



## Health Policy Briefing

February 4, 2013

### Congress Passes Debt Ceiling Extension Legislation Promising FY 2014 Budget Resolution

#### **Federal Debt Limit Extended until May 18/Budget Resolution Incentives**

By a vote of 64-34, with 2 absences, the Senate passed H.R. 325, the federal debt ceiling extension legislation previously passed by the House. The bill passed Senate muster without amendment after several Republican amendments were tabled by Democrats. The failed amendments would have required that any debt limit increase be balanced by equal spending cuts over the next decade; provided for automatic continuing resolutions; required the government to prioritize all obligations on the debt held by the public in the event that the debt limit is reached with Social Security and military pay first in line; and prohibited the government from providing Egypt with certain military equipment. The President indicated he would sign the bill into law.

In addition to suspending the current \$14.294 trillion public debt limit through May 18, 2013, the legislation suspends, after April 15, the pay of House and Senate members until the respective body passes a concurrent budget resolution for fiscal year (FY) 2014.

House Budget Committee Chairman **Paul Ryan** (R-WI) has indicated his committee will take up a budget resolution beginning in early

March, even if the President's budget has not been presented to Congress by that time. He said his proposal will attempt to balance the federal budget in 10 years (likely to be accomplished through major changes to Medicare, Medicaid and other entitlement programs, as well as to various discretionary spending programs).

Senate **Majority Leader Harry Reid** (D-NV) said he will turn over the responsibility for developing the Senate's proposal to new **Budget Committee Chair Patty Murray** (D-WA). In the absence of the Administration's budget, the Majority Leader may also have to waive the procedure whereby the Congressional Budget Office (CBO) first provides each house with an accounting of the President's recommendations.

*continued on page 2*

<i>Inside</i>	
President's Immigration Reforms Limit PPACA Coverage.....	2
GOP Threatens Subpoena of Treasury/IRS Premium Subsidy Decision.....	2
PPACA Final Rule on "Sunshine Act".....	3
PPACA Regulations on Coverage/Exchanges.....	3
Senate Hearings on Mental Health/Gun Rights and Need for Primary Care Docs.....	3
CMS on DMEPOS Competitive Bidding Expansion.....	4
CMS Meaningful Use Payments.....	4
Health Legislation Recently Introduced.....	4

*continued from page 1*

The earliest the President's budget could be sent to Congress is March 4, given that the Office of Management and Budget (OMB) has just started the so-called "pass back" process of negotiating cuts suggested by the various federal agencies. White House officials have recently indicated that the President's budget will back away from cuts to Medicaid, an element discussed in previous congressional budget negotiations. It is possible that the tax writing committees in both the House and Senate may attempt to come up with an overhaul of the tax code which could be inserted as a major element in a concurrent budget resolution. The House is likely to develop a tax plan that is budget neutral while Senator Patty Murray has publicly insisted that new revenue be included in any budget deal.

Congress also has a March 1 deadline to produce legislation to reverse or ameliorate the Budget Control Act (BCA) sequestration. House Republican leaders continue to show a certain resolve that the \$85 billion in sequestration cuts will go through, although this could be a negotiating tactic. Congress also has until March 27 to come up with an extension of FY 2013 spending – when the current Continuing Resolution expires. In this connection, House Republicans may attempt to trim FY 2013 spending to \$974 billion, a \$69 billion reduction from the \$1.043 trillion cap in the BCA.

## PPACA Health Reform Update

### *President's Immigration Reforms Limit PPACA Coverage*

**T**he President unveiled an outline of how he will urge Congress to reform the nation's immigration laws. Of note, the recommendations would prevent undocumented immigrants with provisional legal status from being eligible for health coverage under the Patient Protection and Affordable Care Act's (PPACA) health insurance exchanges, including premium subsidies. Medicaid would also not be made available to such individuals. Under current law, the PPACA would make non-citizens eligible for such benefits if they are "aliens who are lawfully present" in the United States.

### *GOP Threatens Subpoena of Treasury/IRS Premium Subsidy Decision*

**H**ouse Ways and Means Committee Chairman Dave Camp (R-MI) and House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA) renewed their previous threat to subpoena the Treasury Department and IRS if the agencies do not release non-redacted records about how the agencies arrived at their decision to allow premium tax subsidies not only through state-run health insurance exchanges, but through the default federally-run exchange as well. The PPACA reads that such subsidies are to be available to individuals when accessing health coverage only "through an exchange established by the state." Rep. Scott DesJarlais (R-TN) said his legislation to clarify the law, if passed by the House, might encourage the Supreme Court to take a hard look at the regulation and "the seriousness of the breach of constitutional rule and what the IRS did in circumventing Congress."

