



Health Policy Briefing

April 8, 2013

Congress Returns to Receive President's FY 2013 Budget/Entitlement Reform/New Taxes

President Surprises With Entitlement Reform in FY 2014 Budget Recommendations

Although two-months late, the Obama administration is set to forward its fiscal year 2014 budget recommendations to Congress this Wednesday. Of note, the proposal is expected to eliminate the effects of the \$1.2 trillion over ten-year cuts under the Budget Control Act (BCA) mandate and replace the across-the-board cuts with \$1.8 billion in other deficit reduction measures. The White House said that Medicare spending will be reduced by about \$400 billion by reducing provider reimbursements, increasing Medicare premiums and providing for the negotiation of drug discounts under Part D. Social Security cash benefits and possibly other federal pensions would see a trimming by switching from the current Consumer Price Index (CPI) to a "chained CPI" annual increase methodology, thus saving about \$130 billion. The Administration let it be known that the overall spending and revenue increases, the latter amounting to about \$680 billion, are a total tax/spending "cohesive

package" and that congressional Republicans should not consider them just an opening hand with the revenue increases to be negotiated down or out. The Administration also said that Medicare "vouchers" would be a non-starter. Unlike the House Republican budget resolution which would bring federal spending into balance by 2023, the President's proposal would bring the deficit down to about 1.7% of GDP at the end of the ten-year period. House **Speaker John Boehner** (R-OH) shot down the President's plan, saying that "...at some point we need to solve our spending problem, and

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what the President has offered would leave us with a budget that never balances.” In related news, the House Ways and Means Committee announced that it will hold a series of hearings on entitlement reform, including such Medicare reforms as raising the eligibility age and making higher-income seniors pay more for their care.

Treasury to Help Community Health Centers

After receiving a \$300 million increase and avoiding sequester cuts under the FY 2013 continuing resolution, community health centers are slated to receive additional support. The Department of Treasury’s Community Development Financial Institutions (CDFI) Fund has sponsored a partnership with a network of community development financial institutions, the Opportunity Finance Network, to find new sources of financing with the help of a non-profit adviser to allow CHCs to expand in medically underserved communities.

Upcoming Legislation to Expand Pediatric Research

House Majority Leader Eric (R-VA) announced that Reps. Tom Cole (R-OK) and Gregg Harper (R-MS) will soon be introducing legislation, the Kids First Research Act, which would direct about \$100 million over ten years to increase pediatric research. The funding would be made budget neutral by eliminating the public funding of presidential campaigns.

PPACA Health Reform Update

Republicans Call on HHS for More PCIP Funding

At a House Energy and Commerce Subcommittee on Health hearing last week, Chairman Joe Pitts and other Republicans alluded to their support for high-risk pools, including the PPACA’s Pre-Existing Condition Insurance Plan (PCIP) program as the preferred means to help individuals having pre-existing conditions obtain health insurance coverage. Previously House Republicans called for the Department of Health and Human Services (HHS) to redirect other HHS funding to continue the funding of the PCIP program. HHS halted new enrollments under the program in the face of the limited \$5 billion allotted to PCIP under the PPACA and the program’s termination in 2014 when state health insurance exchanges and the federal default exchange will take their place in covering individuals with pre-existing conditions. A witness from the American Enterprise Institute (AEI) testified that the PCIP program should be extended after this year as a back-stop to the possible failure of health insurance exchanges to meet the needs of those with pre-existing conditions.

Federal Enforcement of PPACA Market Reforms

The HHS Center for Consumer Information and Insurance Oversight (CCIIO) announced that the agency will enforce the PPACA’s market reforms, including pre-existing condition and rating rules, in the individual and small group markets in six states. The insurance authorities in Alabama, Arizona, Missouri, Oklahoma, Texas and Wyoming told CMS they lack the legal authority to regulate the federal law’s provisions. The federal regulation in Arizona is limited to the Preferred Provider Organizations (PPO) market. The federal rules and enforcement would likely be found to override any conflicting state authority with respect to the PPACA market reforms. HHS left the door open to regulatory collaboration with the state insurance departments even if they do not have enforcement authority.

