



PPACA Continues in the Crosshairs of Budget and Unemployment Insurance Debates

President Signs Temporary “Doc Fix” Legislation into Law

Last week the Senate took action to pass the House-passed bill H.R. 4302, the “Protecting Access to Medicare Act of 2014,” and the President signed the legislation into law (Public Law 113-93). The Senate rejected unanimous consent requests to first consider the long-term sustainable growth rate (SGR) reform bills authored by **Senators Wyden (D-OR) and Hatch (R-UT)**. As passed by the House and approved by the Senate without amendment, the bill delays the consideration of long-term Medicare SGR reform into the next congress while providing for a 0.5% increase in physician reimbursement rates through calendar year 2014. The law also extends to March 31, 2015, the exceptions process for outpatient therapy caps.

House Budget Committee Bill Would Repeal PPACA

The House Budget Committee voted along party-lines to pass H.Con.Res. 96, the “Path to Prosperity” fiscal year (FY) 2015 budget blueprint, which will be taken up in the House this week. Among the key features which the committee says would balance the budget over ten years, the bill would: cut spending by \$5.1 trillion over the period using “dynamic” scoring; retain the FY 2015 \$1.014 trillion federal spending level adopted in the Bipartisan Balanced Budget Act; repeal the major portions of the Patient Protection and Affordable Care Act (PPACA), block grant Medicaid and allow new Medicare beneficiaries in 2024 and beyond to elect into a “premium support” system which in the aggregate is estimated to save about \$3 trillion over ten years; and reform the tax code. Keeping on the budget theme, the House also passed, mainly along partisan lines, the “Pro-Growth Budgeting Act” (H.R. 1874) which would require the Congressional Budget Office (CBO) to use “dynamic scoring” to estimate the effect of “major” bills defined as having a budgetary impact of at least 0.25% of gross domestic product (GDP) in any fiscal year. Specifically, the bill requires committee reports to include CBO estimates of a bill’s effects on such economic indicators as

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GDP, business investment, capital stock, employment, interest rates and labor supply, as well as its fiscal impact, including changes in tax revenues. On Monday the House is also scheduled to take up H.R. 1871, the “Baseline Reform Act,” which would amend the Gramm-Rudman-Hollings Act to revise the formula for calculating the baseline for discretionary spending for the budget year and each out-year to eliminate adjustments for: (1) expiring multiyear subsidized housing contracts; (2) administrative expenses of the Federal Hospital Insurance (Medicare Part A) Trust Fund, the Supplementary Medical Insurance (Medicare Part B) Trust Fund, the Unemployment Trust Fund, and the Railroad Retirement account; (3) offsets to federal employees’ annual pay; and (4) certain inflators used to adjust budgetary resources in the Act. The bill would also require the CBO to report to the congressional budget committees, on or before July 1 of each year, the Long-Term Budget Outlook for: (1) the fiscal year commencing on October 1 of that year, and (2) at least the ensuing 40 fiscal years. Later in the week, the House is scheduled to take up H.R. 1872, the Budget and Accounting Transparency Act, which among other things would require the President’s budget from FY 2017 onward to reflect the costs of direct loan and loan guarantee programs on a fair value basis.

FY 2015 Appropriations Issues

While the House Budget Committee budget bill contains a number of changes that would negatively affect the spending of federal health-related programs, it is expected that appropriators will follow the total \$1.014 trillion FY 2015 spending guidelines adopted in the Ryan-Murray Balanced Budget Act. The House Appropriations Committee will meet on Wednesday to consider 302(b) allocations to the appropriations subcommittees and the committee will follow up with a markup of the majority’s version of the Military-Construction/Veterans Administration (VA) FY 2015 appropriations bill which contains \$158.2 billion in total VA discretionary and mandatory funding, a \$10.3 billion increase over FY 2014. The legislation also includes \$58.7 billion in FY 2016 advance appropriations for VA medical services, facilities, support and compliance. Also, the Food and Drug Administration (FDA) testified at a Senate appropriations hearing that the Administration’s FDA FY 2015 budget request of \$4.74 billion includes an 8% increase to fund the agency’s highest priorities, including greater oversight of compounding pharmacies in accordance with the Drug Quality and Security Act (DQSA). At another FDA hearing, the Center for Drug Evaluation and Research Director testified that the agency’s proposed rule to revise product labeling requirements for generic drug manufacturers is necessary to create parity and ensure that physicians and patients have the information in a timely manner.

