



Health Policy Briefing

June 22, 2015

House Appropriations Continue Work on Spending Bills, Despite Protests from Democrats

Labor-HHS-Education, AG-FDA Advance

The House Appropriations Labor, Health and Human Services, and Education Subcommittee approved its fiscal year (FY) 2016 spending bill by voice vote last week, with dissention from Democratic members. The bill would provide \$153 billion in discretionary funding, which is \$3.7 billion less than the current spending level and \$14.6 billion less than requested in the President’s budget.

- The U.S. Department of Health and Human Services (HHS) would receive a total of \$71.3 billion, an increase of \$298 million over previous spending levels but \$3.9 billion lower than the President’s request.
 - The National Institutes of Health (NIH) would receive a \$1.1 billion increase over 2015 spending levels, and \$100 million more than the President requested. Notably, the NIH’s Institutional Development Awards Program, aimed at directing research money into rural states, would receive a 14 percent budget increase.
 - The Centers for Disease Control and Prevention (CDC) would receive \$7 billion, a \$140 million increase over the previous year and equal to the funding sought by the President. This includes an increase of \$50 million over the current spending level to combat prescription drug abuse, totaling \$70 million – \$2 million more than sought by President Obama.
 - The Centers for Medicare and Medicaid Services (CMS) would receive \$3.3 billion, \$344 million less than the current level and \$949 million less than included in the President’s budget.
 - The Health Resources and Services Administration (HRSA) would receive \$6 billion, a decrease of \$299 million compared to 2015 and \$413 million less than requested by the President.
 - Through a special provision known as a bypass budget, Alzheimer’s research would receive an additional \$300 million in funding. A bypass budget will allow the NIH to prepare a separate budget each year through FY 2025 based on the National Plan to Address Alzheimer’s Disease.
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- \$100 million is appropriated for the President's Antibiotic Resistance Initiative.

The spending bill would eliminate the Agency for Healthcare Research and Quality (AHRQ). An amendment to save the agency from Rep. Lucille Roybal-Allard (D-Calif.) was rejected along party lines. House Labor-HHS-Education Chairman Tom Cole (R-Okla.) defended the elimination of AHRQ citing its mission as duplicitous of work being done elsewhere in the federal government. The Labor-HHS-Education FY 2016 spending bill would prohibit the use of any new discretionary funding to implement the Affordable Care Act (ACA). The spending bill that will impact the Food and Drug Administration (FDA) was advanced by the House Appropriations Agriculture, Rural Development, and FDA Subcommittee last week as well. The bill includes \$2.6 billion in discretionary spending for the FDA and a total budget of \$4.6 billion, \$106 million more than FY 2015. This includes a \$4.2 million increase for medical product safety. Appropriators continue to operate under sequestration ceilings in the writing of FY 2016 spending bills. In response, Democrats are threatening to filibuster spending bills that adhere to these caps in a push for bipartisan budget negotiations. Meanwhile, top Democrats in the Senate continue to demand that the majority schedule bipartisan budget negotiations to ease sequestration levels for the coming fiscal year. Senate Minority Leader Harry Reid (D-Nev.), Senate Democratic Whip Dick Durbin (D-Ill.), Sen. Charles Schumer (D-N.Y.), and Sen. Patty Murray (D-Wash.) sent a letter to Senate Majority Leader Mitch McConnell (R-Ky.) and other leaders of the Senate Republican Conference, including Senate Republican Whip John Cornyn (R-Texas), Republican Conference Chairman John Thune (R-S.D.), Republican Policy Chairman John Barrasso (R-Wyo.) and Vice Chairman Roy Blunt (R-Mo.) last week, continuing to urge Republicans to hold a budget summit as soon as possible.

House Passes Medical Device Tax Repeal, Makes Progress on Other Health Legislation

The House voted to repeal the Affordable Care Act's (ACA) 2.3 percent excise tax on medical device manufacturers last week. H.R. 160, the Protect Medical Innovation Act of 2015, was passed 280-140, with 46 Democrats joining every Republican in voting for the measure. The bill will cost \$24.4 billion over the next decade, and was approved without an offset. The House also passed four bipartisan bills dealing with the Medicare Advantage (MA) program, including

- H.R. 2570, the Value-Based Insurance Design for Better Care Act of 2015, to establish a demonstration program requiring the utilization of Value-Based Insurance Design;
- H.R. 2507, the Increasing Regulatory Fairness Act of 2015, to establish an annual rulemaking schedule for payment rates under Medicare Advantage;
- H.R. 2505, the Medicare Advantage Coverage Transparency Act of 2015, to require the annual reporting of data on enrollment in Medicare Advantage plans; and
- H.R. 2582, the Securing Seniors' Health Care Act of 2015, to improve the risk adjustment under the Medicare Advantage program, and to delay the authority to terminate Medicare Advantage contracts for MA plans failing to achieve minimum quality ratings.

