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Health Policy Briefing

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Obama FY 2015 Budget Recommendations DOA; Doc Fix Up This Week in House

House Passes Legislation to Delay PPACA Individual Mandate/SGR Reform Consideration

The House voted 250-160 (with 27 Democrats voting aye) to pass H.R. 4118, legislation that would delay until 2015 the Patient Protection and Affordable Care Act's (PPACA) penalty under the tax code for a failure to obtain minimum health insurance coverage. The President quickly threatened to veto the bill if passed by the Senate. Of note the Congressional Budget Office (CBO) released a cost estimate of the legislation which said the measure would reduce spending by $9.4 billion over ten years (2014-2024) because the resulting lower enrollment of about 1 million persons would shrink the amount of PPACA individual subsidies granted over the ten year period. **Majority Leader Cantor (R-VA)** also announced that the House of Representatives will take up H.R. 4015, the "SGR Repeal and Medicare Provider Payment Modernization Act of 2014," on Wednesday or later in the week. House Republicans are considering pairing the SGR bill with the revenue generated by delaying the individual mandate. The CBO estimates that the SGR legislation will cost $138.4 billion over ten years (2014-2024). The Senate has yet to indicate how it will offset the cost of the SGR bill, but new **Senate Finance Committee Chairman Ron Wyden (D-OR)** publicly stated that he has not ruled out payment cuts to hospitals as a means to offset the cost of reform. Also, on Tuesday the House will take up under suspension H.R. 1814, the "Equitable Access to Care and Health (EACH) Act" and will later take up H.R. 3973, the "Faithful Execution of the Law Act of 2014" and H.R. 4138, the "ENFORCE the Law Act of 2014."

Inside

President Obama's Budget Would Reduce HHS Spending

During several committee hearings held to review the Administration's $3.901 trillion budget recommendations for fiscal year (FY) 2015 and beyond, Republicans called the measure "Dead on Arrival". Senator Orrin Hatch (R-UT) said that the proposal "fails to include any substantial reforms to the greatest driver of our debt: Medicare, Medicaid and Social Security." The U.S. Department of Health and Human Services (HHS) discretionary spending would amount to about $77.1 billion, a reduction of $1.3 billion from FY 2014, a total that HHS Secretary Kathleen Sebelius said was "written to the target" spending under the Bipartisan Budget Act of 2013. Several changes to health programs are estimated to save $400 billion over ten years. Among the proposed changes to achieve Medicare savings: $52.8 billion by increasing premiums under Medicare Part B and Part D for higher-income beneficiaries; $6.8 billion by reducing reimbursements for Part B drugs from 106% of ASP to 103%; $117.3 billion by aligning Medicare drug payment policies with Medicaid drug rebate policies for low-income beneficiaries; $97.9 billion by reducing the market-basket updates for inpatient rehabilitation facilities (IRF), long term care hospitals (LTCH) and home health agencies (HHA) by 1.1%; $720 million by prohibiting critical access hospital (CAH) designation for facilities that are less than 10 miles from the nearest hospital; $14.6 billion by reducing payments for graduate medical education (GME) by 10% and giving HHS the authority to set standards for teaching hospitals to encourage the training of primary care residents. Also, $12.9 billion would be saved by lowering the target rate that triggers recommendation savings from the Independent Payment Advisory Board (IPAB). Among the proposed changes over ten years to achieve Medicaid and Children's Health Insurance Program (CHIP) savings: $5.4 billion by extending the FY 2014 boost in primary care physician reimbursements through calendar year (CY) 2015; $770 million by permanently extending "express lane" eligibility for children applying for CHIP; $1.6 billion by extending transitional medical assistance for newly employed Medicaid enrollees through CY 2015; $3.1 billion by providing home and community based services to children and youths eligible for psychiatric residential treatment facilities; and $3.3 billion by rebasing future disproportionate share hospital (DSH) allotments after 2023.

