



## Health Policy Briefing

June 10, 2013

### President Obama Threatens to Veto House-Passed Appropriations Bills

#### *Appropriations Process Slides Into Threats of Veto and Government Shutdown*

Last week the House passed H.R. 2216, the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act for fiscal year 2014 (including \$63.1 billion in discretionary funds for the VA) as well as H.R. 2217, the FY 2014 Department of Homeland Security Appropriations Act. Of note, the Rule adopted by the House, which provided for the consideration of the two bills, includes a provision that will allow House members to enforce the spending caps adopted by the House in its FY 2014 budget resolution (H.Con.Res. 25) until the House and Senate agree to a final spending total. The House budget plan also assumes that the spending constraints included under the sequestration measures of the Budget Control Act (BCA) will continue for the 10-year period FY 2014-2023. However, the House Armed Services Committee took a shot at sequestration in passing H.R. 1960, the FY 2014 defense bill which authorized \$638.4 billion in discretionary and mandatory spending, \$52 billion above the cap set under sequestration. Reflective of the effort likely to take place in the Senate to curtail the effects of sequestration, during the House Appropriations

Committee markup of H.R. 2216, Republicans defeated an amendment by **Rep. Rosa DeLauro (D-CT)** that would have replaced \$150 billion in cuts from sequestration with more than \$182 billion in tax increases and other spending reductions. The \$967 billion in spending constraints and the shifting of the effects of sequestration from defense to domestic programs under the House appropriations measures led the White House to declare that the President will not sign any FY 2014 spending bills unless Republicans agree to a broad budget deal (in which the Administration and congressional Democrats would like to include revenue increases to offset the effect of sequestration,

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particularly on non-defense programs). **House Speaker John Boehner (R-OH)** said the veto threat was reckless and that “the president said give him higher taxes and higher spending or we’ll shut down the government...” Notwithstanding the Speaker’s reaction, several Senate Republicans continue to meet with White House officials and Senate Democrats in an effort to craft a budget deal which would include, at least, some entitlement reform. In contrast to the House’s embrace of sequestration, the **Senate Appropriations Chairwoman Barbara Mikulski (D-MD)** said her committee will attempt to ameliorate the effect of sequestration and use a higher FY 2014 spending cap of \$1.058 trillion. She said her committee will take up the Milcon/VA appropriations bill during the week of June 17th. The House Appropriations Committee is on track to take up the Agriculture/Food and Drug Administration (FDA) appropriations bill after last week’s approval of the legislation by voice vote in subcommittee. The FDA would receive almost \$2.5 billion in discretionary funding under the bill, an increase of \$24 million above the FY 2013 enacted level, and total funding of \$4.3 billion, including user fees. As has been the case in the past, it is expected that the House will delay taking up the Labor-HHS-Education appropriations bill until the end of the appropriations season (if then), particularly given the decrease in FY 2014 discretionary budget authority to \$121.8 billion from this year’s \$150 billion. In contrast, **Senate Labor-HHS-Appropriations Subcommittee Chairman Tom Harkin (D-IA)** said he intends to mark up his bill in July.

### *House Passes FDA Legislation*

**A**s scheduled, the House passed H.R. 1919, the “Safeguarding America’s Pharmaceuticals Act of 2013,” legislation designed to help ensure drug safety by establishing a uniform national standard for securing the pharmaceutical distribution supply chain. The House also passed and sent to the President for his signature S. 622, the “Animal Drug and Animal Generic Drug User Fee Reauthorization Act of 2013.”

## **PPACA Health Reform Update**

### *House Republican PPACA “Repeal and Replace” Plan*

**R**ep. Tom Price (R-GA) announced that House Republicans will soon release legislation that would repeal the PPACA and replace the law without individual and employer mandates. He said the bill would: give tax deductions and tax credits to individuals to buy private health insurance; make employer-sponsored coverage “portable”; provide risk pool mechanisms to allow uninsured high-risk individuals with preexisting conditions to purchase coverage; and provide for medical malpractice reform. Senator Orrin Hatch (R-UT) also took a shot at the health law when he asked the Departments of Health and Human Services (HHS) and Treasury for an explanation of why the President’s budget requested a 107% increase in funding for advance premium tax credits. At a House Committee on Education and the Workforce hearing, HHS Secretary Kathleen Sebelius defended her PPACA outreach efforts to increase coverage and said she did not solicit funds from officials in the health care industry to support implementation of the law.

### **PCORI RFP**

**T**he Patient-Centered Outcomes Research Institute (PCORI) released a Request for Proposal for applicants to create a Coordinating Center to provide technical and logistical support to the individual components of a new National Patient-Centered Clinical Research Network.

