



## Health Policy Briefing

March 2, 2015

### Lawmakers Consider CHIP Extension, Medicare Reforms

#### *Republicans Begin Work on CHIP Extension Discussion Draft*

Following the release of Democrat-only bills to extend the Children’s Health Insurance Program (CHIP) last month, Senate Finance Chairman Orrin Hatch (R-Utah), House Energy and Commerce Chairman Fred Upton (R-Mich.), and Energy and Commerce Health Subcommittee Chair Joe Pitts (R-Pa.) have begun work on a CHIP **discussion draft**. The draft does not set a timeline for CHIP reauthorization, and does not propose a clean extension of the program. It would make a number of changes to CHIP requirements aimed at increasing flexibility for states. States would be permitted to use waiting periods as a means to prevent crowd-out among families who previously had private health insurance. The draft would also eliminate several measures from the Affordable Care Act (ACA) that impact children’s health insurance. Specifically, the bill would eliminate the ACA requirement that states cover children ages 6 to 18 in families with incomes between 100 percent and 133 percent of the federal poverty level in Medicaid. The proposal would also eliminate the health law’s 23 percent increase in CHIP matching rates. House Budget Committee Chairman Tom Price (R-Ga.) has suggested that when the current Medicare sustainable growth rate (SGR) fix expires at the end of March, Congress would agree upon a four to six month short term patch. A permanent repeal of the SGR could then be tied to CHIP reauthorization, which expires on September 30, 2015. More than one million children would become uninsured if funding were allowed to expire.

#### *Lawmakers Attempt to Exempt User Fees from Sequestration*

A bill introduced by Rep. Anna G. Eshoo (D-Calif.) and Rep. Leonard Lance (R-N.J.) last week would ensure that user fees paid by drug and medical device manufacturers to the Food and Drug Administration (FDA) be exempt from possible sequestration. While industry continued paying user fees following the 2013 sequester, these funds were not distributed to the agency until Rep. Eshoo and Rep. Lance formally requested that money be restored to the FDA.

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### ***New CBO Director Appointed***

Keith Hall will replace Douglas W. Elmendorf as Director of the Congressional Budget Office (CBO) on April 1. Hall has previously worked as chief economist for the White House Council of Economic Advisers in the George W. Bush administration, and was confirmed as commissioner of the Bureau of Labor Statistics. Most recently, Hall worked as chief economist for the U.S. International Trade Commission. Hall was favored by House and Senate Budget chairmen Tom Price (R-Ga.) and Michael B. Enzi (R-Wyo.) for his conservatism as well as his familiarity with Congress and the federal government. While Hall is a Republican, his work has focused mainly on technical analysis.

### ***CDC Reports 500,000 Annual C. Difficile Infections***

Centers for Disease Control and Prevention (CDC) **assessment** of *Clostridium difficile* reveals that nearly a half-million infections were caused by the dangerous bacteria in 2011. CDC's data, which represents the largest longitudinal U.S. population-based surveillance to date, also found that approximately 29,000 patients died within 30 days of initial diagnosis. Hospital or nursing home stays accounted for around two-thirds of infections, with senior patients age 65 and older affected in one third of the cases. According to the study, the rate of hospitalizations for *C. difficile* doubled between 2000 and 2010. Authors of the study argue that this data stresses the need for responsible prescribing of antibiotics. The Agency plans to prioritize the prevention of health care associated infections in the coming year through supporting State Antibiotic Resistance Prevention Programs. The CDC's fiscal year 2016 budget would also accelerate work to improve antibiotic stewardship to better detect and prevent infections through a \$1.2 billion investment, which is more than twice the funding used to combat antibiotic resistance in 2015. The Agency states that these efforts could potentially cut the incidence of *C. difficile* infections in half. Beginning in 2017, *C. difficile* infections will be tied to Medicare pay-for-performance measurements.