Agency Budget Proposals for Health-Program Spending

The President's budget proposes the following discretionary spending for the nation's health programs: $30.2 billion (an increase of $200 million) for the National Institutes of Health (NIH), including new spending on Alzheimer's disease and brain research; $4.6 billion for community health centers (an increase of $960 million), including spending for 150 new centers in underserved areas; $2.3 billion for the Ryan White HIV/AIDS program; $1.1 billion for the Centers of Disease Control and Prevention (CDC) HIV/AIDS, tuberculosis and hepatitis programs and an increase in funding for programs to combat antibiotic resistance; $3.3 billion budget for the Substance Abuse and Mental Health Services Administration (SAMHSA), including $130 million for the "Now is the Time" mental health initiative designed to address behavioral health problems among young people and to provide training to identify those in need of help; the Health Resources and Services Administration (HRSA) would receive an additional $7 million for a total of $17 million for the Medicaid Section 340B prescription drug discount program; $319 million (an increase of $25 million) for Health Care Fraud and Abuse Control; $14.6 billion to train 13,000 medical residents over the next 10 years, to train new mental health providers and to broaden the National Health Services Corps; $65.3 billion for the Department of Veterans Affairs, including an increase of 2.7% to $56 billion for veterans' medical care and $7 million to expand mental health services; and $4.7 billion (an increase of $358) for the Food and Drug Administration (FDA), including new spending for the regulation of compounding pharmacies. The Administration's budget also proposes to increase the availability of generic drugs and biologics by: authorizing the Federal Trade Commission (FTC) to curtail "pay for delay" agreements among pharmaceutical manufacturers; reducing from 12 to 7 years the length of exclusivity for brand-name biologics; and treating the payment of generic biologics under Medicare Part B in the same manner as for their biosimilars.

PPACA Implementation an Administration Budget Priority

Spending priority was given to the implementation of the PPACA under the President's budget to the tune of $1.8 billion for HHS and an additional $60 billion for tax subsidies. The proposal includes $5.45 billion for the PPACA risk corridors program which was included in the law as a means to offset insurer losses from covering a higher proportion of high-risk enrollees. HHS maintains the provision will be "budget neutral". So-called "Marketplace User Fees" imposed on health insurers under the PPACA are also expected to raise about $1.2 billion in FY 2015. Net outlays for the Consumer Operated and Oriented Plan (CO-OP) Program would decrease from $241 million to $147 million in FY 2015. Of note, the CBO released a new cost estimate of the PPACA focusing solely on the effect of the law's coverage provisions. CBO's new ten year projection reduces the previous cost by $9 billion to $1.5 trillion, mainly because of a lower estimate of exchange enrollment (1 million fewer covered) and premium/risk-corridor costs.

FY 2015 Budget Reconciliation

Perhaps presaging an initiative by House Republicans to refashion Medicaid and other poverty programs under a House Budget Committee initiative, the committee released a report, "The War on Poverty: 50 Years Later," which concludes that the 92 federal programs designed to reduce poverty have failed to decrease the poverty rate or improve the health of the nation's poor. The report stated that Medicaid still experiences difficulties in helping those eligible to obtain access, thus leading to lower than expected enrollment, while creating the "crowd out" of private insurance participation. The House Democratic Whip, Rep. Chris Van Hollen (D-MD), responded negatively in saying that "If past is prologue, this report is simply laying the groundwork to slash social, safety-net programs." In the Senate, Budget Committee Chair Patty Murray (D-WA) has signaled that her panel will forego producing a reconciliation product for FY 2015 and allow appropriators to fulfill their duties to keep spending within the caps set under the two-year bipartisan, bicameral budget agreement passed late last year.