The first three bills were scored as budget neutral according to the Congressional Budget Office. H.R. 2582 would result in \$30 million in savings. H.R. 2570 also includes provisions related to electronic health records (EHRs) for ambulatory surgical centers (ASCs) and reimbursement for infusion drugs under the Medicare Part B durable medical equipment (DME) benefit. The House also began consideration of legislation to repeal ACA's Independent Payment Advisory Board (IPAB) last week. The cost of H.R. 1190, the Protecting Seniors' Access to Medicare Act of 2025, is estimated at \$7.1 billion through the year 2025. This cost is offset by cuts to the ACA's Public Health and Prevention Fund. The House is scheduled to vote on H.R. 1190 later this week. Both H.R. 160 and H.R. 1190 have received veto threats from the White House.

Lawmakers Express Opposition to 21st Century Cures Offset

Forty bipartisan members of the House of Representatives have **written** to Speaker John Boehner (R-Ohio) and Minority Leader Nancy Pelosi (D-Calif.) expressing opposition to a measure that would take \$7 billion from Medicare Part D plans in order to pay for the 21st Century Cures Act. The proposed offset would delay certain government reinsurance payments to insurers while keeping the interest payments. The letter was spearheaded by Rep. Renee Ellmers (R-N.C.) and Rep. Ron Kind (D-Wis.). “The proposed budgetary change would not reduce federal spending or bureaucracy, but instead would result in increased Part D costs that ultimately would be passed on to the Medicare Trust Fund and its beneficiaries. This change is effectively a tax on America’s seniors,” the letter states. While the letter does not mention the 21st Century Cures Initiative by name, the proposal is known to be the preferred offset of Energy and Commerce Ranking Member Frank Pallone (D-N.J.).

Medicare & Medicaid News

MedPAC Releases June Report to Congress

The Medicare Payment Advisory Commission (MedPAC) has released its June 2015 Report to the Congress, titled “Medicare and the Health Care Delivery System.” The report considers a wide range of subjects, including hospital short-stay policy issues, payment policies for Part B drugs, value-based incentives for Part B drugs, polypharmacy and opioid use, risk-sharing in Part D, synchronizing policy across Medicare’s payment models, next steps in measuring quality, and the next generation of Medicare beneficiaries. Notably, MedPAC recommends that the two-midnight rule be withdrawn, and that recovery audit contractors (RACs) should be directed to focus reviews of short inpatient stays on hospitals with the highest rates of this type of stay. Additionally, the Commission recommends that RAC’s contingency fees should be modified to be based, in part, on its claim denial overturn rate, and the RAC look-back period should be shorter than the Medicare rebilling period for short inpatient stays.

Affordable Care Act Update

CBO: ACA Repeal Would Cost \$353 Billion

Repeal of the Affordable Care Act (ACA) would increase budget deficits by \$353 billion over the next decade, according to a new report released by the Congressional Budget Office (CBO) last week. This is a significant increase over the last estimated cost of repeal using traditional scoring practices conducted 2012, which found that repeal of the law would only cost \$109 billion. The CBO and the Joint Committee on Taxation (JCT) also conducted a dynamic score to estimate what repeal of the ACA would cost taking into consideration the macroeconomic effects of the law, and found that the national debt would increase by \$137 billion over the next ten years. This projection is the first dynamic cost estimate conducted by the CBO and JCT since new congressional rules requiring the dynamic scoring of major legislation took effect earlier this year. CBO found that in the decade after 2025, repeal would increase the deficit by 1 percent of GDP. The report estimates that 19 million people would lose health insurance in this scenario in 2016, and an additional 24 million people would lose coverage between 2021 to 2025. The report also asserts that ACA repeal would be hard to execute, and outlines the major challenges and complications repeal would entail. The new CBO estimate will make any Republican plan to use reconciliation to repeal the health care law even more difficult, because the Republican written reconciliation instructions require any measure moved using reconciliation to reduce the deficit.

