



Health Policy Briefing

March 30, 2015

Congress Passes Budget Resolutions Before Adjourning for Two Week Recess

Budget Resolutions Headed to Conference Committee

Last week, the House adopted its fiscal year (FY) 2016 budget resolution by a vote of 228-199. Seventeen Republicans joined every Democrat in voting against the resolution. The Senate has also approved its Republican budget in a 52-46 vote. Sen. Ted Cruz (R-Texas) and Sen. Rand Paul (R-Ky.) were the only Republicans to vote against the budget blueprint. Sen. Dianne Feinstein (D-Calif.) and Sen. Barbara Mikulski (D-Md.) abstained from voting. No Democrats voted in support of the Republican budget. The vote followed a long series of amendment votes on revisions to the resolution. Though the amendments, like the budget itself, are non-binding, they indicate the chamber's stance on the legislative agenda for the coming year. Senators proposed 85 health-related amendments among the nearly 800 amendments filed. In total, the Senate considered and voted on 49 amendments over the course of 15 hours. Sen. David Vitter's (R-La.) amendment to require that all members of Congress, the President, Vice President, and their appointees obtain exchange-based insurance passed 52-46. The Senate also passed a Medicare amendment from Senate Finance Committee Chairman Orrin Hatch (R-Utah), which would create a deficit-neutral reserve fund to protect the Medicare program, but it would be up to the Senate Finance Committee to produce any legislation making changes to the Medicare program. Speaking to a long-standing criticism of the Congressional Budget Office (CBO), Sen. Rob Portman's (R-Ohio) amendment would ensure the use of dynamic scoring for major tax and spending legislation and passed by a vote of 59-41. The Senate did not opt to debate the Affordable Care Act's (ACA) 30-hour workweek definition, the Independent Payment Advisory Board (IPAB), or the medical device tax, mostly due to the fact that the budget proposal already assumes a full repeal of the health care law. Since both the House and Senate passed their budget resolutions, the chambers will conference to reconcile budgetary measures leading up to the April 15 statutory

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deadline for Congress to complete action on a budget plan. The conference debate will consider reconciliation language, which differs between the two chambers' budgets. If Congress is successful in negotiating and passing a joint conference agreement, Republicans will be able to use the reconciliation procedure to attempt repeal of the ACA. Bills considered using reconciliation rules cannot be filibustered by the Senate.

Administration to Tackle Spread of Antibiotic Resistance

The Obama Administration has released an **action plan** to fight the spread of antibiotic-resistant bacteria involving collaboration between the Department of Defense, the Department of Agriculture, and the U.S. Department of Health and Human Services (HHS). The plan is based on recommendations by the President's Council of Advisers on Science and Technology (PCAST), and provides a framework to achieve five goals over the next five years: slowing the spread of resistant bacteria, strengthening surveillance, speeding the development of tests and new drugs, improving how government agencies work together to monitor and fight the spread of antibiotic resistant bacteria, and expanding international efforts to address this global health threat. The initiative will require the Administration to propose new regulations in order to achieve the outlined goals.

Movement on Specialty Tier Formularies

Rep. David B. McKinley (R-W.V.) and Rep. Lois Capps (D-Calif.) have reintroduced the Patients' Access to Treatments Act (PATA), which would limit co-payment, coinsurance, or other cost-sharing requirements applicable to prescription drugs in a specialty drug tier to the dollar amount of such requirements applicable to prescription drugs in a non-preferred brand drug tier. Patients with complex diseases who require specialty drugs without cheaper generic versions can be forced to pay thousands of dollars a month when their treatments are placed onto higher pricing tiers. H.R. 1600 currently has 50 cosponsors. Meanwhile, Aetna, Inc. has decided to move most HIV drugs onto generic or non-preferred-brand tiers in its formulary. The change will be effective June 1, and will apply to all non-invasive oral HIV drugs. At this point, patients will be required to pay no more than \$100 in out-of-pocket costs once their deductible is met.

