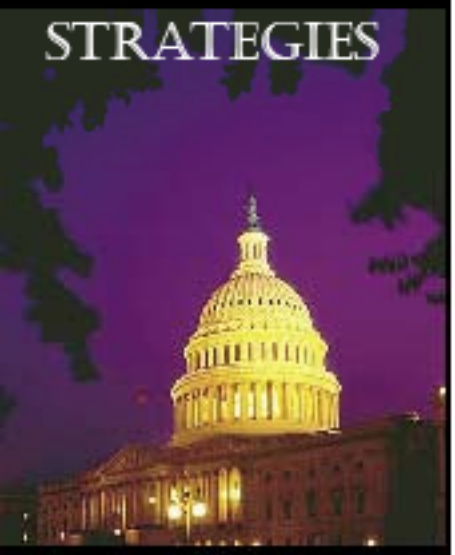
HART HEALTH STRATEGIES



Health Policy Briefing

June 6, 2011

President and House Speaker Agree Jittery Markets Need Debt Limit Increase Vote Soon

House Speaker Boehner Says Time for "Large" Talks on Debt Limit Deal

Demonstrating House Republican resolve that spending reductions must accompany any increase in the federal debt limit ceiling, last week the House voted 97-318 to reject a straightforward debt increase bill without cuts to spending and entitlements. After meetings with the White **House, Speaker John Boehner** said it is time, in the next few weeks, for the President and top House and Senate leaders to forge an agreement to raise the debt ceiling with commensurate spending reductions. He said the "small ball" Biden talks are moving too slowly.

Apparently the Speaker and the President agree that the world markets could be disrupted if a vote is delayed until the August 2nd deadline pronounced by **Treasury Secretary Geithner.** The urgency of a vote was underlined when Moody's Investors Service issued a warning that it would downgrade its rating of United States debt if the nation defaults and still might downgrade the "outlook" for the nation's credit rating absent a credible long-term deficit reduction plan.

It is estimated that a target of $2 trillion in spending cuts and a debt ceiling increase of equal magnitude could move the next required vote on the debt ceiling until after the 2012 elections. At this level, a complete overhaul of Medicare, along the lines of the Ryan "premium support" plan, may not be necessary which could let House Republicans off the hook on having to explain in 2012 a difficult vote on Medicare. However, many new House Republicans may still insist that a longer-term deficit reduction plan be scheduled which would include Medicare and other major entitlement spending reforms but with no increase in income tax rates.

House Move Appropriations Bills Forward

Before recessing for this week, the House Appropriations Committee approved the FY 2012 Agriculture spending bill with $2.1 billion for the FDA (an 11.5% cut from FY 2011) and the Defense Subcommittee approved the Defense bill which includes $74 billion in health related spending. A Rehberg amendment adopted by the full committee

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requiring the Secretary of Agriculture to justify FDA rulemaking was criticized by Democrats as weakening FDA's authority to keep drugs safe.

The House also began debate on the Military Construction/ Veterans appropriations measure, H.R. 2055, which would give the VA $39.6 billion to carry out its health program duties. The most contentious cuts are left for the LHHS appropriations bill, to be taken up just before the Labor Day recess, with spending allocations of $139.2 billion (12% less than for FY 2011 and 23% less than requested by the President).

CLASS Act Regulations

Rebutting earlier concerns that the PPACA long-term care CLASS Act program might be in jeopardy or curtailed, HHS testified at a Senate hearing that the agency will propose regulations in October to implement the program. To make the program more viable, HHS is considering whether to increase the minimum earning requirement for beneficiaries, index premiums for inflation and strengthen anti-fraud protections. HHS also supported an update of the Older Americans Act to include evidence-based interventions to improve the health of beneficiaries with chronic illnesses; give the Administration on Agency control of the Senior Community Service Employment Program; and provide permanent legal authority for the anti-fraud Senior Medicare Patrol Program.