PPACA Navigator Rules

CMS issued a proposed rule defining the requirements that so-called “navigators” will have to meet in order for them to help eligible individuals obtain coverage under health insurance exchanges, including the federally facilitated exchange, beginning in the open season this October. Standards for such navigators relate to: the collection of information, avoiding conflicts of interest, training and certification, and ensuring access for the disabled. Rep. Kenny Marchant (R-TX) questioned why HHS and the Office of Management and Budget (OMB) assumed that navigators would be paid between \$20-48 per hour in their estimate of the regulatory burden of the proposed rule. The agencies said that the rule would not set the level of wages for such individuals.

Delay in SHOP Choice of Coverage for Workers

HHS announced that it is delaying until 2015 the provision that employees be given a choice of health insurance options under the PPACA Small Business Health Options Program (SHOP). The agency said that, for 2014, small businesses in the thirty-three states with health insurance exchanges run fully by or in partnership with the federal government need to offer only one plan to their employees. The seventeen states operating their own exchanges can also abide by the small business rule.

IRS Issues Proposed CHNA Rules

The Internal Revenue Service (IRS) released a proposed rule under the PPACA which sets forth community health needs assessment (CHNA) provisions that charitable hospitals must meet. The IRS said that the written assessment by each facility must be made publicly available or be subject to a \$50,000 excise tax for failing to meet such CHNA requirements.

Medicare/Medicaid/Public Health Services Corner

House Committees Propose Medicare Physician Payment Reform

The House Ways and Means and Energy and Commerce Committees released a second draft of possible reforms to the “sustainable growth rate” (SGR) methodology used under the existing Medicare physician payment system. The new draft reflects comments on the previous proposal released in February. The second iteration of the framework includes: an unspecified transitional period of stable payments; payments based on the quality of care delivered to beneficiaries; risk adjustments for quality measures to avoid penalizing physicians who treat sicker patients; financial rewards for providing efficient care, and a means for physicians to remain in fee-for-service Medicare or opt for a new care model. The proposal anticipates a revenue-neutral approach, but does not specify any potential pay-fors. Legislation is expected to be introduced and hearings held by early May.

HHS Gives MA Plans Reprieve on 2014 Payment Cuts

Following intense lobbying by insurers, beneficiaries and congressional members, HHS Secretary Kathleen Sebelius overruled the CMS Office of the Actuary recommendations that Medicare Advantage (MA) plans be paid 2.2% less in 2014. The revision will result in such payments increasing by an average of about 3.3% as a result of recalculations that assume the scheduled 25% cut in 2014 physician payments will be overridden by Congress this year. In related news, CMS announced that it will delay making changes to the “star” rating system for MA plans after receiving criticism from insurers and congressional members. CMS said it will do further research on the star system and release the results sometime this summer.

President and NIH Announce New Spending for Human Brain Research

The President and NIH Director Francis Collins, MD, PhD announced a new multi-year “transformative” project to give scientists “the tools they need to get a dynamic picture of the brain in action and better understand how we think and how we learn and how we remember.” The FY 2014 \$110 million in funding is expected to come from several federal sources: \$40 million from NIH; \$50 million from the Defense Advanced Research Projects Agency; and \$20 million from the National Science Foundation. The project is expected to induce private partners to contribute a similar amount per year (e.g. \$60 million from the Allen Institute for Brain Science; \$30 million from the Howard Hughes Medical Institute; and \$28 million from the Salk Institute for Biological Studies). The goal is to find treatments or cures for such conditions as post-traumatic stress disorder (PTSD), Alzheimer’s disease, epilepsy, etc.