White House Launches Health Care Payment Learning and Action Network

The Obama Administration marked the fifth anniversary of the ACA by launching a **new network** of public and private groups aimed at moving the country's health care system towards incentivizing quality instead of quantity. The Health Care Payment Learning and Action Network will serve as an information-sharing forum for payers, providers, companies, and advocacy groups to exchange lessons learned about the transition to new payment models. Organizations will not receive funding for participation, and the network will be overseen by an outside contractor. The network currently has 2,800 registered members committed to accelerating the movement from fee-for-service payments to a value based system.

Ebola Vaccines See Success in African Trial

Two experimental Ebola vaccines appear to be safe based on evaluations of the first stage of the Partnership for Research on Ebola Vaccines in Liberia clinical trial, according to the National Institutes of Health (NIH). The vaccines are being tested for safety and efficacy in more than 600 people. The clinical trial is sponsored by the National Institute of Allergy and Infectious Diseases (NIAID). Recent results may allow the study to advance to the next phase of efficacy testing using additional volunteers. Since the West Africa Ebola epidemic began one year ago, it has killed more than 10,200 people.

HHS Announces Initiative to Reduce Prescription Drug Abuse

HHHS has announced an initiative aimed at reducing prescription opioid and heroin related misuse, dependence and overdose. The initiative will address three priority areas: providing training and educational resources, including updated prescriber guidelines, to assist health professionals in making informed prescribing decisions; increasing the use of naloxone; and expanding the use of Medication-Assisted Treatment (MAT). The President's fiscal year 2016 budget included \$133 million in new funding to address these issues. The House Energy and Commerce Oversight and Investigations Subcommittee held a hearing on this subject titled "Examining the Growing Problems of Prescription Drug and Heroin Abuse: State and Local Perspectives," last week.

Medicare & Medicaid News

SGR Consideration to Resume After Recess

Last week, the House passed H.R. 2, the Medicare Access and CHIP Reauthorization Act, by a vote of 392-37. Four Democrats and 33 Republicans voted against the bill, with another four Democrats not voting. Republicans who voted in opposition to H.R. 2 would not support a measure that was not fully offset. The Congressional Budget Office (CBO) estimates that the package would increase the federal deficit by \$141 billion over 11 years. The Senate did not act on H.R. 2 before adjourning for a two-week recess. Senate Majority Leader Mitch McConnell (R-Ky.) attempted to fast track the legislation through unanimous consent, a maneuver that would have required the approval of all 100 senators. Some Republicans were weary of considering a bill that was not fully paid for without the chance of debate. The chamber will instead take up the measure when it returns, according to Sen. McConnell, who said he would work with Senate Minority Leader Harry Reid (D-Nev.) to quickly schedule a vote on the bill. The current sustainable growth rate (SGR) patch expires on Tuesday, March 31. The Centers for Medicare and Medicaid Services (CMS) can hold checks for two weeks without interrupting provider's cash flow, through April 14. The Senate returns from recess on April 13. The Agency told providers that it would hold electronic claims for 14 calendar days and paper claims for 29 days after the date of receipt. Claims rendered on or before March 31 will not be affected. CMS also noted that it would update providers again by April 11 regarding next steps given the status of congressional action on the SGR. While Senate Majority Leader McConnell has predicted that the bill will pass the Senate by a large majority, there are still some issues that must be addressed. Senate Minority Leader Reid has asked that a limited number of amendments be offered when the legislation comes up for a vote, including one amendment that would extend funding for the Children's Health Insurance Program (CHIP) for four years, an increase over the two years of funding included in the House-passed bill. House leaders have indicated that they will not consider another short-term fix. The Senate is also under pressure from the President, who has expressed support for the bipartisan SGR repeal agreement reached in the House. Without another SGR patch or permanent repeal of the formula, physicians face a 21 percent reduction in Medicare reimbursements on April 1st.