## **Affordable Care Act Update**

### ***GOP Experiences Setback in ACA Repeal Efforts***

According to sources in the Republican Party, Senate Parliamentarian Elizabeth MacDonough has expressed concerns about the possibility of using a special budgetary procedure to repeal the ACA. Some Senate Republicans have expressed support for using the budgetary reconciliation process to repeal the health care law. Reconciliation is a process that imposes rules of debate and germaneness on the Senate, as well as only requires passage by a simple majority vote rather than the typical 60 votes needed to avoid a filibuster. Senators are split on whether it is procedurally possible that the ACA could be repealed cleanly under budget reconciliation. Though President Obama would veto the bill, many Republicans support the symbolic gesture of sending repeal of the measure to his desk. House and Senate Republicans are expected to unveil budget blueprints in the coming weeks, in the hopes of passing a unified resolution in the spring; therefore, final decisions on what measures could be passed under reconciliation rules must be made quickly.

### ***CMS Releases Medicaid/CHIP Enrollment Numbers***

According to a [report](#) released by the Centers for Medicare and Medicaid Services (CMS), enrollment in the Medicaid program has surged across the U.S. since the ACA's first open enrollment period for the marketplace began in October 2013. 10.75 million people were enrolled in Medicaid or CHIP as of December 2014. This amounts to an 18.6 percent increase over enrollment numbers before the ACA's marketplaces opened. While enrollment increases surged upwards of 30 percent in states that expanded their Medicaid programs, enrollment only climbed seven percent in states that did not participate in Medicaid expansion.

### ***Medicare Reform Bills Move Through Ways and Means***

The House Ways and Means Committee has approved four bills aimed at overhauling the Medicare program. H.R. 1021, the Protecting Integrity in Medicare Act (PIMA), is aimed at improving the integrity of the Medicare program. It would remove Social Security numbers from Medicare cards, combat prescription drug abuse, and allow patients to receive electronic benefit summary notices. H.R. 284 would require Medicare suppliers that bid under a durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive bidding program to submit binding bids or risk forfeiture of a surety bond. H.R. 876 would require hospitals to notify beneficiaries of their admission status of "inpatient" versus "under observation." H.R. 887 would prohibit any patient encounter of an eligible professional occurring at an ambulatory surgical center from being treated as such an encounter in determining whether an eligible professional qualifies as a meaningful electronic health record (EHR) user.

### ***Legislation Introduced to Address Medicare Fraud***

Sen. John Thune (R-S.D.) and Sen. Mark Warner (D-Va.) have introduced S. 584, the Better Efficiency and Administrative Simplification Act, which would permit Medicare beneficiaries to receive electronic benefit notices. This provision was included in the Protecting the Integrity of Medicare Act (PIMA), which moved through the House Ways and Means Committee last week. S. 584 would also change the Medicare contracting process by giving CMS the ability to increase the length of contract years for Medicare Administrative Contractors (MAC). The agency would also be given additional flexibility in awarding new contracts when MACs are not meeting CMS requirements.

### ***ACO White Paper Unveiled by Fix the Debt, Dartmouth-Hitchcock Health, Dartmouth College***

The Campaign to Fix the Debt, the Dartmouth Institute, and Dartmouth Hitchcock Health have released a white paper titled [Medicare Slowdown at Risk: The Imperative of Fixing ACOs](#), which outlines the reforms that need to be made to the Accountable Care Organization (ACO) program in order to improve the financial model facing ACOs and increase patient engagement. The white paper follows a summit convened in September of last year to discuss ways to reform Medicare and move away from fee-for-service payments. The paper argues that ACO programs need a better methodology for determining initial benchmarks in order to correct the current perverse incentives that are potentially penalizing successful ACOs with lower subsequent benchmarks. The authors consider policies to incentivize and maintain participation in ACOs from low-cost providers. Additionally, the paper identifies tools to encourage ACOs to accept two-sided risk. To increase patient engagement, the white paper suggests that the existing attribution model be improved and first-dollar supplemental coverage be restricted. The report also argues that CMS should allow beneficiaries to attest that they want to belong to an ACO, for the purposes of patient engagement.