PPACA Health Reform Update

Administration Provides More PPACA Relief

HHS released several PPACA-related rules and guidance, some including relief from the full effect of the law as written. Republicans were highly critical of the final regulations that HHS said would provide health plans with up to $8 billion in extra funding under two temporary programs to offset unexpectedly high claims this year resulting from the President's "you can keep your plan" relief. The extra funding would principally be targeted to the 27 states, Puerto Rico and Guam which allowed previously issued non-complaint health plans to be offered this year. HHS also announced that the non-complaint plan relief in the individual and small group markets will be extended until the end of September 2017. HHS also announced that it is considering a proposal under which states could recommend modifications to the PPACA requirement that gives employees a choice of plan options in the Small Business Health Options Program (SHOP). The Treasury/Internal Revenue Service (IRS) also released two rules in advance of reporting and minimum essential coverage (MEC) requirements set to take place in 2015: one would streamline the employer reporting rules on full-time employees and ease the determination of whether the 50-employee threshold has been reached for purposes of the mandated coverage requirement; another would provide more clarity on the standards that employer plans would need to meet in order to comply with the law's minimum essential coverage requirements. HHS also released a final rule under which states in 2015 can meet voluntary standards for establishing a Basic Health Program (BHP) under the law to cover individuals with incomes between 133-200% of the federal poverty level (i.e. too high to qualify for Medicaid or CHIP). Qualifying states would receive federal subsidies equivalent to 95% of exchange-based premium tax credits or cost-sharing reductions. Seventy-five House members, led by Reps. John Carney (D-DE) and Charlie Dent (R-PA), also asked HHS to provide potential enrollees with an additional option to use licensed health insurance agents and brokers to assist them in accessing coverage that is compliant with the PPACA.

Medicare/Medicaid/PHSA Corner

Senators Criticize CMS for Disallowing Relief from Meaningful Use

Senators Lamar Alexander (R-TN), John Thune (R-SD) and several other Republicans sent a letter to the Centers for Medicare and Medicaid Services (CMS) Administrator expressing their disappointment that CMS has not allowed providers an extension of the reporting period for Stage 2 of the meaningful use (MU) program. They questioned and demanded answers as to how the proposed "hardship" exemptions from the rule will be applied so as to offer at least some relief.

CMS Seeks Comments on Alternative Payment Models

The CMS Administrator announced that the agency is asking for comments from providers by April 8 on the best ways to create and test new payment and delivery models under Medicare as the agency moves away from the fee-for-service model. The Request for Information (RFI) states "Recognizing the challenge of transforming practices across the nation, CMS seeks information about strategies that could be the catalyst for transformation supporting the participation of large numbers of providers in a redesigned healthcare system…."

Proposed Medicare Coverage for HCV Screenings

CMS issued a proposed coverage decision under which the agency would allow for the payment under Medicare of screenings for hepatitis C virus (HCV) in "high risk" adults eligible for Medicare Part A or enrolled in Part B. Comments are due by April 3rd.

Upcoming Health-Related Hearings and Markups

Senate HELP Subcommittee on Primary Health and Aging: will hold a hearing titled "Access and Cost: What the US Health Care System Can Learn from Other Countries;" 10:00 a.m., 430 Dirksen Bldg.; March 11.

House Ways and Means Committee: will hold a hearing on the Administration's proposed fiscal year 2015 Budget; 10:00 a.m.; 1100 Longworth Bldg.; March 12.

House Budget Committee: will hold hearings on the proposed fiscal 2015 budget. 2 p.m., 210 Cannon; March 12.

House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies: will hold hearings on proposed FY 2015 appropriations for agencies, programs and activities under its jurisdiction. 1:30 p.m., 2359 Rayburn; March 12.

Senate Appropriations Subcommittee on Defense: will hold a hearing on defense health programs. 10:30 a.m., 192 Dirksen; March 12.

Senate Veterans' Affairs Committee: will hold a hearing on the FY 2015 budget of the Department of Veterans Affairs. 2 p.m., 418 Russell; March 12.

House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies: will hold an oversight hearing on the future of biomedical research; 10:00 a.m., 2358-C Rayburn Bldg.; March 13.

House Energy and Commerce Subcommittee on Health: will hold a hearing titled "Keeping the Promise: Allowing Seniors to Keep Their Medicare Advantage Plans If They Like Them;" 10:00 a.m., 2123 Rayburn Bldg.; March 13.

House Veterans' Affairs Committee: will hold a hearing on the proposed FY 2015 budget for the programs and operations of the Department of Veterans Affairs. 10 a.m., 334 Cannon; March 13.

