



## Health Policy Briefing

December 21, 2015

### Congress Adjourns For the Year Following Passage of 2016 Omnibus Legislation

Congress successfully avoided a government shutdown through passage of a fiscal year (FY) 2016 omnibus spending bill and tax extenders package. Extended and deliberative debate on the bill required passage of a total of three continuing resolutions (CR) to keep the government open. A CR is a short-term stopgap spending measure that effectively prevented a government shutdown when funding for the federal government would have otherwise expired on October 1, December 11, and December 16 of 2015. The CRs allowed Congress additional time to negotiate and draft the \$1.1 trillion FY 2016 omnibus legislation. The additional time was required to help develop a longer-term budget agreement to provide additional funding for discretionary programs, as well as to address controversial policy riders. In the end, very few of the controversial policy riders were included in the final package. The third CR was necessary as a result of Speaker Paul Ryan's (R-Wis.) pledge to give members three days to review the legislation once it was unveiled. The omnibus package was approved by the House of Representatives on December 18 by a vote of 316-113, and was then passed by the Senate by a vote of 73-25. The tax package includes \$680 billion in permanent and short-term extensions of tax breaks for businesses and individuals, including the research and experimentation tax credit. The spending bill adds \$5.4 billion to the U.S. Department of Health and Human Services (HHS) funding, including an additional \$2 billion for medical research at the National Institutes of Health (NIH). These additional research funds will specifically target research on Alzheimer's disease as well as the brain, antibiotics, and precision medicine initiatives. Spending for the Centers for Disease Control and Prevention (CDC) was raised by \$300 million, which includes funds to combat prescription drug abuse. The Food and Drug Administration (FDA) received \$132 million above current spending levels, while discretionary spending for veterans' health increased by \$6.4 billion. Funding for the Centers for Medicare and Medicaid Services (CMS) will be maintained at current levels. The packages also included a two-year delay of the

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Cadillac tax on high-cost health plans, a two-year suspension of the medical device excise tax, and a one-year suspension of the annual Health Insurance Tax. The Congressional Budget Office (CBO) estimates that the spending bill will increase the deficit by more than \$57 billion over 10 years. In order to pay for a permanent reauthorization of the program for first responders and victims of the 9/11 terrorist attacks, the omnibus uses a limitation of the durable medical equipment (DME) reimbursement rates in Medicaid to levels paid by Medicare, a reduction in federal payments for x-ray imaging services that use film instead of digital imaging, and will allow reimbursements to home health agencies for cost-effective DME. These offsets are notable because they were also used to finance the **21st Century Cures** legislation, passed by the House in July. The loss of these offsets could harm the prospects of the biomedical innovation bill. The Senate Health, Education, Labor and Pensions (HELP) Committee has yet to release its version of the legislation. The House and the Senate will reconvene in early January. Before adjournment, House Majority Leader Kevin McCarthy (R-Calif.) announced that the House will vote on the budget reconciliation bill as one of the chamber's first actions next year.

### ***Senate Passes Mental Health, TSCA and Microbeads Legislation Before Adjourning***

**B**efore adjourning for the calendar year, the Senate passed S. 1893, the Mental Health Awareness and Improvement Act, by unanimous consent. The bipartisan bill is aimed at assisting states and local communities to prevent suicide, help children recover from traumatic events, improve mental health awareness, and assess barriers to integrating behavioral health and primary care. Chairman of the Health, Education, Labor and Pensions (HELP) Committee Lamar Alexander (R-Tenn.) urged the House to pass the bill without delay. The Senate also passed an overhaul of the Toxic Substances Control Act (TSCA) in order to ensure that risk assessments of chemicals in commercial products would only take into consideration the impact on health and the environment when determining whether to allow a chemical to be manufactured or sold. The House passed their chamber's version of the bill in June. The bill would direct the Environmental Protection Agency (EPA) to complete industry-requested risk assessments of chemicals in commercial products. It would also establish a four-year mandatory deadline for industry compliance with EPA regulations, and expedite EPA regulation on 90 chemicals that are known to be dangerous. The cap on fees that industry pays to offset the EPA's cost in conducting reviews would be increased from \$18 million to \$25 million. EPA's decisions would also be required to consider the impact of chemicals on vulnerable populations. The Senate also passed H.R.1321, the Microbead-Free Waters Act of 2015. The bipartisan legislation was championed by House Energy and Commerce Committee's Chairman Fred Upton (R-Mich.) and Ranking Member Frank Pallone (D-N.J.) and will begin the phase out of plastic microbeads from personal care products on July 1, 2017. The bill was previously passed by the House and now heads to President Obama for his signature.

