



## Health Policy Briefing

April 28, 2014

### Congress Returns to Appropriations Process and Health Law Oversight

The House and Senate return this week with the House scheduled on Tuesday to again consider the passage of H.R. 4144, the Expatriate Health Coverage Clarification Act of 2014, which exempts such plans and plan sponsors from the Patient Protection and Affordable Care Act (PPACA) and related statutes. On Wednesday the House will take up the Military-Construction/Veterans Administration (VA) appropriations bill, H.R. 4486. The House appropriations committee is expected to continue with the fiscal year (FY) 2015 appropriations process by finalizing the 302(b) subcommittee allocations while the Senate Appropriations Committee continues with their hearings on agency requests for the fiscal year (including agencies under the Labor/Health and Human Services (HHS)/Education Subcommittee). The House will also wrestle with resolving the fate of the Senate's temporary extension of unemployment benefits which that chamber sent to the House using the House-passed bill, H.R. 3979, which excludes volunteer firefighters and emergency workers from being counted for purposes of the PPACA's employer mandate. During the upcoming hearings on the nomination of Sylvia Mathews Burwell to be the new HHS Secretary, Republicans are likely to ask the nominee a series of probing questions regarding her plans for the implementation of the PPACA.

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## PPACA Health Reform Update

### ***PPACA Implementation Process Probed; Enrollment Tops 8 Million***

President Obama used a public forum to announce that 8 million people were tabulated as having enrolled under the PPACA's various health insurance exchanges. Despite the news, Republicans continued their scrutiny and criticism of the law and its implementation. The Government Accountability Office (GAO) issued a report finding that then HHS Secretary Kathleen Sebelius contacted the chief executive officers of five organizations after being asked by Enroll America to aid their efforts in helping with the law's implementation. The report, requested by Senate and House Republicans, cited HHS's authority for such actions under specific sections of the Public Health Service Act (PHSA). Nonetheless, Senator Orrin Hatch (R-UT) responded to the report by saying the Secretary's actions were of questionable merit and caused a disconcerting appearance of a conflict of interest. Senator Chuck Grassley (R-IA) also sent a letter to the Internal Revenue Service (IRS) criticizing the agency's lack of effort to reduce identity theft which also noted the increased duties for the agency to process third-party information and millions of new tax returns as a result of the PPACA. In related news, HHS said users of the HealthCare.gov website should change their password even though the agency's chief information officer said that the so-called Heartbleed internet security risk has not been detected on the website. HHS also said that individuals currently enrolled under the Pre-Existing Condition Insurance Plan (PCIP), which will close at the end of the month, will have from May 1 through June to sign up for new coverage under the various PPACA health insurance exchanges. People seeking health coverage in Oregon will soon have to access the federal HealthCare.gov exchange, given the recent decision by state officials to abandon their state-based Cover Oregon initiative.

### ***Republicans File Brief Supporting PPACA Challenge***

In a suit originally brought in the U.S. District Court for the Eastern District of Wisconsin by Senator Ron Johnson (R-WI), 38 House and Senate members joined in filing a brief which supports the argument that the Office of Personnel Management (OPM) violated the PPACA in ruling that congressional staff and members can continue with their former coverage under the federal employee health benefits program, rather than solely under the law's health insurance exchanges. The brief says that the federal courts "must not shrink from their duty to enforce limits on executive power when necessary to protect the rights of individuals in actual cases and controversies..."

### ***CBO Lowers Cost of PPACA Medicaid Expansion***

The Congressional Budget Office (CBO) released a new estimate of the cost of the expansion of Medicaid (in the states electing such expansion under the PPACA) which lowers the ten-year cost of the provisions from \$70 billion to \$46 billion.

## Medicare/Medicaid/PHSA Corner

### ***CMS Allows Public to Search Physician Medicare Data***

In an effort to aid consumers to access Medicare's payment database on 880,000 providers, the Centers for Medicare and Medicaid Services (CMS) announced the release of a new interactive search tool on its website. The search tool allows the public to search for a provider by name, address or National Provider Identifier number and see for each provider the number of services provided and beneficiaries treated, average submitted charges and allowed payment amounts. CMS also announced that Principal Deputy Administrator Jonathan Blum will leave his current position on May 16th.

## FDA Issues

***Republicans Question Generic Labeling Rule Process***

Chairman Fred Upton (R-MI) and 18 other Republicans on the House Committee on Energy and Commerce sent a letter to the Food and Drug Administration (FDA) Commissioner expressing their concern with the process leading up to the agency's proposed generic drug labeling rule which allows generic drug manufacturers to update safety information using the same process as brand drug manufacturers. Questioning the role that the trial lawyers' association played in developing the rule, they asked the agency for all documents generated during the process which are related to the association.

***FDA Proposes Expedited Approval of High Risk Medical Devices***

In an effort to expedite the approval of medical devices that treat patients with life-threatening and debilitating diseases, the FDA proposed that such approvals may be issued as long as there is a reasonable assurance the devices will perform as stated even if the safety and effectiveness data submitted does not meet with the highest standards possible. Device manufacturers would be required to collaborate with the FDA early in the development process and agree on the data that would be collected before and after approval. The agency also issued draft guidance as to when data can be collected after a device is approved and the enforcement efforts for non-compliance. Comments are due within 90 days.

**Upcoming Health-Related Hearings and Markups**

***House Rules Committee: will meet to consider H.R. 4414, Expatriate Health Coverage Clarification Act of 2014; 5:00 p.m., H-313 The Capitol; April 28.***

***House Energy and Commerce Subcommittee on Oversight and Investigations: will hold a hearing titled "Examining the Growing Problems of Prescription Drug and Heroin Abuse;" 10:00 a.m., 2322 Rayburn Bldg.; April 29.***

***House Agriculture Committee Subcommittee on Horticulture, Research, Biotechnology, and Foreign Agriculture: will hold a hearing to review current research and application of management strategies to control pests and diseases of pollinators; 10:00 a.m., 1300 Longworth Bldg.; April 29.***

***House Ways and Means Health Subcommittee: will hold a hearing on Medicare waste, fraud, and abuse, with a focus on the policies that address these problems; 2:00 p.m., 1100 Longworth Bldg.; April 30.***

***House Energy and Commerce Health Subcommittee: will hold a hearing titled "Telehealth to Digital Medicine: How 21st Century Technology Can Benefit Patients;" 10:00 a.m., 2123 Rayburn Bldg.; May 1.***