 3652 (introduced by Rep. Bonamici for herself, Rep. Lee and Rep. DeGette): A bill to expand programs with respect to women’s health; to the Committee on Energy and Commerce; September 30*

*H.R. 3658 (introduced by Rep. Engel for himself and Rep. Burgess): A bill to provide grants to better understand and reduce gestational diabetes, and for other purposes; to the Committee on Energy and Commerce; September 30*

## Health Legislation Recently Introduced cont.

**H.R. 3659** (introduced by Rep. Gutiérrez for himself and Rep. Judy Chu of California): A bill to amend the Patient Protection and Affordable Care Act to *remove citizenship and immigration barriers to access the Exchanges under such Act*; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; September 30

**H.R. 3660** (introduced by Rep. Burgess): A bill to *amend the Congressional Budget Act of 1974 respecting the scoring of preventive health savings*; to the Committee on the Budget; October 1

**H.R. 3666** (Introduced by Rep. King of New York): A bill to *coordinate and advance fibrosis research activities at the National Institutes of Health, and for other purposes*; to the Committee on Energy and Commerce; October 1

**H.R. 3676** (introduced by Rep. Foster): A bill to *authorize the Administrator of the Substance Abuse and Mental Health Services Administration, acting through the Director of the Center for Substance Abuse Treatment, to award grants to States to expand access to clinically appropriate services for opioid abuse, dependence, or addiction*; to the Committee on Energy and Commerce; October 1

**H.R. 3677** (introduced by Rep. Foster): A bill to *reduce opioid misuse and abuse*; to the Committee on Energy and Commerce; October 1

**H.R. 3678** (introduced by Rep. Kelly of Pennsylvania): A bill to *clarify the orphan drug exception to the annual fee on branded prescription pharmaceutical manufacturers and importers, and for other purposes*; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; October 1

**H.R. 3680** (introduced by Rep. Sarbanes): A bill to *provide for the Secretary of Health and Human Services to carry out a grant program for co-prescribing opioid overdose reversal drugs*; to the Committee on Energy and Commerce; October 1

**H. Res. 458** (introduced by Rep. Noem): A resolution *celebrating 25 years of success from the Office of Research on Women's Health at the National Institutes of Health*; to the Committee on Energy and Commerce; October 1

**H.R. 3681** (introduced by Rep. Brooks of Indiana for herself and Rep. Sarbanes): A bill to *extend and expand the Medicaid emergency psychiatric demonstration project*; to the Committee on Energy and Commerce; October 2

**S.2096** (introduced by Sen. Robert P. Casey, Jr.): A bill to *ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as "black lung disease")*, and for other purposes; to the Committee on Health, Education, Labor, and Pensions; September 29

**S.2097** (introduced by Sen. Tammy Baldwin): A bill to amend title XIX of the Social Security Act to *provide for payment for Medicaid services furnished by Ryan White part C grantees under a cost-based prospective payment system*; to the Committee on Finance; September 29

**S. 2104** (introduced by Sen. Portman for himself and Sen. Casey): A bill to amend title XVIII of the Social Security Act to *provide relief to Medicare Advantage plans with a significant number of dually eligible or low-income subsidy beneficiaries and to prevent the termination of two star plans*; to the Committee on Finance; September 30

**S. 2107** (introduced by Sen. Reed for himself and Sen. Blunt): A bill to amend the Public Health Service Act to *help build a stronger health care workforce*; to the Committee on Health, Education, Labor, and Pensions; September 30

## Health Legislation Recently Introduced cont.

*S. 2108 (introduced by Sen. Toomey for himself and Sen. Bennet): A bill to amend title XVIII of the Social Security Act to provide for an extension of certain long-term care hospital payment rules and the moratorium on the establishment of certain hospitals and facilities; to the Committee on Finance; September 30*

*S. 2118 (introduced by Sen. Klobuchar): A bill to amend title XIX of the Social Security Act to extend the application of the Medicare payment rate floor to primary care services furnished under Medicaid and to apply the rate floor to additional providers of primary care services; to the Committee on Finance; October 1*