



Health Policy Briefing

September 3, 2013

Grand Budget Deal Off the Table; Six Weeks Until Current Debt Ceiling Reached

Short-Term CR Likely When Congress Returns

House Republican leaders have indicated they will seek to pass a two month continuing resolution (CR) after Congress returns September 9th. Whether successful or not, it is hoped that by deferring action on a federal funding measure until December they can ramp up pressure on the Administration to agree on a measure to repeal at least some parts of the PPACA and to trim federal spending as a tradeoff for increasing the federal debt limit.

Rep. Mick Mulvaney (R-SC) publicly stated that he and other House Republicans will still push to repeal provisions such as the Patient Protection and Affordable Care Act's (PPACA) 2.3% tax on medical devices during the CR debate. A possible hitch in this strategy may involve a recent announcement by **Treasury Secretary Jack Lew** that the extraordinary measures the Treasury could take to avoid breaching the current federal debt limit (\$16.7 trillion) could run out by mid-October. It can be anticipated that the President will pursue his stated goal to have Congress extend the debt ceiling under a clean bill before the deadline. Deferring an agreement

on full fiscal year (FY) 2014 spending is unlikely to change the President's position on increasing tax revenue in any proposed long-term spending/tax agreement. In this connection, the Senate "Gang of Eight" Republicans have broken off discussions with the White House over a more limited agreement to reform entitlement spending.

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PPACA Health Reform Update

GOP Remains Skeptical of Successful Launch of PPACA

Senator Lamar Alexander (R-TN), the ranking member on the Senate Health, Education, Labor and Pensions (HELP) Committee, again called for the repeal of the PPACA while citing what he said is an avalanche of last-minute delays regarding the implementation of federal and state health insurance exchanges. A statement from Republican leaders on the House Energy and Commerce Committee echoed the charge that the law is not “ready for prime time” given the Administration’s 12-month delay of the employer mandate, out-of-pocket limits and multiple choice of plans in Small Business Health Options Program (SHOP) small business exchanges. The Republican leaders also said they will examine the navigator program and sent letters to related navigator organizations (who have received \$67 million in Health and Human Services (HHS) funding) asking them to answer questions on their use of the funds and related HHS and outside group communications, the training of navigators, the monitoring of navigators and, particularly, what safeguards will be in place to ensure the privacy of enrollee personal and financial information. In addition, Senators David Vitter (R-LA) and Mike Enzi (R-WY) said they will introduce legislation when Congress returns which would repeal the Office of Personnel Management (OPM) rules under the PPACA that provides for the federal government to continue making employer-contributions for the health coverage obtained under health insurance exchanges by members of congress and their personal staff.

Final IRS Rules on PPACA Individual Mandate

The Internal Revenue Service (IRS)/Department of Treasury issued final rules defining the terms under which individuals are required under Section 5000A of the PPACA to maintain “minimum essential coverage” beginning in 2014 or to otherwise make a “shared responsibility payment” with their individual income tax forms. An exception to the mandate is defined when coverage available under group plans, individual plans, Medicare/Medicaid, Children’s Health Insurance Program (CHIP), Tricare, etc. is “unaffordable”, that is when health coverage would otherwise cost more than 8% of household income. Other exceptions from reporting requirements and the mandate are made for: hardship; short coverage gaps; religious conscience objections and health care sharing ministries; taxpayers with income below the filing threshold; members of Indian tribes; incarcerated individuals; and individuals who are not lawfully present. In another IRS/HHS/Department of Labor (DOL) action, the agencies have asked for public comment on interim final rules regarding pre-existing condition exclusions, lifetime and annual dollar limits on benefits, rescissions and patient protections for group health plans and health insurance coverage.

Final HHS Rules on PPACA Health Insurance Exchanges

HHS issued final rules for online health insurance marketplaces/exchanges defining the standards applicable to eligibility appeals, agents and brokers, privacy and security, issuer direct enrollment and the handling of consumer cases. The rule also allows a state to operate its own SHOP exchange even though HHS operates a federally facilitated marketplace (FFM) for individuals in the same state. For FFMs in 34 states which do not operate their own exchanges, the rules set standards establishing oversight of health insurance issuers, although states retain their role in regulating the individual and small group markets. In cases of “egregious misconduct”, civil monetary penalties can be imposed on qualified health plans offering coverage in the exchanges.

Medicare/Medicaid/Public Health Services Corner

House Republican White Paper on Medicare Reform

House Energy and Commerce Committee and Ways and Means Committee Republican leaders—full committee and subcommittee chairmen Fred Upton (R-MI), Joe Pitts (R-PA), Dave Camp (R-MI) and Kevin Brady (R-TX)—released a document which is designed to make the case for Medicare reform. The first installment of a series, *Modernizing Medicare for the 21st Century*, examines (1) the traditional Medicare cost-sharing framework and the impact current thresholds have on beneficiaries – often leaving them unprotected against catastrophic costs; (2) the impact of supplemental coverage with low cost-sharing requirements that reduce incentives to seek cost-effective care; and (3) how modernizing the traditional cost-sharing features could better align beneficiary incentives, ensure beneficiaries greater out-of-pocket predictability and reduce overall Medicare costs. In particular, it is suggested that the traditional benefit structure could be replaced with (1) the establishment of a single combined annual deductible for Medicare Parts A and B; (2) a simplified coinsurance rate that is applicable to spending above the annual deductible; and (3) a reasonable catastrophic limit on out-of-pocket beneficiary costs. The leaders hope the series of papers will help form a bipartisan consensus on the means Medicare reform should take.

Members Request HHS OIG Review of DME Bidding Program

At the request of Reps. Glenn Thompson (R-PA) and Bruce Braley (D-IA), the HHS Office of Inspector General (OIG) announced it will conduct a review of the Centers of Medicare and Medicaid Services (CMS) competitive bidding program for durable medical equipment in Maryland, Michigan, Ohio and Tennessee. The members expressed concern over licensure issues and want the OIG to determine whether unlicensed Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) providers were awarded contracts under the bidding program.

AHRQ Program to Help Reduce Unnecessary ER Visits

The Agency for Healthcare Research and Quality (AHRQ) announced the inauguration of a research study, *Pilot Test of an Emergency Discharge Tool*, to test a discharge tool that has the potential to reduce unnecessary visits to hospital emergency departments and eliminating related emergency room (ER) expenditures. The pilot project will be tested in three Maryland emergency departments in order to assess the tools feasibility, methodology, costs and outcomes.

Upcoming Committee Health Hearings

Committee on Veterans' Affairs: Full Committee hearing titled "A Matter of Life and Death: Examining Preventable Deaths, Patient-Safety Issues and Bonuses for VA Execs Who Oversaw Them," 9:00 a.m., Sept. 9.

Committee on Homeland Security, Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies hearing titled "The Threat to Americans' Personal Information: A Look into the Security and Reliability of the Health Exchange Data Hub," 2:00 p.m., Sept. 11.

Committee on Veterans' Affairs: Subcommittee on Disability Assistance and Memorial Affairs hearing titled "Implementation Update: Fully Developed Claims," 3:00 p.m., Sept. 11.