



House Continues Assault on PPACA; Deficit Reduction Talks Continue

FY 2012 Appropriations/Debt Ceiling

According to **House Appropriations Committee Chairman Hal Rogers**, expect his committee and the House to move FY 2012 appropriations measures that will cut \$30+ billion from current spending levels with the labor/HHS/education (LHHS) bill to exceed \$18 billion of this total. While **House Speaker John Boehner** would like for all 12 appropriations bills to be finished before the August recess, as is typically the case, the vote on the LHHS bill may again be delayed until after Labor Day. Plans in the Senate for FY 2012 actions remain unclear, particularly given the complicating factor of the need to increase the federal debt limit before August 2nd. **Speaker Boehner** has proposed that the increase in the debt limit be accompanied by federal spending reductions of an equal or greater amount, preferring specific mandatory and discretionary spending cuts over general spending target levels. The Republican goal is to reduce spending by about \$6 trillion over the ten year budget window while opposing any increase in tax rates. Reforms to entitlement programs, including Medicare and Medicaid, remain a Republican demand (with the ante picking up as the Medicare trustees report that the Part A trust fund will be exhausted in 2024, five years earlier than previously projected; although **HHS Secretary Sebelius** cited the PPACA as adding eight years to the program's

solvency). In the vacuum created by the lack of a Democrat proposal in the Senate, **Republican Senators Rubio, Toomey, DeMint and Ron Johnson** are expected to unveil their plan to balance the budget in nine years. **Senate Minority Leader Mitch McConnell** said he would insist on conditions to increase the debt ceiling which would set so-called 302(a) discretionary spending allocations at levels below that of current spending while cutting spending levels on discretionary and mandatory programs over 5-10 years. An indication of how serious the two parties will be on deficit reduction comes again this week during bipartisan discussions led by **Vice President Biden**. It might be noted that President Obama stated that mandatory spending programs are "on the table" during last week's meeting with congressional leaders.

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Medicaid/SCHIP Eligibility Limits Passed

Last week the House Energy and Commerce Health Subcommittee passed H.R. 1683 (14-9), legislation that would allow states to ignore the maintenance of effort provisions

(MOE) placed on their Medicaid and SCHIP eligibility requirements under the PPACA and the 2009 economic stimulus laws. The MOE provisions for Medicaid would expire anyway once the PPACA

insurance exchange requirements come into effect in 2014. CBO estimated the bill would provide state savings of about \$2.8 billion in 2012-2016 while leaving about 300,000 uninsured in 2013.

HEALTH Act Passed

The House Energy and Commerce Committee also passed H.R. 5 (30-20), the Help Efficient, Accessible, Low-cost, Timely Healthcare Act, which would provide a three-year statute of limitations for malpractice claims beginning when an injury

is discovered; cap noneconomic damages at \$250,000; restrict punitive damages; limit attorney contingency fees; and create a safe harbor from punitive damages for manufacturers and distributors of FDA approved medical products. CBO estimated that the bill would

reduce the federal deficit by about \$40 billion over 2011-2021. The bill was previously passed by the House Judiciary Committee and is headed to the House floor after a resolution of competing versions by the House Rules Committee.

Single Payer Promoted

Senator Bernie Sanders and Rep. Jim McDermott introduced legislation that would undo the PPACA and instead mandate that all states establish single payer systems beginning in 2013. The legislation would eliminate Medicare, Medicaid, Tricare and the FEHBP and allow states to provide benefits greater than federal minimums. Benefits would be paid for through a new income tax, an employer payroll tax, a surcharge on high-income individuals and a tax on securities and financial transactions.

PPACA Biologics Pathway User Fees

The FDA has issued a proposal describing the principles it will use to develop a biosimilars user fee program and the related structure and performance goals as mandated under the PPACA's "Biologics Price Competition and Innovation Act." Comments are due by June 9.

New Federal Research and Development Center

CMS has requested public comment on its plan to sponsor a new "Federal Research and Development Center" operated by a private contractor which would assist CMS in updating its processes, systems and operations. Comments are due by July 5th.

New Dual-Eligible Initiatives

HHS announced two new initiatives to help states coordinate care for their dual Medicare/Medicaid populations. A new data alignment initiative would enable state Medicaid programs to gain faster access to treatment information. HHS also is seeking ways to identify and address conflicting requirements between Medicaid and Medicare that can impede coordination of care for dual eligible beneficiaries. Comments are due in 60 days.

Hearing on Alternatives to Medicare MD Payment System

Bipartisanship broke out in the House Ways and Means Health Subcommittee during hearings on measures to replace the current SGR, sustainable growth rate, Medicare physician payment formula. **Rep. Pete Stark** complimented

Chairman Wally Herger on the subcommittee's bipartisan efforts to work together to find a suitable alternative to the SGR. Witnesses suggested various replacements, including "Alternative Quality Contracts" setting per-patient global budgets over five years;

fixed capitation payments; and payments to "community health teams" such as in Vermont. The House-passed FY 2012 budget contemplates a change to the current system that would mandate a cut of about 30% in payments next year.