## PPACA Health Reform Update cont.

### *PPACA Final Rule on “Sunshine Act”*

On Friday afternoon, February 1, the Centers for Medicare & Medicaid Services (CMS) released the final rule implementing the “Sunshine Act” which was included in the PPACA (section 6002) and facilitates reporting payments or other transfers of value manufacturers make to physicians and teaching hospitals. The timeline outlined in the final rule provides that data collection begin on August 1, 2013; data for August through December of 2013 will be reported to CMS by March 31, 2014; and information will be available on a public website by September 30, 2014. CMS will provide a single review period of 45 days to review data before it’s available on a public website, as well as an additional 15 days for resolving and correcting disputes. Physicians will be able to register with CMS to receive information and have immediate access to information at the beginning of the review and correction period.

### *PPACA Regulations on Coverage/Exchanges*

The Internal Revenue Service (IRS) and Centers for Medicare and Medicaid Services (CMS) issued proposed regulations under the PPACA which provides for exemptions from the “individual shared responsibility” requirement in hardship cases; in which a tax return does not have to be filed due to low income; in which coverage is unaffordable (more than 9.5% of household income); in which individuals qualify because of religious beliefs; and in which the lapse in coverage does not extend beyond 3 months. States who chose to operate their own health insurance exchanges would be able to use a “federally managed service” to determine an applicant’s eligibility for an exemption. Individuals who do not obtain “minimum essential coverage” beginning in 2014 and go through the process to obtain a “certificate of exemption” would not have to pay the IRS penalty for non-coverage. Comments are due by March 18, 2013. The IRS also issued a final regulation regarding individuals, related to employees who are enrolled in employer-sponsored health plans, who are ineligible for health insurance premium tax credits under health insurance exchanges. The rules state that for taxable years beginning before Jan. 1, 2015, an eligible employer-sponsored plan is “affordable” for related individuals if the portion of the annual premium the employee must pay for self-only coverage (the so-called required contribution percentage) does not exceed 9.5% of the taxpayer’s household income. When the employer plan is affordable for self-only coverage (even if family coverage is not affordable), such related individuals are ineligible for premium subsidies under PPACA health insurance exchanges.

## Medicare/Medicaid/PHSA Corner

### *Senate Hearings on Mental Health/Gun Rights and Need for Primary Care Docs*

At a Senate Judiciary hearing last week, former Arizona Rep. Gabrielle Giffords testified that Congress needs to act “now” to stem gun violence. On the other hand, the CEO of the National Rifle Association said the nation’s mental health system is broken and called for a study into the “the full range of mental health issues, from early detection and treatment, to civil commitment laws, to privacy laws that needlessly prevent mental health records from being included in the National Instant Criminal Background Check System.” Senator John Cornyn (R-TX) said that background-check legislation should be “updated to screen out the growing number of people who are subjected to court-ordered outpatient mental-health treatment.” Apparently a bipartisan group of senators are drafting legislation that would include mental health records in background checks. Also, at a Senate HELP Subcommittee on Primary Health and Aging, Senator Bernard Sanders (I-VT) warned that the nation faces “a major crisis in primary health care access” with as many as 30 million Americans being added to the health insurance rolls as a result of the PPACA. He said the nation needs 16,000 more primary care physicians by 2025 and a major hurdle in meeting this goal is that only 7% of medical school graduates choose primary care practice.

## Medicare/Medicaid/PHSA Corner cont.

### *CMS on DMEPOS Competitive Bidding Expansion*

**C**MS announced that, as a result of the Round Two expansion of the existing Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) competitive bidding program beginning July 1st, it is expected that Medicare beneficiaries will pay substantially lower prices on certain types of durable medical equipment, such as walkers and oxygen equipment.

### *CMS Meaningful Use Payments*

**C**MS reported that almost \$10.7 billion in meaningful use incentive payments have been made pursuant to the economic stimulus legislation to more than 190,000 hospitals and eligible professionals through the end of December 2012. Also, CMS said that 350,844 physicians and other eligible professionals are registered under either Medicare or Medicaid, an increase of 4.5% from the 335,879 who were registered in November 2012.

## Health Legislation Recently Introduced

**H.R. 418** (MEDICARE), to reduce Medicare waste, fraud, and abuse by providing for enhanced penalties to combat Medicare and Medicaid fraud, for a Medicare data-mining system, for a study on applying biometric technology, and for other purposes; ROS-LEHTINEN; jointly, to the committees on Energy and Commerce and Ways and Means, Jan. 25.

**S. 177** (REFORM), to repeal the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 entirely; CRUZ; read the first time, Jan. 29.

**S. 183** (MEDICARE), to amend Title XVIII of the Social Security Act to provide for fairness in hospital payments under Medicare; MCCASKILL; to the Committee on Finance, Jan. 30.