## Upcoming Congressional Meetings and Hearings

*House Appropriations Labor, Health and Human Services, Education, and Related Agencies Subcommittee: hearing on proposed fiscal year 2016 appropriations for the National Institutes of Health (NIH); a list of witnesses can be found [here](#); 10:00 a.m., 2358-C Rayburn Bldg.; Mar. 3*

*House Appropriations Agriculture, Rural Development, FDA, and Related Agencies Subcommittee: hearing on proposed fiscal year 2016 appropriations for the Food and Drug Administration (FDA); a list of witnesses can be found [here](#); 10:00 a.m., 2362-A Rayburn Bldg.; Mar. 4*

*Senate Health, Education, Labor and Pensions Committee: hearing titled “America’s Health IT Transformation: Translating the Promise of Electronic Health Records Into Better Care;” 10:00 a.m., 430 Dirksen Bldg.; Mar. 5*

*House Energy and Commerce Health Subcommittee: hearing titled “Examining the 340B Drug Pricing Program;” 10:00 a.m., 2123 Rayburn Bldg.; Mar. 5*

## Health Legislation Recently Introduced

**S. 531** (HEALTH INSURANCE), to permit health insurance issuers to offer additional plan options to individuals; FLAKE; to the Committee on Finance; Feb. 23

**H.R. 1021** (MEDICARE INTEGRITY), to amend title XVIII of the Social Security Act to improve the integrity of the Medicare program, and for other purposes; BRADY; jointly, to the committees on Ways and Means and Energy and Commerce; Feb. 24

**S. 536** (IHS), to amend the Internal Revenue Code of 1986 to exclude from gross income payments under the Indian Health Service Loan Repayment Program and certain amounts received under the Indian Health Professions Scholarship Program; UDALL; to the Committee on Finance; Feb. 24

**S. 539** (OUTPATIENT REHABILITATION), to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps; CARDIN; to the Committee on Finance; Feb. 24

**H.R. 1055** (ORAL HEALTH), to improve access to oral health care for vulnerable and underserved populations; CUMMINGS; jointly, to the committees on Energy and Commerce, Ways and Means, the Judiciary, Natural Resources, Veterans’ Affairs, and Armed Services; Feb. 25

**H.R. 1066** (CLINICAL TRIALS), to amend the Federal Food, Drug, and Cosmetic Act to promote the use of adaptive trial designs, Bayesian methods, and other innovative statistical methods in clinical protocols for drugs, biological products, and devices, and with respect to the requirement to conduct postapproval studies and clinical trials, and for other purposes; COLLINS; to the Committee on Energy and Commerce; Feb. 25

**H.R. 1078** (USER FEES), to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt from sequestration certain user fees of the Food and Drug Administration; LANCE; to the Committee on the Budget; Feb. 25

**H.R. 1083** (SELF-REFERRAL), to amend titles XVIII and XIX of the Social Security Act to apply the Medicare restriction on self-referral to State plan requirements under Medicaid, and for other purposes; MCDERMOTT; jointly, to the committees on Energy and Commerce and Ways and Means; Feb. 25

**H.R. 1085** (PREVENTION FUND), to repeal the Prevention and Public Health Fund; PITTS; to the Committee on Energy and Commerce; Feb. 25

**S. 563** (VA), to amend title 38, United States Code, to establish the Physician Ambassadors Helping Veterans program to seek to employ physicians at the Department of Veterans Affairs on a without compensation basis in practice areas and specialties with staffing shortages and long appointment waiting times; MORAN; to the Committee on Veterans’ Affairs; Feb. 25

## Health Legislation Recently Introduced cont.

**S. 564** (VA), to amend title 38, United States Code, to include licensed hearing aid specialists as eligible for appointment in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes; MORAN; to the Committee on Veterans' Affairs; Feb. 25

**S. 570** (ORAL HEALTH), to improve access to oral health care for vulnerable and underserved populations; SANDERS; to the Committee on Health, Education, Labor, and Pensions; Feb. 25

**H.R. 1096** (VA), to amend the Veterans Access, Choice, and Accountability Act of 2014 to clarify the distance requirements regarding the eligibility of certain veterans to receive medical care and services from non-Department of Veterans Affairs facilities; BYRNE; to the House Committee on Veterans' Affairs; Feb. 26

**H.R. 1101** (PHSA), to amend the Public Health Service Act to revise and extend the program for viral hepatitis surveillance, education, and testing in order to prevent deaths from chronic liver disease and liver cancer, and for other purposes; GUTHRIE; jointly, to the committees on Energy and Commerce and Veterans' Affairs; Feb. 26

**H.R. 1116** (AUDIOLOGY), to amend title XVIII of the Social Security Act to provide comprehensive audiology services to Medicare beneficiaries, and for other purposes; BILIRAKIS; jointly, to the committees on Energy and Commerce and Ways and Means; Feb. 26

