



## FY 2013 Budget Take Center Stage; PPACA Targeted by Republicans

### *Budget Deliberations*

Although the law increasing the federal debt limit includes a \$1.047 trillion discretionary spending limit cap on FY 2013 appropriations, House Republicans are considering even lower limits as they craft a new budget resolution. One would reduce the amount to \$950 billion derived by subtracting the amount that would be taken away from FY 2013 discretionary appropriations if the \$97 billion in automatic spending sequestrations now scheduled for next January are allowed to take effect. Another alternative set at \$931 billion would be determined by using the previous House budget resolution (\$1.028 trillion) and subtracting the \$97 billion sequestration amount. The House Budget Committee is expected to unveil their budget blueprint during the third week in March.

In the Senate, **Majority Leader Harry Reid** has indicated that he will not bring a budget resolution to the floor. However, both he and **Minority Leader Mitch McConnell** have agreed to bring appropriations bills to the Senate floor, perhaps as early as in April, which would conform to the \$1.047 spending limit. With the \$1.2 trillion in 10-year's worth of sequestration scheduled

to begin next January, **Defense Secretary Leon Panetta** said, in Senate Budget Committee hearing, that the Administration wants to work with Congress to avoid the cuts. A budget deal would have to come in the short span of less than two months in a lame-duck session after the November elections. **House Minority Leader Steny Hoyer** has also called for a "grand bargain" to address long-term federal deficit concerns and the Medicare physician payment SGR problem.

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## Senate Defeats Blunt PPACA Amendment

The Senate voted 51-48 to turn back a PPACA-related amendment offered by **Senator Roy Blunt** that would overturn the HHS rule requiring religious-based organizations to provide certain women's contraceptive coverage under their fully-insured and self-insured health plans. The amendment provides that when a plan sponsor drops such coverage because of moral objections, additional coverage of equivalent actuarial value would have to be substituted. **Senator Susan Collins** asked for clarification of the rule from **HHS Secretary Kathleen Sebelius**. She responded that the President

is "committed to rulemaking to ensure access to these important preventive services in fully insured and self-insured group health plans while further accommodating religious organizations' beliefs. We are engaging in a collaborative process with affected stakeholders including religiously affiliated employers, insurers, plan administrators, faith-based organizations and women's organizations as we develop policies in this area." **Senator Blunt** offered that the HHS rule would, nonetheless, be overturned in federal court in the suit recently brought to contest the rule.

## HHS Grilled on PPACA Implementation and Budget

At a House Energy and Commerce Health Subcommittee hearing, Republicans were critical of HHS for missing regulatory deadlines and asked why final regulations have not been issued to give guidance to states and plan sponsors regarding guaranteed issue of coverage, health plan accreditation, the content of essential health benefits and the establishment of state health insurance exchanges. **HHS Secretary Kathleen Sebelius** said final or interim final regulations will

be issued soon. In addition, House Ways and Means Republicans also asked HHS and Treasury why the OMB increased its estimate of PPACA premium subsidy costs by \$111 billion in the President's FY 2013 budget proposal. Treasury answered that one-third of change is for "technical" reasons while the remainder is due to the law repealing the PPACA's provision which would have imposed a 3% withholding of certain payments made to vendors by government entities (P.L.112-56).

## Upcoming House Vote to Repeal the IPAB

The House Energy and Commerce Committee is expected to vote to repeal the PPACA Independent Payment Advisory Board (IPAB) this Wednesday. Last week the House Energy and Commerce Health Subcommittee voted 17 to 5 to advance the legislation, H.R. 452 (the Medicare Decisions Accountability Act). The legislation does not offset the cost of repeal which the CBO estimates to be about \$2.4 billion over ten years. The IPAB also came under attack in the **House Budget Committee**

**where Chairman Paul Ryan** said the IPAB is nothing but a group of "unelected, unaccountable bureaucrats...empowered to cut Medicare in ways that will result in restricted access and denied care for current seniors." The House Ways and Means Health Subcommittee is also expected to hold hearings on the potential impact of the IPAB on Medicare services. HHS testified that the IPAB may not make recommendations until 2018 at the earliest.

## Plaintiffs in PPACA Case Says AIA Not a Barrier to Supreme Court Decision

The CMS CCHIO also announced that \$638.7 million in federal loans have been granted to seven private, nonprofit Consumer Operated and Oriented

Plans (CO-OPs). Additional applications will be considered throughout 2012. The PPACA authorized CO-OPs to help increase competition among health insurers. Any profits of

such CO-OPs are required to be used to improve quality, benefits and premium affordability for covered participants.

## Fate of Doc Fix Debated

During a House Ways and Means Committee hearing on the FY 2013 Administration budget, **Rep. Wally Herger** questioned **HHS Secretary Kathleen Sebelius** why the 10-year budget reflects a \$429 billion payment for a long-term fix to the troubled Medicare physician payment mechanism without indicating the means for changing the sustainable growth rate. The HHS Secretary responded that the

Administration will work with Congress on the terms of such a fix and that the payment for such a fix may come from a legislative package designed to address the long-term budget deficit. The House Budget Committee also debated the doc fix and the need to bring Medicare costs under control in order to pay for a solution. One witness, a Harvard economist, testified that nearly \$750 billion in medical spending each year is

wasted with an estimated \$400 billion going to unnecessary services, inefficiently delivered services and missed prevention opportunities while \$350 billion is spent on excessive administrative costs (\$190 billion), prices that are too high (\$105 billion) and fraud (\$75 billion). He recommended the use of bundled payments in Medicare and Medicaid to help correct such waste.

## FDA Budget Issues

At a House Appropriations Agriculture Subcommittee hearing, **FDA Commissioner Margaret Hamburg** testified that the President's FY 2013 budget proposal includes a total of about \$4.5 billion for FDA operations (about \$2.5 billion in appropriations) and that the 17% requested increase would come mainly from industry-paid user

fees. Some Democrats were critical of using user fees for such a large share of FDA enforcement and review efforts. **Chairman Jack Kingston** said the "FDA's budget request appears to be lean, focused, and responsible given the current fiscal environment...."

## Recently Introduced Health Legislation

**H.R. 4087 (PRESCRIPTION DRUG LABELING)**, to provide for the development and dissemination of best practices to ensure that visually impaired and blind individuals in the United States have safe, consistent, reliable, and independent access to the information in prescription

drug labeling; **MARKEY**; to the Committee on Energy and Commerce, Feb. 24.

**H.R. 4091 (DENTAL CARE)**, to assist low-income individuals in obtaining medically recommended dental care; **DEGETTE**; to the Committee on Energy and

Commerce, Feb. 27.

**H.R. 4095 (PHARMACIES)**, to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of Internet pharmacies; **CASSIDY**; to the Committee on Energy and Commerce, Feb. 28.