Update on PPACA Constitutional Challenge

The Department of Justice has filed a motion to dismiss the Thomas More Law Center suit challenging the PPACA individual mandate in the U.S. Court of Appeals for the Sixth Circuit. DOJ argued that the case is moot, given that one of the individual plaintiffs already has health insurance and cannot, therefore, show economic injury resulting from the mandate. Plaintiffs argued otherwise, stating that they would still be harmed from the anticipated increase in premiums required under the PPACA.

PCIP Eligibility Eased

HHS announced that changes will take effect July 1 for 23 state and the DC Pre-Existing Condition Insurance Plan (PCIP) programs operated by the federal government. HHS said that premiums will be reduced and eligibility standards eased to help people with pre-existing medical conditions to enroll in the high-risk pool program. Premiums are estimated to be decreased by 40% in six states and from 2-38% in 12 states in order to bring them in line with rates for standard health risks. Eligibility standards will be changed so that individuals will no longer be required to be turned down first by another health insurer.

State-based Health Insurance Exchanges Receive IT Guidance

CMS issued new guidance designed to assist states in the design, development and implementation of their PPACA induced health insurance exchange health IT systems. To ensure that individuals are given "high quality" service in choosing plans and determining eligibility for subsidies, Medicaid and SCHIP. CMS said that a streamlined, secure and interactive IT approach should be adopted which would allow individuals to complete their online applications within about 15-20 minutes.

IOM Report Says Medicare Payments Are Inaccurate

The Institute of Medicine issued a report finding that: Medicare payment adjustments and flawed data often lead to inaccurate reimbursements for hospitals and physicians in various regions of the U.S.; almost 40% of hospitals have been granted exceptions to how their adjustments are calculated; and such providers have been reclassified into categories of higher reimbursement, thus providing hospitals and physicians in other regions lower payments than necessary to compensate. The report concluded that the physician payment system is fundamentally flawed and recommended a single set of 441 payment zones which would likely result in increasing reimbursements in metropolitan areas and decreasing them in some rural areas.

Access to Patient Data in Effort to Improve Quality of Care

CMS released a proposed rule that would allow for the release and use of select Medicare claims data to measure the performance of providers and suppliers to improve quality of care while still protecting patient privacy. **CMS Administrator Berwick** said that "Performance reports that include Medicare data will result in higher quality and more cost effective care…. making our health care system more transparent promotes competition and drives costs down."

FMAP Denied for Preventable Medical Conditions

CMS issued a final rule that will deny federal Medicaid matching funds for state payments to providers for certain preventable health care-acquired illnesses and injuries. CMS estimated the rule would result in Medicaid savings of $20 million for the federal government and $15 million for states in FY 2011-15. In related news, HHS also released updated federal matching rates for the period January 1 through June 30 per the extension of the ARRA enhanced rates under P.L. 111-226.

Upcoming Health Related Committee Hearings and Markups

House Veterans' Affairs Committee, to hold a hearing titled "Mental Health: Bridging the Gap Between Care and Compensation for Veterans" on June 14.

H.R. 2077 (MEDICAL LOSS RATIO), to repeal medical loss ratio requirements for health insurance; PRICE of Georgia; to the Committee on Energy and Commerce, June 1.

H.R. 2085 (ABORTION), to amend Title 10, United States Code, regarding restrictions on the use of Department of Defense funds and facilities for abortions; SLAUGHTER; to the Committee on Armed Services, June 2.

H.R. 2086 (MEDICAL DEBT), to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes; SHULER; jointly, to the committees on Financial Services and the Budget, June 2.

H.R. 2088 (TAXATION), to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees; MCDERMOTT; to the Committee on Ways and Means, June 2.

H.R. 2104 (MEDICAL IMAGING), to amend the Public Health Service Act and Title XVIII of the Social Security Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly; WHITFIELD; jointly, to the committee on Energy and Commerce and Ways and Means, June 2.

H. RES. 295 (DISEASE AWARENESS), promoting increased awareness, diagnosis, and treatment of atrial fibrillation to address the high morbidity and mortality rates and to prevent avoidable hospitalizations associated with this disease; GRANGER; to the Committee on Energy and Commerce, June 2.