Increased CMS Oversight of Accreditation Organizations

CMS released a proposed ruling that is intended to increase the agency's oversight of the seven accreditation organizations which are used in 19 CMS-approved accreditation programs. CMS evaluations would be based on new documentation and informational reporting requirements.

Senator Grassley Questions HRSA on 340B Program

Senator Charles Grassley (R-IA) sent a letter to the Health Resources and Services Administration (HRSA) containing his concerns that certain hospitals are short-changing uninsured and low-income patients under the 340B program which requires drug manufacturers to provide outpatient drugs at reduced prices to disproportionate share hospitals. He asked the agency for answers by April 22nd regarding HRSA data collection programs to prevent 340B savings from accruing to others than those intended under the law. In other HRSA news, the agency announced that the Healthcare Integrity and Protection Data Bank (HIPDB) will be shut down after transferring all HIPDB data to the National Practitioner Data Bank (NPDB).

MedPAC Discusses LTCH Rates, Dual-Eligible Coverage Model and ACOs

During its April meeting, MedPAC staff and commissioners said that long-term care hospitals (LTCHs) are reimbursed at higher rates than acute care hospitals. They said that LTCHs are excluded from the inpatient prospective payment system for acute care hospitals (IPPS) and as a result the current LTCH Prospective Payment System rates are based on inflated costs and distort resource use. The panel considered three different approaches that might be used to equalize LTCH and acute care hospital rates, including an expanded outlier policy, a new Medicare severity diagnosis-related group and bundling post-acute care costs under a new Correct Coding Initiative (CCI) MS-DRG. MedPAC also discussed whether it would be feasible to accommodate Medicare/Medicaid dual-eligibles under a new Medicare system modeled along the lines of Medicare Part D. Concerns were expressed that assigning dual-eligibles, especially those with severe physical and cognitive issues, to the lowest-cost health plan would involve significant year-to-year plan changes from current options. MedPAC members also expressed some concerns regarding how accountable care organizations (ACOs) under the PPACA will assign beneficiaries to providers and compete with Medicare Advantage plans.

Upcoming Health-Related Hearings/Markups

The Senate Finance Committee will hold a hearing on Tuesday, April 9, 2013 at 10:00 a.m. on the *nomination of Marilyn Tavenner* to be the Administrator of the Centers for Medicare and Medicaid Services. (215 Dirksen Senate Office Building)

The House Energy and Commerce Health Subcommittee will hold a hearing on Tuesday, April 9, 2013 at 4:00 p.m. entitled “*Reauthorization of Animal Drug User Fees: ADUFA and AGDUFA.*” (2123 Rayburn House Office Building)

The Senate Health, Education, Labor and Pensions Committee will mark up *mental health* legislation on Wednesday, April 10, 2013 at 10:00 a.m. intended to “help schools become safer and help people struggling with mental health problems to get the treatment that they need.” (430 Dirksen Senate Office Building)

The House Energy and Commerce Health Subcommittee will hold a hearing on Thursday, April 11, 2013 at 10:00 a.m. entitled “*Strengthening Medicare for Seniors: Understanding the Challenges of Traditional Medicare’s Benefit Design.*” (2322 Rayburn House Office Building)

The Senate Health, Education, Labor and Pension Committee will hold a hearing on Thursday, April 11, 2013 at 10:00 a.m. entitled, “*A New, Open Marketplace: The Effect of Guaranteed Issue and New Rating Rules.*” (430 Dirksen Senate Office Building)

The Senate Finance Committee will hold a hearing on Thursday, April 11, 2013 at 2:30 p.m. on the *President’s Fiscal Year 2014 Budget.* (215 Dirksen Senate Office Building)

The House Ways and Means Committee will hold a hearing on Friday, April 12, 2013 at 9:00 a.m. regarding *President Obama’s budget proposals for the Department of Health and Human Services for fiscal year 2014.* The only witness will be HHS Secretary Sebelius. (1100 Longworth House Office Building)