Upcoming Congressional Meetings and Hearings

Senate Caucus on International Narcotics Control: hearing on the quota system used to manage controlled substances; time and place TBD; April 14

House Veterans' Affairs Committee: hearing titled "Examining Access and Quality of Care and Services for Women Veterans;" 10:30 a.m., 334 Cannon Bldg.; April 30

Health Legislation Recently Introduced

H.R. 1526 (DMEPOS), to amend title XVIII of the Social Security Act to modify policies relating to payment under the Medicare program for durable medical equipment, orthotics and prosthetics, and prosthetic devices, and for other purposes; MEADOWS; jointly, to the committees on Ways and Means and Energy and Commerce; March 23

H.R. 1530 (ORTHOTICS/ PROSTHETICS), to amend title XVIII of the Social Security Act to refine how Medicare pays for orthotics and prosthetics, to improve beneficiary experience and outcomes with orthotic and prosthetic care, and to streamline the Medicare administrative appeals process, and for other purposes; THOMPSON; jointly, to the committees on Energy and Commerce and Ways and Means; March 23

H.R. 1532 (VA), to amend the Veterans Access, Choice, and Accountability Act of 2014 to modify the distance requirements regarding the eligibility of certain veterans to receive medical care and services from non-Department of Veterans Affairs facilities, and for other purposes; EMMER; to the House Committee on Veterans' Affairs; March 23

H.R. 1533 (MEDICAL DEVICE TAX), to amend the Internal Revenue Code of 1986 to repeal the excise tax on medical devices, and for other purposes; ADAMS; to the House Committee on Ways and Means; March 23

H.R.1536 (RESEARCH CREDIT), to amend the Internal Revenue Code of 1986 to increase and make permanent the research credit; BROWNLEY; to the House Committee on Ways and Means; March 23

H.R.1537 (RARE DISEASES), to amend the Federal Food, Drug, and Cosmetic Act to reauthorize a program of priority review to encourage treatments for rare pediatric diseases, and for other purposes; BUTTERFIELD; to the House Committee on Energy and Commerce; March 23

H.R.1538 (MARIJUANA), to extend the principle of federalism to State drug policy, provide access to medical marijuana, and enable research into the medicinal properties of marijuana; COHEN; jointly, to the committees on Energy and Commerce, the Judiciary, Financial Services, and Veterans' Affairs; March 23

H.R.1547 (PPACA), to amend the Internal Revenue Code of 1986 to repeal certain limitations on health care benefits enacted as part of the Patient Protection and Affordable Care Act; PAULSEN; to the House Committee on Ways and Means; March 23

H.R.1552 (ANTIMICROBIALS), to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antimicrobials used in the treatment of human and animal diseases; SLAUGHTER; to the House Committee on Energy and Commerce; March 23

S. 829 (ORTHOTICS/ PROSTHETICS), to amend title XVIII of the Social Security Act to refine how Medicare pays for orthotics and prosthetics and to improve beneficiary experience and outcomes with orthotic and prosthetic care, and for other purposes; GRASSLEY; to the Committee on Finance; March 23

S. 836 (PPACA), to amend the Internal Revenue Code of 1986 to repeal certain limitations on health care benefits enacted by the Patient Protection and Affordable Care Act; BARRASSO; to the Committee on Finance; March 23

S. 839 (HOME HEALTH), to amend title XVIII of the Social Security Act to extend the rural add-on payment in the Medicare home health benefit, and for other purposes; COLLINS; to the Committee on Finance; March 23

H.R. 2 (SGR), Medicare Access and CHIP Reauthorization Act of 2015; BURGESS; jointly to the committees on Energy and Commerce, Ways and Means, the Judiciary, Agriculture, Natural Resources, and the Budget; March 24

H.R. 1559 (ALZHEIMER'S), to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of an initial comprehensive care plan for Medicare beneficiaries newly diagnosed with Alzheimer's disease and related dementias, and for other purposes; SMITH; jointly, to the committees on Energy and Commerce and Ways and Means; March 24

Health Legislation Recently Introduced cont.