Additional Actions on Health-Related Legislation

The House passed **H.R. 2575**, the “Save American Workers Act of 2014,” which would redefine “full-time employee” for purposes of the law’s employer mandate as an employee who is employed on average at least 40 hours of service a week, thus changing the current 30 hours of service a week rule. The Joint Tax Committee estimated the bill would increase the federal deficit by \$73.7 billion over ten years. The House also passed and sent to the President for his signature the bill **S. 1557**, which reauthorizes for five years the children’s hospital graduate medical education (GME) program. The Government Accountability Office (GAO) is also authorized to evaluate how the Health Resources and Services Administration (HRSA) handles these additional payments under the GME program under a provision enacted as part of the doc fix legislation. The Senate is also scheduled to take up the House-passed bill **H.R. 3979**, which would exempt volunteer firefighters and other emergency responders from being counted as employees under the PPACA’s employer mandate, which Senate Democrats will attempt to use as the vehicle to pass an extension of unemployment insurance.

PPACA Health Reform Update

Health Reform: President Says “We are on our way”

The President proclaimed that the PPACA federal and state health insurance exchanges had signed up 7.1 million individuals by the March 31st deadline and, as a result, the law is on the way to meeting the first year’s enrollment goal that was set by CBO. He also said that “if we can stop re-fighting old political battles that keep us gridlocked, then we can actually make the law work even better for everybody...” Nonetheless, Senator Orrin Hatch (R-UT) had an opposing view, stating that CBO found the same number of people could actually lose access to their employer-based coverage, that the number actually paying premiums is still unknown, and that it is unknown how many Americans signing up for coverage used to have insurance they liked and doctors they trusted before they lost them due to the law. However, U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius said that between 80-90% of the individuals who have enrolled in the exchanges have paid their premiums. The agency also announced that individuals who had “technical difficulties” in signing up under the healthcare.gov website will have until April 15th to complete the process. In addition, CMS said that Medicaid and Children’s Health Insurance Program (CHIP) enrollment increased by 3 million from October through February. At a hearing held last week, Republicans on the House Oversight and Government Reform Committee were also critical of the troubles experienced by state-run exchanges, particularly in Massachusetts, Maryland, Minnesota, Hawaii and Oregon. The executive director of the California exchange testified that his state exchange and those in four other states had enrolled over 30% of the individuals eligible in those states. In other PPACA news, the Medicare Payment Advisory Commission (MedPAC) commissioners concluded that PPACA related reductions in Medicare home health reimbursements will not have a significant impact on care quality or access for Medicare beneficiaries, although the chairman said that a better solution was to consider a different type of payment system for such providers.

Medicare/Medicaid/PHSA Corner

Medicare Physician Payment Data Disclosed

CMS announced that on April 9th the Medicare Part B physician payment and services data it has collected on more than 880,000 health care professionals will be made available on its website. The agency said the release will make the program more transparent and help uncover and prevent fraud. In other physician reporting news, CMS said that participation in the Medicare Physician Quality Reporting System (PQRS) and the Electronic Prescribing (eRx) Incentive Program grew by more than 151,000 providers between 2011 and 2012 and that the agency paid a combined \$503.15 million in incentive payments to health-care professionals through the PQRS and eRx Program in 2012.

Health IT Report Issued

Pursuant to the FDA Safety and Innovation Act (FDASIA), the FDA, Federal Communications Commission (FCC) and HHS Office of the National Coordinator for Health IT released a report proposing three categories of health IT based on function and level of risk posed to patients: i.e. administrative health IT functions; health management health IT functions; and medical device health IT functions. The recommendations for a risk-based oversight framework are designed to preserve innovation, protect patients and avoid duplicative regulations.

Medicare/Medicaid/PHSA Corner cont.***MedPAC Discusses Primary Care Bonus Payments***

The chairman of MedPAC and other members recently discussed the size of the Medicare bonus payment program for primary care practitioners and indicated that the current 10% bonus should be maintained even if Congress redesigns the bonus that would offer a monthly per-beneficiary payment and replace the current Pre-Existing Condition Insurance Plan (PCIP) program. Funding for a redesigned program was also discussed, including the possibility of reducing payments for overpriced services.

Upcoming Health-Related Hearings and Markups

House Energy and Commerce Subcommittee on Health: will hold a hearing titled “Improving Predictability and Transparency in DEA [and FDA Regulation;” 3:00 p.m., 2123 Rayburn Bldg.; April 7.

House Veterans’ Affairs Oversight and Investigations Subcommittee: will mark up draft legislation, including a bill related to biological implants; 10:00 a.m., 334 Cannon Bldg.; April 8.

House Energy and Commerce Subcommittee on Health: will hold a hearing titled “Examining the Implementation of the Tobacco Control Act;” 10:15 a.m., 2322 Rayburn Bldg.; April 8.

House Ways and Means Subcommittee on Health: will hold a hearing on Department of the Treasury’s final employer mandate and employer reporting requirements regulations related to the 2010 health care law; 2:00 p.m., B-318 Rayburn Bldg.; April 8.

Senate HELP Subcommittee on Primary Health and Aging: will hold a hearing titled “Addressing Primary Care Access and Workforce Challenges: Voices from the Field;” 10:00 a.m., 430 Dirksen Bldg.; April 9.