Upcoming Congressional Meetings and Hearings

Senate Appropriations Labor, Health and Human Services, Education and Related Agencies Subcommittee: *markup of draft fiscal 2016 appropriations for programs under its jurisdiction; 3:00 p.m., 128 Dirksen Bldg.; June 23*

House Energy and Commerce Health Subcommittee: *hearing on public health legislation, including HR 1344 — A bill to amend the Public Health Service Act to reauthorize a program for early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children; HR 1462 — Protecting Our Infants Act; and HR 2820 — The Stem Cell Therapeutic and Research Reauthorization Act (official title to be confirmed); 10:15 a.m., 2123 Rayburn Bldg.; June 23*

House Energy and Commerce Health Subcommittee: *hearing titled “Examining the Administration’s-Approval of Medicaid Demonstration Projects;” 10:00 a.m., 2123 Rayburn Bldg.; June 24*

House Ways and Means Oversight Subcommittee: *hearing on rising health insurance premiums under Obamacare; 10:00 a.m., 1100 Longworth Bldg.; June 24*

House Veterans Affairs Disability Assistance and Memorial Affairs Subcommittee: *hearing on pending legislation, including the following health bill: H.R. 2214 - A bill to improve the authority of the Secretary of Veterans Affairs to enter into contracts with private physicians to conduct medical disability examinations; 2:00 p.m., 334 Cannon Bldg.; June 24*

Health Legislation Recently Introduced

S. 1574 (COMMUNITY CARE), to amend the Older Americans Act of 1965 to establish a community care wrap-around support demonstration program, a pilot project on services for recipients of federally assisted housing, and a national campaign to raise awareness of the aging network and to promote advance integrated long-term care planning, and for other purposes; MERKLEY; to the Committee on Health, Education, Labor, and Pensions; June 15

S. 1588 (MENTAL HEALTH), to amend the Public Health Service Act to revise and extend projects relating to children and violence to provide access to school-based comprehensive mental health programs; FRANKEN; to the Committee on Health, Education, Labor, and Pensions; June 16

H.R. 2799 (TELEHEALTH), to amend title XVIII of the Social Security Act to expand access to stroke telehealth services under the Medicare program; GRIFFITH; jointly, to the committees on Energy and Commerce and Ways and Means; June 17

H.R. 2805 (OPIOID ABUSE), to address prescription opioid abuse and heroin use; BROOKS; jointly, to the committees on Energy and Commerce and the Judiciary; June 17

H.R. 2812 (INSURANCE PREMIUMS), to amend the Internal Revenue Code of 1986 to allow a deduction for premiums for insurance which constitutes medical care; KING; to the Committee on Ways and Means; June 17

S. 1597 (MEDICAL PRODUCT DEVELOPMENT), to enhance patient engagement in the medical product development process, and for other purposes; WICKER; to the Committee on Health, Education, Labor, and Pensions; June 17

S. 1602 (EHR), to amend title XVIII of the Social Security Act to allow certain hospitals in Puerto Rico to qualify for incentives for adoption and meaningful use of certified EHR Technology under the Medicare program, and for other purposes; MENENDEZ; to the Committee on Finance; June 17

S. 1604 (MEDICAID), to establish the Transition to Independence Medicaid Buy-In Option demonstration program; GRASSLEY; to the Committee on Finance; June 18

Health Legislation Recently Introduced cont.

S. 1622 (DEVICES), to amend the Federal Food, Drug, and Cosmetic Act with respect to devices; BURR; to the Committee on Health, Education, Labor, and Pensions; June 18

H.R. 2819 (PPACA), to amend the Public Health Service Act to make certain provisions relating to health insurance inapplicable in a State that does not have an exchange established by the State under section 1311 of the Patient Protection and Affordable Care Act; GOSAR; to the Committee on Energy and Commerce; June 18

H.R. 2820 (STEM CELL RESEARCH), to reauthorize the Stem Cell Therapeutic and Research Act of 2005, and for other purposes; SMITH; to the Committee on Energy and Commerce; June 18

H.R. 2829 (PPACA), to repeal the Patient Protection and Affordable Care Act and health care-related provisions in the Health Care and Education Reconciliation Act of 2010, and for other purposes; jointly, to the committees on Energy and Commerce, Ways and Means, Education and the Workforce, Natural Resources, the Judiciary, House Administration, Rules, Appropriations, and the Budget; June 18

H.R. 2841 (COMPETITIVE ACCESS), to amend the Federal Food, Drug, and Cosmetic Act to ensure that eligible product developers have competitive access to approved drugs and licensed biological products, so as to enable eligible product developers to develop and test new products, and for other purposes; STIVERS; to the Committee on Energy and Commerce; June 18

H.Con.Res. 57 (MEN'S HEALTH), supporting National Men's Health Week; PAYNE; to the Committee on Oversight and Government Reform; June 18