H.R. 1570 (MEDICAID/CHIP), to provide for greater transparency and information with respect to Federal expenditures under the Medicaid and CHIP programs in the territories of the United States, and for other purposes; BILIRAKIS; to the House Committee on Energy and Commerce; March 24

H.R. 1571 (SNF), to amend title XVIII of the Social Security Act to count a period of receipt of outpatient observation services in a hospital toward satisfying the 3-day inpatient hospital stay requirement for coverage of skilled nursing facility services under Medicare, and for other purposes; COURTNEY; jointly, to the committees on Ways and Means and Energy and Commerce; March 24

H.R. 1576 (FDA), to require a study by the Government Accountability Office (GAO) to assess the Food and Drug Administration's current regulatory pathway for reviewing generic versions of nonbiologic complex drug products, and for other purposes; BURGESS; to the House Committee on Energy and Commerce; March 24

H.R. 1586 (HIV/AIDS), to modernize laws, and eliminate discrimination, with respect to people living with HIV/AIDS, and for other purposes; LEE; jointly, to the committees on the Judiciary, Energy and Commerce, and Armed Services; March 24

H.R.1590 (EHR), to establish a prize program to award a prize and contract for the development of a fully-integrated electronic health records program for use by the Department of Defense and the Department of Veterans Affairs; ROE; jointly, to the committees on Armed Services and Veterans' Affairs; March 24

S.843 (SNF), to amend title XVIII of the Social Security Act to count a period of receipt of outpatient observation services in a hospital toward satisfying the 3-day inpatient hospital requirement for coverage of skilled nursing facility services under Medicare; BROWN; to the Committee on Finance; March 24

S.844 (MEDICAL DEVICE TAX), to repeal the medical device excise tax, and for other purposes; MARKEY; to the Committee on Finance; March 24

S.849 (NEUROLOGICAL DISEASES), to amend the Public Health Service Act to provide for systematic data collection and analysis and epidemiological research regarding Multiple Sclerosis (MS), Parkinson's disease, and other neurological diseases; ISAKSON; to the Committee on Health, Education, Labor, and Pensions; March 24

S.RES.108 (POLIO), commemorating the discovery of the polio vaccine and supporting efforts to eradicate the disease; DURBIN; to the Committee on Health, Education, Labor, and Pensions; March 24

H.R. 1600 (SPECIALTY DRUG TIERS), to amend title XXVII of the Public Health Service Act to limit co-payment, coinsurance, or other cost-sharing requirements applicable to prescription drugs in a specialty drug tier to the dollar amount (or its equivalent) of such requirements applicable to prescription drugs in a non-preferred brand drug tier, and for other purposes; MCKINLEY; to the House Committee on Energy and Commerce; March 25

H.R. 1602 (NURSING), to amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes; SCHAKOWSKY; jointly, to the committees on Energy and Commerce and Ways and Means; March 25

H.R. 1604 (VA), to amend the Veterans Access, Choice, and Accountability Act of 2014 to expand the eligibility of veterans to receive mental health care at non-Department of Veterans Affairs facilities; MACARTHUR; to the House Committee on Veterans' Affairs; March 25

H.R. 1608 (LYMPHEDEMA), to amend title XVIII of the Social Security Act to provide for Medicare coverage of certain lymphedema compression treatment items as items of durable medical equipment; REICHERT; jointly, to the committees on Energy and Commerce and Ways and Means; March 25

Health Legislation Recently Introduced cont.

H.R. 1611 (OUTPATIENT SERVICES), to amend title XVIII of the Social Security Act with respect to physician supervision of therapeutic hospital outpatient services; NOEM; jointly, to the committees on Energy and Commerce and Ways and Means; March 25

H.R. 1624 (PPACA), to amend title I of the Patient Protection and Affordable Care Act and title XXVII of the Public Health Service Act to revise the definition of small employer; GUTHRIE; to the House Committee on Energy and Commerce; March 25

H.R. 1628 (PAIN MANAGEMENT), to amend title 38, United States Code, to establish in each Veterans Integrated Service Network a pain management board; KIND; to the House Committee on Veterans' Affairs; March 25

H.R. 1631 (NIH), to improve, coordinate, and enhance rehabilitation research at the National Institutes of Health; LANGEVIN; to the House Committee on Energy and Commerce; March 25