### ***Drug Overdose Deaths Reached Record High in 2014***

**D**eaths attributed to overdoses of opioid pain relievers and heroin reached record levels in 2014, increasing 14 percent over the course of just one year, according to new **data** released by the Centers for Disease Control and Prevention (CDC). Prescribed opioid pain relievers continue to be the cause of more overdose deaths than any other type of opioid type, and increased by 9 percent between 2013 and 2014. More than 6 out of 10 drug overdose deaths in 2014 involved opioids. Between 2000 and 2014, nearly half a million Americans have died from drug overdoses. The CDC also released its draft opioid guidelines last week, which were essentially unchanged from an earlier version of the document that was strongly criticized by patient advocates. The guidelines assert that there is no evidence to support a long-term benefit of treating chronic pain with opioids, while there is extensive evidence indicating potential harms of opioid use. Comments on the draft guidelines are due by January 13, and CDC has committed to releasing the final guidelines in 2016.

### ***Bill Passed to Extend Hardship Exception for Meaningful Use***

Congress passed the Patient Access and Medicare Protection Act on Friday, which would help ensure flexibility in applying for the hardship exception for Meaningful Use (MU) for the 2015 electronic health record (EHR) reporting period for 2017 payment adjustments. S. 2425 includes a provision that would automatically grant every physician who applies by March 15, 2016 with a hardship exception in order to avoid penalties being assessed in 2017. The bill's MU provision was similar to legislation championed in the House by Rep. Tom Price (R-Ga.) and was introduced by Sen. Rob Portman (R-Ohio) and Sen. Bob Casey (D-Pa.), and cosponsored by Senate Finance Committee leaders Orrin Hatch (R-Utah) and Ron Wyden (D-Ore.), in addition to Sen. Richard Burr (R-N.C.), Sen. Roy Blunt (R-Mo.), Sen. Chuck Schumer (D-N.Y.), and Sen. Michael Bennet (D-Colo.). It was passed by the Senate through an expedited process and Rep. Price worked with House leadership to ensure passage by the House under unanimous consent.

### **Affordable Care Act News**

#### ***Administration Extends Deadline to Enroll in Health Exchange***

The Obama administration extended the deadline by two days for HealthCare.Gov shoppers who wanted their coverage to begin on January 1. The December 15 deadline was extended until December 17 for coverage beginning at the start of calendar year 2016. Officials reported that the site experienced a surge of people beginning to select their plans in the past week, and the additional 48 hours allowed these customers to complete their enrollment. Officials noted that a total of 2.8 million people had already signed up this year. The extension was announced the same week in which the Kaiser Family Foundation released a new poll showing that only seven percent of uninsured respondents know about the deadline for open enrollment. Affordability was the main reason respondents offered for not signing up for health insurance. The final deadline to sign up for coverage next year is January 31.