New Action Plan for Viral Hepatitis

HHS has launched a new action plan to help prevent and treat viral hepatitis which HHS says affects 3.5-5.3 million Americans. The plan includes initiatives

for: educating providers and communities to reduce health disparities; improving testing, care, and treatment; strengthening surveillance to detect viral hepatitis transmission and disease;

eliminating transmission of vaccine-preventable viral hepatitis; reducing viral hepatitis caused by drug use; and protecting patients and workers from health care-associated viral hepatitis.

Grants to Help Combat Chronic Disease

HHS announced the availability of more than \$100 million in grants for community-based health projects which would help stem the increasing incidence of chronic diseases such as diabetes, heart disease cancer, and obesity. The state/local "Community Transformation Grants" focus on: tobacco-free living; active living and healthy

eating; evidence-based quality clinical and other preventive services, including prevention and control of high blood pressure and high cholesterol; social and emotional wellness, such as facilitating early identification of mental health needs; and health and safe physical environments. Grant applications to the CDC are due in July.

NIH Issues

Testifying before the Senate LHHS Appropriations Subcommittee, **NIH Director Francis Collins** said that the agency is turning away a higher percentage of grant applications than at any other time in its history, citing the \$322 million cuts under the final FY 2011 spending legislation. Senator Shelby also raised questions about the new National Center for Advancing Translational Sciences to be established

under the NIH. Director Collins said he wants to have the center address investment problems in advancing new treatments when drug companies consider investment in such developments lacking in potential rate of returns. While acknowledging the problem, **Senator Shelby** said that "NIH is not a drug developer" and may not be the answer to the problem.

Upcoming Health Related Committee Hearings and Markups

Senate Health, Education, Labor and Pensions Committee (Chairman Harkin, D-Iowa) will hold a hearing titled “A Nation Prepared: Strengthening Medical and Public Health Preparedness and Response”, 2:30 p.m. May 17, 430 Dirksen Bldg.

Senate Judiciary Committee (Chairman Leahy, D-Vt.) will mark up pending legislation and vote on pending nominations, 10 a.m. May 19, 226 Dirksen Bldg. S 350, S 623 and S 890 carried over from May 12; Agenda: S 350 — Environmental Crimes Enforcement Act of 2011. S 623 — Sunshine in Litigation Act of 2011, S 890 — Fighting Fraud to Protect Taxpayers Act of 2011

House Appropriations Committee (Chairman Rogers, R-Ky.) will mark up draft legislation that would make fiscal 2012 appropriations for programs related to military construction, veterans affairs and related agencies, May 23, 2359 Rayburn Bldg, Agenda: Draft Bill — Fiscal 2012 Military Construction-VA Appropriations.

House Appropriations Committee (Chairman Rogers, R-Ky.) will mark up draft legislation that would make fiscal 2012 appropriations for programs related to labor, health, human services, education and related agencies, Aug. 2, 2359 Rayburn Bldg, Agenda: Draft Bill — Fiscal 2012 Labor-HHS-Education Appropriations.

Labor, Health and Human Services, Education, and Related Agencies Subcommittee (Chairman Rehberg, R-Mont.) of House Appropriations Committee will hold a hearing on the current status of implementation of the health care overhaul law, Date TBA, 2359 Rayburn Bldg.

Recently Introduced Health Legislation

S. 910 (VETERANS’ HEALTH), to amend Title 38, United States Code, to ensure that veterans in each of the 48 contiguous states are able to receive services in at least one full-service Department of Veterans Affairs medical center in the state or receive comparable services provided by contract in the state, and for other purposes; SHAHEEN; to the Committee on Veterans’ Affairs, May 9.

S. 914 (VETERANS’ HEALTH), to amend Title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes; BEGICH; to the Committee on Veterans’ Affairs, May 9.

S. 915 (REFORM), to provide for health care for every American and to control the cost and enhance the quality of the health care system; SANDERS; to the Committee on Finance, May 9.

S. 928 (VETERANS’ HEALTH), to amend Title 38, United States Code, to limit the authority of the secretary of Veterans Affairs to use bid savings on major medical facility projects of the Department of Veterans Affairs to expand or change the scope of a major medical facility project of the department, and for other purposes; BURR; to the Committee on Veterans’ Affairs, May 10.

S. 933 (TAXATION), to amend the Internal Revenue Code of 1986 to

extend and increase the exclusion for benefits provided to volunteer firefighters and emergency medical responders; SCHUMER; to the Committee on Finance, May 10.

H.R. 1809 (HEALTH CARE COVERAGE), to amend the Employee Retirement Income Security Act of 1974 to ensure health care coverage value and transparency for dental benefits under group health plans; ANDREWS; to the Committee on Education and the Workforce, May 10.