## Medicare/Medicaid/Public Health Services Corner

### *House Hearing on MD Payment Refor*

**A**t the House Energy and Commerce Health Subcommittee hearing on the committee's draft legislation designed to replace the current Medicare physician payment sustainable growth rate (SGR) system, both Republican and Democrat leaders agreed that they have a consensus on which direction and the broad policy goals needed to ensure that reform happens this year. Nonetheless, some Democrats were not convinced that the specifics of the proposal are adequate to move providers to new payment models and away from fee-for-service medicine in a timely fashion. Several witnesses suggested that the legislation: provide a minimum 5-year period of payment stability after repealing the SGR; provide bonus pay-for-performance payments from 5-10%; use a national performance benchmark to measure physician performance to help foster best practices; and provide mechanisms to develop better quality of care measurement. Further comments on the draft bill are due on Monday, June 10th. The chairman said his intent is to move the legislation to the House floor by the August congressional recess.

### *President Addresses NCMH*

**A**t the National Conference on Mental Health (NCMH), President Obama delivered remarks urging Americans to "help bring mental illness out of the shadows" and promising new resources to support efforts to improve the current rate of mental illness treatment (about 40% of estimated illnesses). The conference discussed the PPACA's mandates for treating mental illness; the President's budget which would provide \$130 million in new funding to help teachers and other education professionals identify signs of mental illness in students and refer them for treatment; as well as several new private initiatives. The status of mental health legislation, S. 264 and S. 689, remains uncertain in light of the stalled efforts on legislation designed to curb gun violence.

### *Medicare Data Released*

**H**HS announced the release of Medicare data sets containing information designed to help researchers and consumers better understand Medicare spending and improve program transparency. The data include certain information on hospital outpatient charges and county-level Medicare spending and utilization.

### *Managed-Care Data Reporting for Dual-Eligibles*

**T**he Centers for Medicare and Medicaid Services (CMS) has requested comments by June 14 on new draft reporting rules requiring managed care plans serving Medicare/Medicaid dual-eligibles to provide information on access, assessment, care coordination, enrollee protections, organizational structure and staffing, provider network, systems and utilization.

### *Reporting System for Medical Errors*

**T**he Agency for Healthcare Research and Quality (AHRQ) gave notice it is seeking clearance from the Office of Management and Budget (OMB) for a pilot "Prototype Consumer Reporting System for Patient Safety Events." The agency said consumers would be able to submit online or phone reports under the system describing "medical errors" that "resulted in harm or injury."

## Upcoming Hearings and Markups on Health-Related Legislation

**House Energy and Commerce Health Subcommittee:** will hold a hearing entitled “*The Need for Medicaid Reform: A State Perspective;*” 10:00 a.m., 2322 Rayburn Bldg; June 12.

**House Energy and Commerce Environment and the Economy Subcommittee:** will hold a hearing titled “*Title I of the Toxic Substances Control Act: Understanding its History and Reviewing its Impact;*” 10:15 a.m., 2322 Rayburn Bldg; June 13.

**House Energy and Commerce Health Subcommittee:** will hold a hearing titled “*Examining the Federal Government’s Response to the Prescription Drug Abuse Crisis;*” 9:30 a.m., 2123 Rayburn Bldg; June 14.

**House Ways and Means Health Subcommittee:** will hold a hearing to review proposals to *Overhaul Post-Acute Care Payments Under Medicare;* 9:30 a.m., 1100 Longworth Bldg; June 14.

## Health Legislation Recently Introduced

**S. 1089 (PRESCRIPTION DRUGS)**, to provide for a prescription drug take-back program for members of the armed forces and veterans, and for other purposes; COLLINS; to the Committee on the Judiciary, June 4.

**S. 1091 (ALZHEIMER’S DISEASE)**, to provide for the issuance of an Alzheimer’s Disease Research Semipostal Stamp; MIKULSKI; to the Committee on Homeland Security and Governmental Affairs, June 4.

**H.R. 2285 (PUBLIC HEALTH), Strategies To Address Antimicrobial Resistance (STAAR) Act to amend the Public Health Service Act to enhance efforts to address antimicrobial resistance, and for other purposes;** MATHESON; to the Committee on Energy and Commerce, June 6.

**H.R. 2286 (OUTCOMES), to promote optimal maternity outcomes by making evidence-based maternity care a national priority, and for other purposes;** ROYBAL-ALLARD; jointly, to the committees on Energy and Commerce and Ways and Means, June 6.

**H.R. 2300 (HEALTH INSURANCE COVERAGE)**, to provide for incentives to encourage health insurance coverage, and for other purposes; PRICE of Georgia; jointly, to the committees on Energy and Commerce, Education and the Workforce, Ways and Means, the Judiciary, Natural Resources, House Administration, Rules, Appropriations, the Budget, and Oversight and Government Reform, June 6.

**H.R. 2301 (CLINICAL TRIAL REGISTRY DATA BANK)**, to amend the Public Health Service Act to enhance the clinical trial registry data bank reporting requirements and enforcement measures; REED; to the Committee on Energy and Commerce, June 6.

**H.R. 2302 (MEDICARE)**, the Hospice Evaluation and Legitimate Payment (HELP) Act to amend Title XVIII of the Social Security Act to strengthen and protect Medicare hospice programs; REED; jointly, to the committees on Ways and Means and Energy and Commerce, June 6.