### **Health Legislation Recently Introduced**

***H.R. 4262 (introduced by Rep. Allen): A bill to amend title I of the Patient Protection and Affordable Care Act to require that a State awarded a Federal grant to establish an Exchange and that terminates the State operation of such an Exchange provide for an audit of the use of grant funds and return funds to the Federal Government, and for other purposes; to the Committee on Energy and Commerce; December 16***

***H.R. 4266 (introduced by Rep. Conyers): A bill to direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, nurses, and all other health care workers by establishing a safe patient handling, mobility, and injury prevention standard, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and 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; December 16***

***H.R. 4273 (introduced by Rep. Gene Green): A bill to amend titles XVIII and XIX of the Social Security Act to improve payments for hospital outpatient department services and complex rehabilitation technology and to improve program integrity, and for other purposes; 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; December 16***

*H.R. 4275 (introduced by Rep. Kelly of Pennsylvania): A bill to amend title XVIII of the Social Security Act to eliminate a provision under the Medicare Advantage program that inadvertently penalizes Medicare Advantage plans for providing high quality care to Medicare beneficiaries; 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; December 16*

*H.R. 4276 (introduced by Rep. Kennedy): A bill to strengthen parity in mental health and substance use disorder benefits; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and 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; December 16*

*H.R. 4277 (introduced by Rep. Noem): A bill to amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; 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; December 16*

*H.R. 4279 (introduced by Rep. Walorski): A bill to direct the Secretary of Veterans Affairs to disclose certain information to State controlled substance monitoring programs; to the Committee on Veterans' Affairs; December 16*

*H.R. 4292 (introduced by Rep. Noem): A bill to provide for research and the testing of innovative health care delivery models to improve medication adherence, and for other purposes; 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; December 18*

*H.R. 4299 (introduced by Rep. Blum). A bill to amend the Public Health Service Act to prevent the Secretary of Health and Human Services from limiting access to excepted benefits, and for other purposes; to the Committee on Energy and Commerce; December 18*

*S. 2408 (introduced by Sen. Franken): A bill to direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, nurses, and all other health care workers by establishing a safe patient handling, mobility, and injury prevention standard, and for other purposes; to the Committee on Health, Education, Labor, and Pensions; December 16*

*S. 2409 (introduced by Sen. Wyden): A bill to amend titles XVIII and XIX of the Social Security Act to improve payments for hospital outpatient department services and complex rehabilitation technology and to improve program integrity, and for other purposes; to the Committee on Finance; December 16*

*S.2416 (introduced by Sen. Chuck Grassley): A bill to amend titles XVIII and XIX of the Social Security Act to require the use of electronic visit verification systems for home health services under the Medicare program and personal care services and home health care services under the Medicaid program; to the Committee on Finance; December 17*

*S.2417 (introduced by Sen. John Thune): A bill to amend the Indian Health Care Improvement Act to allow the Indian Health Service to cover the cost of a copayment of an Indian or Alaska Native veteran receiving medical care or services from the Department of Veterans Affairs, and for other purposes; to the Committee on Indian Affairs; December 17*

*S. 2422 (introduced by Sen. Feinstein): A bill to authorize the Secretary of Veterans Affairs to carry out certain major medical facility projects for which appropriations are being made for fiscal year 2016; to the Committee on Veterans' Affairs; December 18*

**S. 2423 (introduced by Sen. Shaheen): A bill making appropriations to address the heroin and opioid drug abuse epidemic for the fiscal year ending September 30, 2016, and for other purposes; to the Committee on Appropriations; December 18**

**S. 2424 (introduced by Sen. Portman): A bill to amend the Public Health Service Act to reauthorize a program for early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children; to the Committee on Health, Education, Labor, and Pensions; December 18**

**S. 2425 (introduced by Sen. Portman): A bill to amend titles XVIII and XIX of the Social Security Act to improve payments for complex rehabilitation technology and certain radiation therapy services, to ensure flexibility in applying the hardship exception for meaningful use for the 2015 EHR reporting period for 2017 payment adjustments, and for other purposes; considered and passed; December 18**

**S. 2432 (introduced by Sen. Scott): A bill to amend the Public Health Service Act to require the disclosure of the portion of health insurance premiums attributable to the health insurance tax; to the Committee on Health, Education, Labor, and Pensions; December 18**