House Appropriations Committee: will meet to consider 302(b) allocations to the subcommittees. 10 a.m., 2359 Rayburn; April 9.

House Appropriations Committee: will mark up draft legislation that would make fiscal 2015 appropriations for military construction programs, veterans affairs and related agencies. 10 a.m., 2359 Rayburn; April 9.

House Veterans’ Affairs Health Subcommittee: will mark up pending legislation; 2:00 p.m., 334 Cannon Bldg.; April 9.

Senate Finance Committee: will hold a hearing on FY 2015 budget proposals for the Department of Health and Human Services; 10:00 a.m., 215 Dirksen Bldg. ; April 10.

Health Legislation Recently Introduced

S. 2186 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for a minimum Medicare payment rate for primary care services furnished by primary care physicians; BEGICH; to the Committee on Finance, March 31.

S. 2187 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for a five-year extension of the rural community hospital demonstration program; BEGICH; to the Committee on Finance, March 31.

S. 2190 (REFORM), to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Affordable Care Act; BLUNT; to the Committee on Finance, April 1.

S. 2191 (TAXATION), to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage, and for other purposes; ROBERTS; to the Committee on Finance, April 1.

S. 2192 (ALZHEIMER'S), to amend the National Alzheimer's Project Act to require the director of the National Institutes of Health to prepare and submit, directly to the president for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institutes) for the initiatives of the National Institutes of Health pursuant to such an act; MARKEY; to the Committee on Health, Education, Labor and Pensions, April 1.

S. 2196 (MEDICAL LIABILITY), to amend the Public Health Service Act to limit the liability of health-care professionals who volunteer to provide health-care services in response to a disaster; MURKOWSKI; to the Committee on Health, Education, Labor and Pensions, April 1.

H.R. 4351 (ALZHEIMER'S), to amend the National Alzheimer's Project Act to require the director of the National Institutes of Health to prepare and submit, directly to the president for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institutes) for the initiatives of the National Institutes of Health pursuant to such act; GUTHRIE; to the Committee on Energy and Commerce, April 1.

H.R. 4354 (REFORM), to prevent a taxpayer bailout of health insurance issuers; GRIFFIN of Arkansas; to the Committee on Energy and Commerce, April 1.

H.R. 4378 (PRIMARY CARE), to require the secretary of health and human services to issue to federal agencies guidelines for developing procedures and requirements relating to certain primary care federal health professionals completing continuing medical education on nutrition and to require federal agencies to submit annual reports relating to such guidelines, and for other purposes; GRIJALVA; to the Committee on Energy and Commerce, April 2.

H.R. 4381 (PRIVACY), to protect the privacy of individuals' personal genetic information and other personal identifier information; STOCKMAN; to the Committee on the Judiciary, April 2.

S. 2205 (REFORM), to amend the Internal Revenue Code of 1986 to exempt certain small businesses from the employer health insurance mandate and to modify the definition of full-time employee for purposes of such mandate; ENZI; to the Committee on Finance, April 3.

S. 2211 (MEDICAID), to amend Title XIX of the Social Security Act to protect the enrollment of incarcerated youth for medical assistance under Medicaid, and for other purposes; MURPHY; to the Committee on Finance, April 3.

H.R. 4384 (BIOMEDICAL RESEARCH), to provide for the establishment of a fund to provide for an expanded and sustained national investment in biomedical research; ESHOO; jointly, to the committees on Energy and Commerce, the Budget, Armed Services and Veterans' Affairs, April 3.

H.R. 4385 (MATERNAL HEALTH), to amend the Public Health Service Act to provide for the designation of maternity care health professional shortage areas; BURGESS; to the Committee on Energy and Commerce, April 3.

Health Legislation Recently Introduced cont.

H.R. 4390 (MEDICAID), to amend Title XIX of the Social Security Act to protect the enrollment of incarcerated youth for medical assistance under Medicaid, and for other purposes; **CARDENAS**; to the Committee on Energy and Commerce, April 3.

H.R. 4395 (ORAL HEALTH), to amend Part B of Title III of the Public Health Service Act to improve essential oral health care for lower-income individuals by breaking down barriers to care; **KELLY** of Illinois; to the Committee on Energy and Commerce, April 3.

H.R. 4396 (HEALTH INSURANCE COVERAGE), to prohibit the secretary of health and human services from implementing certain rules relating to the health insurance coverage of sterilization and contraceptives approved by the Food and Drug Administration; **BROUN** of Georgia; to the Committee on Energy and Commerce, April 3.

H. RES. 538 (CANCER AWARENESS), expressing support for designation of May as National Bladder Cancer Awareness Month; **CARTWRIGHT**; to the Committee on Energy and Commerce, April 3.

H.RES. 540 (NURSES), supporting the goals and ideals of National Nurses Week on May 6, 2014, through May 12, 2014; **EDDIE BERNICE JOHNSON** of Texas; to the Committee on Energy and Commerce, April 3.