**H.R.1117** (PHSA), to amend the Public Health Service Act to authorize grants for graduate medical education partnerships in States with a low ratio of medical residents relative to the general population; CASTOR; to the House Committee on Energy and Commerce; Feb. 26

**H.R.1130** (KIDNEY DISEASE), to improve the understanding of, and promote access to treatment for, chronic kidney disease, and for other purposes; MARINO; jointly, to the committees on Energy and Commerce and Ways and Means; Feb. 26

**H.R.1143** (INSURANCE), to amend the Internal Revenue Code of 1986 to extend the credit for health insurance costs of certain Pension Benefit Guaranty Corporation pension recipients; TURNER; to the House Committee on Ways and Means; Feb. 26

**S.578** (HOME HEALTH), to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program; COLLINS; to the Committee on Finance; Feb. 26

**S.584** (MEDICARE), to amend title XVIII of the Social Security Act to provide the option to receive Medicare Summary Notices electronically, to increase the flexibility and transparency of contracts with medicare administrative contractors, and for other purposes; THUNE; to the Committee on Finance; Feb. 26

**S. 586** (PHSA), to amend the Public Health Service Act to foster more effective implementation and coordination of clinical care for people with pre-diabetes, diabetes, and the chronic diseases and conditions that result from diabetes; SHAHEEN; to the Committee on Health, Education, Labor, and Pensions; Feb. 26

**S. 598** (KIDNEY DISEASE), to improve the understanding of, and promote access to treatment for, chronic kidney disease, and for other purposes; CARDIN; to the Committee on Finance; Feb. 26

**S. 599** (MEDICAID), to extend and expand the Medicaid emergency psychiatric demonstration project; CARDIN; to the Committee on Finance; Feb. 26

**H.R. 1151** (USPSTF), to amend title IX of the Public Health Service Act to revise the operations of the United States Preventive Services Task Force, and for other purposes; BLACKBURN; jointly, to the committees on Energy and Commerce and Ways and Means; Feb. 27

**H.R. 1169** (HSA), to amend the Internal Revenue Code of 1986 to increase the maximum contribution limit for health savings accounts; FORTENBERRY; to the Committee on Ways and Means; Feb. 27

**Health Legislation Recently Introduced cont.**

**H.R. 1170** (VA), to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 and title 38, United States Code, to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers and to expand access to such care and services; GRAYSON; to the Committee on Veterans' Affairs; Feb. 27

**H.R. 1178** (MEDICARE), to amend title XVIII of the Social Security Act to modify payment under the Medicare program for outpatient department procedures that utilize drugs as supplies, and for other purposes; REED; jointly, to the committees on Energy and Commerce and Ways and Means; Feb. 27

**H.R. 1184** (MEDICARE), to amend title XVIII of the Social Security Act to revise Medicare coverage and payment for advanced surgical dressings in skilled nursing facilities and home health settings, and for other purposes; SESSIONS; jointly, to the committees on Energy and Commerce and Ways and Means; Feb. 27

**H.R. 1185** (HEALTH SAVINGS), to amend the Internal Revenue Code of 1986 to provide the opportunity for responsible health savings to all American families; STIVERS; to the Committee on Ways and Means; Feb. 27

**H.R. 1186** (CONTROLLED SUBSTANCES), to amend the Controlled Substances Act relating to controlled substance analogues; THORNBERRY; jointly, to the committees on Energy and Commerce and the Judiciary; Feb. 27

**H. Res. 131** (COLORECTAL CANCER), supporting the designation of March 2015, as National Colorectal Cancer Awareness Month; PAYNE; to the Committee on Oversight and Government Reform; Feb. 27

**S. 607** (RURAL HOSPITALS), to amend title XVIII of the Social Security Act to provide for a five-year extension of the rural community hospital demonstration program, and for other purposes; GRASSLEY; to the Committee on Finance; Feb. 27

**S. 609** (EMERGENCY MEDICAL RESPONDERS), to amend the Internal Revenue Code of 1986 to extend and increase the exclusion for benefits provided to volunteer firefighters and emergency medical responders; SCHUMER; to the Committee on Finance; Feb. 27