Senate HELP Committee: will hold a hearing titled "Protecting the Public Health: Examining FDA's Initiatives and Priorities;" 10:00 a.m. 430 Dirksen Bldg.; March 13.

House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies: will hold hearings on proposed FY 2015 appropriations for agencies, programs and activities under its jurisdiction; 10:00 a.m., 2358-C Rayburn Bldg.; March 25.

Health Legislation Recently Introduced

H.R. 4118 (REFORM), to amend the Internal Revenue Code of 1986 to delay the implementation of the penalty for failure to comply with the individual health insurance mandate; JENKINS; to the Committee on Ways and Means, Feb. 28.

H.R. 4128 (REFORM), to amend the Internal Revenue Code of 1986 to expand and modify the credit for employee health insurance expenses of small employers; DELBENE; to the Committee on Ways and Means, Feb. 28.

H.R. 4132 (REFORM), to amend the Internal Revenue Code of 1986 to expand the size of employers eligible for the credit for employee health insurance expenses of small employers; MURPHY of Florida; to the Committee on Ways and Means, Feb. 28.

H.R. 4133 (REFORM), to amend the Internal Revenue Code of 1986 to expand the credit period for which an employer is eligible for the credit for employee health insurance expenses of small employers; MURPHY of Florida; to the Committee on Ways and Means, Feb. 28.

H.R. 2082 (MEDICARE), to provide for the development of criteria under Medicare for medically necessary short inpatient hospital stays, and for other purposes; MENENDEZ; to the Committee on Finance, March 5.

H.RES. 500 (DISEASE AWARENESS), supporting the goals and ideals of Multiple Sclerosis Awareness Week; LEE of California; to the Committee on Energy and Commerce, March 5.

S. 2087 (MEDICARE), to protect Medicare under title XVIII of the Social Security Act with respect to reconciliation involving changes to Medicare; PRYOR; to the Committee on the Budget, March 6.

S. 2095 (VETERANS' HEALTH), to reauthorize and modify the pilot program of the Department of Veterans Affairs under which the secretary of veterans affairs provides health services to veterans through qualifying non-departmental health-care providers, and for other purposes; MORAN; to the Committee on Veterans' Affairs, March 6.

H.R. 4158 (REFORM), to establish the Office of the Special Inspector General for Monitoring the Affordable Care Act, and for other purposes; ROSKAM; jointly, to the committees on Energy and Commerce, Natural Resources, Education and the Workforce, Ways and Means, Oversight and Government Reform, House Administration, the Judiciary, Rules and Appropriations, March 6.

H.R. 4160 (MEDICARE), to prohibit further action on the proposed rule regarding changes to Medicare prescription drug benefit programs; ELLMERS; jointly, to the committees on Energy and Commerce and Ways and Means, March 6.

H.R. 4168 (MEDICAID), to provide payment for patient navigator services under Title XIX of the Social Security Act, and for other purposes; ISRAEL; to the Committee on Energy and Commerce, March 6.

H.R. 4170 (MENTAL HEALTH), to provide for a Youth Mental Health Research Network; FATTAH; to the Committee on Energy and Commerce, March 6.

H.R. 4177 (MEDICARE), to amend the Internal Revenue Code of 1986 to allow Medicare beneficiaries participating in a Medicare Advantage MSA to contribute their own money to their MSA; PAULSEN; to the Committee on Ways and Means, March 6.

H.R. 4180 (MEDICARE), to amend the Internal Revenue Code of 1986 to permit rollovers from health savings accounts to Medicare Advantage MSAs; ROSS; to the Committee on Ways and Means, March 6.

H.R. 4181 (EMERGENCY CARE/TRAUMA SERVICES), to appropriate funds for carrying out certain provisions of the Public Health Service Act relating to emergency care and trauma services; RUSH; to the Committee on Appropriations, March 6.

H. RES. 508 (NATUROPATHIC MEDICINE),expressing support for designating Oct. 6, 2014, through Oct. 12, 2014, as Naturopathic Medicine Week to recognize the value of naturopathic medicine in providing safe, effective, and affordable health care; NORTON; to the Committee on Energy and Commerce, March 6.