



Health Policy Briefing

May 12, 2014

House Appropriators Finalize FY 2015 Federal Spending Allocations

House Passes Research Tax Credit Bill

Before recessing until next week, the House passed H.R.4438, the American Research and Competitiveness Act of 2014, on a vote of 274 to 131. Among other things, the legislation would provide for a permanent 20% tax credit for qualified or basic or research expenses that exceed 50% of such expenses for the preceding three tax years.

FY 2015 Appropriations Subcommittee Allocations

The House Appropriations Committee approved the 302(b) spending cap levels for all 12 subcommittees with the Labor/health and Human Services (HHS)/Education Subcommittee receiving \$155.7 billion which is nearly \$1 billion less than for fiscal year (FY) 2014. The \$20.9 billion allocated for the Agriculture/Food and Drug Administration (FDA) Subcommittee basically flat-lined total funding for the programs under this subcommittee’s jurisdiction. The Senate Appropriations panels have yet to be given their spending instructions for FY 2015. At a hearing on the U.S. Department of Health and Human Services (HHS) budget, **Labor/HHS Subcommittee Chair Tom Harkin (D-IA)** said he would attempt to restore funding that the President’s budget would zero out relating to efforts of the Centers for Disease Control and Prevention (CDC) to assist other countries in creating similar agencies. The CDC testified that the \$30 million in the President’s budget to help combat antimicrobial resistance is crucial to efforts to reduce the spread of the Carbapenem-resistant Enterobacteriaceae (CRE) bacteria. Senator Harkin also indicated his support of the \$2.7 billion for community health center expansion in FY 2016-18, particularly given that Patient Protection and Affordable Care Act (PPACA) mandatory funding for such efforts is to end in FY 2015. In other budget news, the Internal Revenue Service (IRS) Commissioner said his agency is reallocating funds from other agency accounts to enforce requirements under the PPACA because Congress has not followed through with agency funding requests.

Inside

House and Senate Hearings Focus on PPACA.....	2
Roundtable on 21st Century Cures.....	2
CMS Finalizes Regulatory Lookback Reforms.....	2
Medicare Coverage for ICRE Expanded.....	3
HHS OIG Broadens Provider Exclusion Rule.....	3
Request for Comments on Sunshine Rule.....	3
Veterans Health Investigation.....	3
Upcoming Health-Related Hearings and Markups.....	3
Health Legislation Recently Introduced.....	4

PPACA Health Reform Update

House and Senate Hearings Focus on PPACA

At the Senate Committee on Health, Education, Labor and Pensions (HELP) hearing on the nomination of Sylvia Mathews Burwell to be the next HHS Secretary, Ranking Member Lamar Alexander (R-TN) hinted that Republicans “want to repair the damage Obamacare has done”. When Burwell was asked whether she would support a further extension of the relief given to individuals having prior coverage that fails the minimum benefits test, she demurred. She also defended the law saying that it is projected to reduce the federal deficit and save health care costs. When asked about the number of individuals “enrolled” under the law’s exchanges, she said that the information was not yet available from the participating health insurers. At a House Energy and Commerce Subcommittee on Oversight and Investigations hearing on the same subject, three large participating insurers testified that the percentage of enrollees who had paid their premiums on time ranged from 80% to 90%. They said that the payment rates were somewhat lower for individuals whose premium grace period has yet to expire. A remaining issue which has given health care providers some worry is that individuals who are eligible for premium tax subsidies have 90 days to pay their premiums, but insurers only have to pay claims for the first 30 days if the premiums are not paid which in turn could leave providers with unpaid bills for up to 60 days. The problems with some state-run exchanges has reached a critical stage resulting in the Massachusetts exchange opting for the federal exchange rather than incur further problems and many millions to fix the problems. Whether or not the law is working fully as promised, a recent Gallup poll found that the adult uninsured rate has dropped to 13.4% in April, the lowest they have recorded to date. The Administration is also making further inroads to inform individuals who have lost their employment based coverage that they can sign up for coverage under the PPACA exchanges (via COBRA notices).

