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Health Policy Briefing

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Extension of FY 2015 Appropriations Still Unsettled as Lame-Duck Reconvenes

Omnibus, CRomnibus, or Another FY 2015 CR?

As members reconvene this week in an attempt to wrap up the second and final session of the 113th Congress, Republicans appear to remain undecided as to the legislative means they should employ to finish up their appropriations duties before adjourning sine die. Minority Leader Nancy Pelosi (D-CA) publicly said "nay" to the idea floated by House Republicans for a so-called "CRomnibus" which would fund all federal activities though next September while setting up a confrontation early next over the President's immigration policies by including a short-term spending limit on immigration-related activities. Even if such a proposal were to pass the House on a party-line vote, it would be unlikely to pass the current Democrat-held Senate and the resulting impasse could ultimately lead to another Continuing Resolution (CR) for all or nearly all of fiscal year (FY) 2015 federal spending. Complicating the process is the apparent willingness on the part of both parties to agree to all, or nearly all, of the President's $6.2 billion request for additional funding to fight Ebola here and abroad. Unless an agreement on spending can be reached this week or next, other legislative demands, such as the possible consideration of the FY 2015 National Defense Authorization Act and various tax extensions, could force congressional leaders into extending the lame-duck session closer to Christmas. With few legislative days remaining this year, other important health-related decisions may be pushed off until early next year--e.g. the so-called "doc fix" to permanently replace the current Medicare physician payment sustainable growth rate (SGR) formula; an extension of Medicaid parity payments; an extension of payments for community health centers; an extension of loan repayment and scholarships for primary care providers who commit to serving for at least 2 years in underserved areas; and an extension of the Children's Health Insurance Program (CHIP). Spending negotiations could result in an extension of funding for the Teaching Health Center program, but the inclusion of this provision in the Patient Protection and Affordable Care Act (PPACA) may complicate the narrative of many Republicans who remain true to their "repeal and replace" mantra.

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PPACA Health Reform Update

Health Law Misgivings?

At a National Press Club briefing, Senator Charles Schumer (D-NY) addressed the health law and the recent election results as follows: "After passing the stimulus, Democrats should have continued to propose middle class-oriented programs and built on the partial success of the stimulus, but unfortunately Democrats blew the opportunity the American people gave them. We took their mandate and put all of our focus on the wrong problem — health care reform….The plight of uninsured Americans and the hardships caused by unfair insurance company practices certainly needed to be addressed. But it wasn't the change we were hired to make." Going forward, he said that "We must have our presidential candidate, or candidates, on same page….This is our most important mission during the year of 2015." U.S. Department of Health and Human Services (HHS) Secretary Sylvia Mathews Burwell also addressed the missteps of her agency in rolling out the HealthCare.gov website and the overstatement of the number of enrollees (by double counting enrollees in dental-only plans) saying the mistakes were "unacceptable" and that going forward there must be an improved "culture of increased transparency". She admonished her staff to develop and implement means to increase "transparency, ownership and accountability". In this connection, House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA) scheduled a December 9th hearing to allow his committee to grill Marilyn Tavenner, Administrator of the Centers for Medicare and Medicaid Services (CMS) on the shortcomings of the agency's actions. CMS is likely to put a positive light on the progress made this year in enrolling over 462,000 individuals in the first week of the health law's open enrollment. HHS indicated that the agency will issue monthly reports on the number of persons who have signed up for health coverage under the federal and state-run health insurance exchanges.

Medicare/Medicaid/PHSA Corner

Hospital Meaningful Use Requirement Extended

CMS announced that hospitals, including critical access hospitals, will have until December 31, 2014 to qualify for Medicare meaningful use payment incentives and avoid the 1% penalty for failure to meet the Stage 1 and Stage 2 requirements for 2014. The Stage 3 requirements are scheduled to begin in 2017.

FMAP and CHIP Rates Set for FY 2016

HHS gave notice of the Federal Medical Assistance Percentages (FMAP) that will be applied for FY 2016. As set by law under the PPACA for newly eligible adults, the FMAP will remain at 100% for FY 2014, 2015 and 2016 and gradually decline to 90% in 2020. For other covered individuals the percentages range from 50-71% depending on the state. In addition, CMS said the Enhanced Federal Medical Assistance Percentages (eFMAP) for the CHIP program will be effective from FY 2016 through FY 2019.

CMS Proposes MA Star Rating Changes

CMS is asking for comments by December 17 on possible changes to the 2016 star rating system for Medicare Advantage (MA) and Part D drug plans. Proposed is the development of an integrated system for Medicare/Medicaid Plans participating in the PPACA's capitated demonstration program for dually eligible beneficiaries. The potential adjustment for such plans would account for the additional needs of Medicare/Medicaid enrollees and would measure the performance of such plans in integrating Medicare and Medicaid benefits.

Medicare/Medicaid/PHSA Corner cont.

GAO Cites Improvement in CMS WFA Efforts

The Government Accountability Office (GAO) issued a report which identifies fourteen of twenty-three "best practices" that CMS has implemented to help prevent waste, fraud and abuse under Medicare Part D. The list of best practices includes: prevention, detection and monitoring; investigation and prosecution; limiting the supply of abused prescription drugs, creating pre-payment edits to deny payments for suspicious claims and conducting data analysis to identify billing anomalies or outliers. GAO also said that CMS engages with Part D plan sponsors to identify providers who might be engaged in fraud or abuse.

CMS Issues Final Rule Defining Limits on DSH Payments

CMS released a final rule defining the parameters of the so-called hospital-specific limitation whereby disproportionate share hospital (DSH) payments to a hospital will not be allowed to exceed the uncompensated costs of furnishing hospital services to individuals who are Medicaid-eligible or who do not have another third-party source of payment for such services. CMS clarified that this rule does not modify the DSH allotment amounts and will have no effect on the ability of a state to claim federal financial participation for DSH payments that are provided up to the published DSH allotments.

Comment Period Extended for HHA Participation Conditions

CMS announced that comments are due by January 7, 2015 on a proposed rule which would update the conditions of participation in Medicare and Medicaid for home health agencies (HHA).

Upcoming Congressional Hearings

House Veterans' Affairs Health Subcommittee: hearing to be held on VA's Caregiver Program: Assessing Current Prospects and Future Possibilities; 10:00 AM; 334 Cannon House Bldg.; December 3.

House Energy and Commerce Health Subcommittee: hearing to be held on The Future of the Children's Health Insurance Program; 10:15 AM; 2322 Rayburn House Bldg.; December 3.