



## Health Policy Briefing

March 28, 2016

### Congress Begins Spring Break Without Progress on Budget

Before adjourning for a two-week spring recess, appropriators in the House of Representatives marked up the 2017 spending measure for the Department of Veterans' Affairs and military construction projects. The bill adheres to the top-line spending limits established in last year's budget deal. While progress is being made on individual spending bills, members of the conservative House Freedom Caucus continue to oppose the Republican budget resolution on account of the budget deal's \$1.07 trillion discretionary spending limit. The group would have the resolution revert back to the previous spending caps of \$1.04 trillion. Under normal procedure, no appropriations bills are brought to the House floor until both chambers have adopted a budget resolution conference report, or the House has passed a deeming resolution, also containing an enforceable topline, with a simple majority vote. In the absence of an adopted budget or deeming resolution, the House may begin considering bills on the floor after May 15. The House will be back in session on April 11. The Senate will meet again on April 4.

### Seniors Regularly Use Dangerous Drug Combinations

A new study published in JAMA Internal Medicine shows that one in six of the nation's seniors regularly uses a potentially dangerous combination of prescription drugs, over the counter medications, and dietary supplements. The study examined 2,000 adults between the ages of 62 and 85 across the country between the periods of 2005-2006 and 2010-2011. The number of seniors using at least five prescriptions increased from 30 percent to 35 percent over this time period. The use of dietary supplements also grew over time. Nearly 15 percent of study participants used a dangerous drug combination in 2011, up from 8 percent in 2005.

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### ***Medical Malpractice Legislation Stalled***

The House Judiciary Committee postponed a markup of comprehensive medical liability reform legislation last week following opposition from some conservative members of the panel. H.R. 4771, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2016, would limit jury awards by setting conditions for lawsuits arising from health care liability claims and create new guidelines for awarding punitive damages. It would reduce spending by \$40 billion over the next decade, and was a response to Speaker of the House Paul Ryan's (R-Wis.) call for each committee to make spending cuts during this year's budget process in order to offset the spending increases in last year's budget deal. Rep. Ted Poe (R-Texas) and Rep. Louie Gohmert (R-Texas) expressed concerns that the bill would violate states' rights by setting a \$250,000 cap on compensation for non-economic damages to a patient. Rep. Poe, a former judge, stated his belief that states without liability limits don't want them and the federal government should not make that decision for state courts. Their remarks were echoed by Ranking Member John Conyers (D-N.Y.) and committee members Hank Johnson (D-Wis.) and Jarred Nadler (D-N.Y.). In describing their opposition to the bill, committee democrats cited a letter from 29 groups opposing the legislation. The conservative backlash came as a surprise to the author of the malpractice bill, Rep. Trent Franks (R-Ariz.). According to Rep. Franks, the bill had been introduced in previous congresses and was identical to legislation previously reported out of the Judiciary Committee with the support of both Reps. Poe and Gohmert. The Committee has not rescheduled the markup, but Rep. Franks said he would be adding language to the bill clarifying the issue of states' rights.

### ***First Appropriations Bill Reported out of Subcommittee***

The Military-Construction-Veterans Affairs draft-spending bill for fiscal year (FY) 2017 was released by House appropriators last week and adopted by the subcommittee by voice vote. The \$81.6 billion bill exceeds current spending levels by \$1.8 billion but comes in below the White House's budget request of \$82.8 billion. The bill is in keeping with the budget deal's top line spending limits. The Department of Veterans Affairs would receive \$73.5 billion, a three percent increase above FY 2016 levels. An emphasis was placed on VA oversight provisions. The bill also includes \$260 million to update the VA's electronic health record (EHR) system and \$850 million in additional funding for the purposes of veteran health care needs, including the treatment of hepatitis C and long-term care.