Medicare/Medicaid/PHSA Corner

Roundtable on 21st Century Cures

The House Energy and Commerce Committee held a roundtable discussion on efforts to enhance biomedical innovation during which witnesses strongly suggested that Congress take the lead in ensuring adequate funding for agency and other efforts to spur such innovation. The FDA witness said the current clinical trials system is not a “system” and that “clinical trial networks” may improve the process and save money as well. The FDA is also focusing on the “Critical Path Initiative” which is designed to bring innovative, high priority therapies to market quickly. As to the device approval process the FDA is considering the inclusion of unique device identifiers (UDIs) as part of the information in electronic health records. The National Institutes of Health (NIH) Director testified that there needs to be a steady trajectory of support funding so that scientists are more willing to take the risks necessary to advance personalized medicine and other initiatives. Chairman Fred Upton (R-MI) said his committee will take the next six months exploring the means to enhance innovation.

CMS Finalizes Regulatory Lookback Reforms

Under a final rule issued by the Centers for Medicare and Medicaid Services (CMS) as part of the President’s “lookback” initiative to reduce regulatory burdens, the agency said this one rule is estimated to save nearly \$660 million annually and \$3.2 billion over five years. Among the changes: physicians would not have to be on-site every two weeks which has burdened small critical access hospitals, rural health clinics and federally qualified health centers; ambulatory surgical centers would not have to meet the full panoply of requirements for hospitals with respect to the provision of radiological services; changes and clarifications to the Clinical Laboratory Improvement Amendments (CLIA) are intended to prevent confusion and reduce the risk of noncompliance.

Medicare/Medicaid/PHSA Corner cont.

Medicare Coverage for ICR Expanded

CMS issued a Medicare coverage decision memorandum stating that intensive cardiac rehabilitation (ICR) benefits will be expanded to include a new wellness program.

HHS OIG Broadens Provider Exclusion Rule

The HHS Office of Inspector General (OIG) issued a rule pursuant to the PPACA under which the agency's authority is expanded to exclude individuals and entities from participating in federal health-care programs for, among other things: convictions associated with the obstruction of an audit; failure to supply payment information to either Medicare or a state health-care program; and making, or causing to be made, false statements on a provider application for participation in a federal health-care program. The rule provides for mandatory exclusions up to 5 years for convictions of a program-related crime, such as patient abuse or the diversion of controlled substances. The OIG also is extended discretionary exclusion authority for the failure to supply payment information in connection with the direct provision of covered items or services.

Request for Comments on Sunshine Rule

CMS gave notice it is seeking further comments about the "detailed processes" involving dispute resolution and the correction procedures proposed in the final "sunshine" rule on drug and device company payments to doctors and teaching hospitals.

Veterans Health Investigation

The Chairman of the House Committee on Veterans Affairs, Rep. Jeff Miller (R-FL), justified his committee's action to approve a subpoena of the U.S. Department of Veterans Affairs given the agency's "stonewalling" over allegations that it used secret waiting lists to cover up long wait times for veterans seeking appointments. Up to 40 deaths were attributed to the problem according to news reports.

Upcoming Health-Related Hearings and Markups

Senate HELP Committee: will hold a hearing titled "Progress and Challenges: The State of Tobacco Use and Regulation in the U.S;" 2:30 p.m., 430 Dirksen Bldg.; May 15.

Senate Veterans' Affairs Committee: will hold a hearing on the state of veterans' health care. 10 a.m., 106 Dirksen; May 15.

Health Legislation Recently Introduced

S. 2276 (MILITARY HEALTH), to amend Title 10, U.S. Code, to improve access to mental health services under the TRICARE Program; BLUNT; to the Committee on Armed Services, May 1.