H.R. 1810 (PUBLIC HEALTH), to direct the secretary of Health and Human Services to encourage research and carry out an educational campaign with respect

to pulmonary hypertension, and for other purposes; BRADY of Texas; to the Committee on Energy and Commerce, May 10.

H.R. 1822 (REFORM), to amend Title I of the PPACA to provide for appropriate procedures under such title for verification of citizenship status; ROHRBACHER; jointly, to the committees on Energy and Commerce and Ways and Means, May 10.

H. RES. 262 (CHILDREN'S HEALTH), supporting efforts to raise awareness, improve education, and encourage research and treatment of the psychosocial needs of children, adolescents, and young adults diagnosed with a childhood cancer and their families; VAN HOLLEN; to the Committee on Energy and Commerce, May 10.

S. 957 (VETERANS' HEALTH), to amend Title 38, United States Code, to improve the provision of rehabilitative services for veterans with traumatic brain injury, and for other purposes; BOOZMAN; to the Committee on Veterans' Affairs, May 11.

H.R. 1833 (MENTAL HEALTH), to amend the Public Health Service Act to improve mental and behavioral health services on college campuses; SCHAKOWSKY; jointly, to the committees on Energy and Commerce and Education and the Workforce, May 11.

H.R. 1839 (ANTITRUST), to ensure and foster continued patient safety and quality of care by making the antitrust laws apply

to negotiations between groups of independent pharmacies and health plans and health insurance issuers (including health plans under parts C and D of Medicare) in the same manner as such laws apply to protected activities under the National Labor Relations Act; WEINER; to the Committee on the Judiciary, May 11.

H.R. 1845 (MEDICARE), to provide for a study on issues relating to access to intravenous immune globulin (IVIG) for Medicare beneficiaries in all care settings and a demonstration project to examine the benefits of providing coverage and payment for items and services necessary to administer IVIG in the home; BRADY of Texas; jointly, to the committees on Ways and Means and Energy and Commerce, May 11.

H.R. 1852 (GRADUATE MEDICAL EDUCATION), to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals; PITTS; to the Committee on Energy and Commerce, May 11.

H.R. 1855 (VETERANS' HEALTH), to amend Title 38, United States Code, to improve the provision of rehabilitative services for veterans with traumatic brain injury, and for other purposes; WALZ of Minnesota; to the Committee on Veterans' Affairs, May 11.

H. RES. 265 (HIV/AIDS), supporting the goals and ideals of National Asian and Pacific Islander HIV/AIDS Awareness Day;

BORDALLO; to the Committee on Energy and Commerce, May 11.

S. 958 (GRADUATE MEDICAL EDUCATION), to amend the Public Health Service Act to reauthorize the program of payments to children's hospitals that operate graduate medical education programs; CASEY; to the Committee on Health, Education, Labor, and Pensions, May 12.

S. 960 (MEDICARE), to provide for a study on issues relating to access to intravenous immune globulin (IVG) for Medicare beneficiaries in all care settings and a demonstration project to examine the benefits of providing coverage and payment for items and services necessary to administer IVG in the home; KERRY; to the Committee on Finance, May 12.

S. 965 (TAXATION), to amend the Internal Revenue Code of 1986 to provide an income tax credit for the costs of certain infertility treatments, and for other purposes; GILLIBRAND; to the Committee on Finance, May 12.

S. 966 (DISEASE RESEARCH), to amend the Public Health Service Act to provide for osteoporosis and related bone disease education, research, and surveillance, and for other purposes; GILLIBRAND; to the Committee on Health, Education, Labor, and Pensions, May 12.

S. 975 (PHYSICAL THERAPISTS), to amend the Public Health Service Act to provide for the participation of physical therapists in the National

Health Service Corps Loan Repayment Program, and for other purposes; TESTER; to the Committee on Health, Education, Labor, and Pensions, May 12.

S. 992 (NURSES), to amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes; BOXER; to the Committee on Health, Education, Labor, and Pensions, May 12.

H.R. 1862 (REGENERATIVE MEDICINE), to launch a national strategy to support regenerative medicine through funding for research and commercial development of regenerative medicine products and development of a regulatory environment that enables rapid approval of safe and effective products, and for other purposes;

BILBRAY; to the Committee on Energy and Commerce, May 12.

H.R. 1863 (VETERANS' HEALTH), to amend Title 38, United States Code, to ensure that veterans in each of the 48 contiguous states are able to receive services in at least one full-service Department of Veterans Affairs medical center in the state or receive comparable services provided by contract in the state, and for other purposes; GUINTA; to the Committee on Veterans' Affairs, May 12.

H.R. 1880 (HIV/AIDS), to require, on the occasion of the 30th anniversary of the first reported cases of AIDS, reporting on the implementation of the National HIV/AIDS Strategy and on the status of international progress towards achieving universal access to HIV/AIDS treatment, and for

other purposes; LEE of California; jointly, to the committees on Energy and Commerce and Foreign Affairs, May 12.