### ***Zika Update***

The Centers for Disease Control and Prevention (CDC) has issued a travel advisory due to Zika spread to Cuba. The CDC is also reminding health officials to use standard protective gear when delivering babies to prevent Zika infection or transmission of the virus to newborns during labor and delivery procedures. The agency recommended that women wait at least two months, and men at least six months, before attempting to conceive after being infected with Zika. The World Health Organization (WHO) has updated its Zika projections and announced that it expects more than 2,500 babies will be born with microcephaly if the current rate of Zika virus outbreaks continues. To date, 39 percent of the 2,212 cases investigated – 863 babies – have been born with the rare congenital condition. WHO officials also announced that it has received only \$3 million of the \$56 million needed from its member countries to fight the Zika virus. Lawmakers recessed last week without voting on an emergency-funding request to combat the Zika virus, despite repeated appeals from the Administration, Minority Leader Nancy Pelosi (D-Calif.) and other top Democrats in Congress. House Republicans support the use of unused funds appropriated for the response to Ebola before addressing any additional needs through the regular appropriations process.

### ***ACA Celebrates Sixth Anniversary***

On the sixth anniversary of the Affordable Care Act (ACA), the U.S. Department of Health and Human Services (HHS) announced that Medicare spent \$473 billion less between 2009 and 2014 than the program would have if pre-ACA cost-growth trends had continued. HHS attributed this success to the law's focus on paying for quality of care rather than volume of procedures performed, and used this anniversary to tout other successes of the law.

### ***New CBO Report on Health Care Spending***

According to a recently released Congressional Budget Office (CBO) **report**, the projected cost of the Affordable Care Act's (ACA) insurance coverage provisions has grown by \$136 billion over the 2016-2025 period compared to last year's estimate. This 11 percent increase can be accounted for due to spending on increased Medicaid enrollment and the postponement of the "Cadillac tax" on high-cost insurance plans. While the agency increased its estimates for Medicaid enrollment, it lowered its projections for exchange enrollment by approximately 1 million people. Twelve million are expected to have coverage through the exchanges by the end of the calendar year, with 19 million people enrolled by 2025. Medicaid enrollment is expected to grow to 69 million in this time period, at which point Medicaid and the Children's Health Insurance Program (CHIP) will cover one in four people under age 65. CBO estimates that 24 million more people will have insurance coverage in 2026 than if the law had not been enacted. And the total cost of the health care law is still less than expected when the ACA was first approved. Since its passage, the price of the ACA has declined by approximately 25 percent, to \$157 billion. CBO announced that it would no longer project separate costs of the law's insurance coverage provisions, such as exchange subsidies and Medicaid expansion, in order to present a fuller picture of the law's impact on insurance coverage.

### ***GAO Examines Healthcare.gov Security***

A Government Accountability Office (GAO) report was released last week indicating that Healthcare.gov logged 316 cybersecurity incidents during an 18-month period. While none of the incidents resulted in the compromise of sensitive information, GAO did outline a number of failures on the part Centers for Medicare and Medicaid Services (CMS) to protect the website's data hub. The data hub is responsible for sending personal data to various federal agencies for the purposes of verification. The GAO found that CMS did not consistently patch security flaws, sufficiently restrict administrator privileges, or adequately monitor security controls in state-based marketplaces, while also using an insecure configuration of the network.

## **Upcoming Congressional Meetings and Hearings**

**POSTPONED:** *Senate Finance Committee markup to vote on the nomination of Mary Katherine Wakefield to be deputy HHS secretary; time and place TBD*

*Senate Health, Education, Labor and Pensions Committee final markup on innovation agenda; time and place TBA; April 6*

## Recently Introduced Health Legislation

*H.R.4819 (introduced by Rep. John J. Duncan Jr.): A bill to direct the Secretary of Health and Human Services to establish a grant program for States that provide flexibility in licensing for health care providers who offer services on a volunteer basis; 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; March 21*

*H.R. 4828 (introduced by Rep. Fleming): A bill to prevent governmental discrimination against providers of health services who decline involvement in abortion, and for other purposes; to the Committee on Energy and Commerce; March 22*

*H.R. 4832 (introduced by Rep. Boustany): A bill to amend the Internal Revenue Code of 1986 to exclude certain health arrangements from the excise tax on employer-sponsored health coverage; to the Committee on Ways and Means; March 22*