S. 2278 (REFORM), to amend the Affordable Care Act so as to eliminate the authority of the secretary of health and human services to limit the ability of medical providers to conduct lawful business, and for other purposes; COBURN; to the Committee on Health, Education, Labor and Pensions, May 1.

H.R. 4543 (REFORM), to amend the Affordable Care Act so as to eliminate the authority of the secretary of health and human services to limit the ability of medical providers to conduct lawful business, and for other purposes; COBURN; to the Committee on Health, Education, Labor and Pensions, May 1.

H.R. 4561 (VETERANS' HEALTH), to specify requirements for the next update of the current strategic plan for the Office of Rural Health of the Department of Veterans Affairs for improving access to, and the quality of, health-care services for veterans in rural areas; SHEA-PORTER; to the Committee on Veterans' Affairs, May 1.

H. RES. 563 (ASTHMA AND ALLERGY AWARENESS), expressing support for designation of May as National Asthma and Allergy Awareness Month; SHEA-PORTER; to the Committee on Energy and Commerce, May 1.

H. RES. 564 (HEALTH AND FITNESS), expressing support for designation of May 2014 as Health and Fitness Month; VEASEY; to the Committee on Energy and Commerce, May 1.

S. 2291 (ABORTION), to require that Peace Corps volunteers be subject to the same limitations regarding coverage of abortion services as employees of the Peace Corps with respect to coverage of such services, and for other purposes; SHAHEEN; to the Committee on Foreign Relations, May 6.

H.R. 4574 (MENTAL HEALTH), to maximize the access of individuals with mental illness to community-based services, to strengthen the impact of such services, and for other purposes; BARBER; jointly, to the committees on Energy and Commerce, Ways and Means, the Judiciary, Armed Services, Veterans' Affairs, Education and the Workforce and Natural Resources, May 7.

H.R. 4577 (MEDICARE), to amend Title XVIII of the Social Security Act to ensure equal access of Medicare beneficiaries to community pharmacies in underserved areas as network pharmacies under Medicare prescription drug coverage, and for other purposes; GRIFFITH of Virginia; jointly, to the committees on Energy and Commerce and Ways and Means, May 7.

H.R. 4578 (ABORTION), to require that Peace Corps volunteers be subject to the same limitations regarding coverage of abortion services as employees of the Peace Corps with respect to coverage of such services, and for other purposes; LOWEY; to the Committee on Foreign Affairs, May 7.

H.RES. 564 (HEALTH AND FITNESS), expressing support for designation of May 2014 as Health and Fitness Month; VEASEY; to the Committee on Energy and Commerce, May 1.

H. RES. 570 (MALARIA), supporting the goals and ideals of World Malaria Day; CRENSHAW; to the Committee on Foreign Affairs, May 7.

H.RES. 572 (MENTAL HEALTH), expressing support for designation of the first full week of May as National Mental Health No Stigma Week; PETERS of California; to the Committee on Oversight and Government Reform, May 7.

S. 2300 (MILITARY HEALTH), to amend Title 10, U.S. Code, to require the secretary of defense to conduct periodic mental health assessments for members of the armed forces and to submit reports with respect to mental health, and for other purposes; DONNELLY; to the Committee on Armed Services, May 7.

Health Legislation Recently Introduced cont.

H.R. 4592 (HEREDITARY HEMORRHAGIC TELANGIECTASIA), to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes; GERLACH; jointly, to the committees on Energy and Commerce and Ways and Means, May 7.

H.R. 4600 (TAXATION), to amend the Internal Revenue Code of 1986 to allow a deduction for premiums for insurance which constitutes medical care; KING of Iowa; to the Committee on Ways and Means, May 7.

H.R. 4605 (CHIP), to amend Title XIX of the Social Security Act to provide states an option to cover a children's program of all-inclusive coordinated care (ChiPACC) under Medicaid; ELLMERS; to the Committee on Energy and Commerce, May 8.