H.R. 1636 (VACCINES), to direct the Secretary of Health and Human Services to conduct or support a comprehensive study comparing total health outcomes, including risk of autism, in vaccinated populations in the United States with such outcomes in unvaccinated populations in the United States, and for other purposes; POSEY; to the House Committee on Energy and Commerce; March 25

H.R.1638 (HOSPITALS), to assure that the services of a nonemergency department physician are available to hospital patients 24 hours a day, seven days a week in all non-Federal hospitals with at least 100 licensed beds; SCHAKOWSKY; to the House Committee on Energy and Commerce; March 25

H.RES.174 (MYELOMA), expressing support for designation of March as "National Multiple Myeloma Awareness Month"; HIGGINS; to the House Committee on Oversight and Government Reform; March 25

S.857 (ALZHEIMER'S), to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of an initial comprehensive care plan for Medicare beneficiaries newly diagnosed with Alzheimer's disease and related dementias, and for other purposes; STABENOW; to the Committee on Finance; March 25

S.861 (MEDICARE/MEDICAID), to amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs; CARPER; to the Committee on Finance; MARCH 25

S.864 (NURSING), 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; March 25

S. RES. 114 (COLORECTAL CANCER), supporting the designation of March 2015, as "National Colorectal Cancer Awareness Month"; ENZI; to the Committee on Health, Education, Labor, and Pensions; March 25

H.R. 1650 (MEDICARE), to amend title XVIII of the Social Security Act to establish a Medicare payment option for patients and eligible professionals to freely contract, without penalty, for Medicare fee-for-service items and services, while allowing Medicare beneficiaries to use their Medicare benefits; PRICE; jointly, to the committees on Energy and Commerce and Ways and Means; March 26

H.R. 1653 (HEARING AIDS), to amend title XVIII of the Social Security Act to remove the exclusion of Medicare coverage for hearing aids and examinations therefor, and for other purposes; DINGELL; jointly, to the committees on Energy and Commerce and Ways and Means; March 26

H.R. 1664 (INSURANCE), to authorize health insurance issuers to continue to offer for sale current group and individual health insurance coverage in satisfaction of the minimum essential health insurance coverage requirement, and for other purposes; CULBERSON; jointly, to the committees on Energy and Commerce and Ways and Means; March 26

Health Legislation Recently Introduced cont.

H.R. 1677 (DENTAL BENEFITS), 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; GOSSAR; to the House Committee on Education and the Workforce; March 26

H.R. 1686 (DIABETES), to amend title XVIII of the Social Security Act to reduce the occurrence of diabetes in Medicare beneficiaries by extending coverage under Medicare for medical nutrition therapy services to such beneficiaries with pre-diabetes or with risk factors for developing type 2 diabetes; DEGETTE; jointly, to the committees on Energy and Commerce and Ways and Means; March 26

H.R. 1688 (OPTOMETRY), to amend the Veterans Access, Choice, and Accountability Act of 2014 to designate 20 graduate medical education residency positions specifically for the study of optometry; DENHAM; to the House Committee on Veterans' Affairs; March 26

H.R. 1706 (SEXUAL HEALTH), to provide for the overall health and well-being of young people, including the promotion of comprehensive sexual health and healthy relationships, the reduction of unintended pregnancy and sexually transmitted infections (STIs), including HIV, and the prevention of dating violence and sexual assault, and for other purposes; jointly, to the committees on Energy and Commerce and Education and the Workforce; March 26

H.R.1707 (PHSA), to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish a Frontline Providers Loan Repayment Program; LOWEBSACK; to the House Committee on Energy and Commerce; March 26

H.R.1708 (PHSA), to amend the Public Health Service Act to establish a program of research regarding the risks posed by the presence of dioxin, synthetic fibers, chemical fragrances, and other components of feminine hygiene products; MALONEY; to the House Committee on Energy and Commerce; March 26

H.R.1725 (PHSA), to amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act, and for other purposes; WHITFIELD; to the House Committee on Energy and Commerce; March 26

H.R.1726 (DIABETES), to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by authorizing certified diabetes educators to provide diabetes self-management training services, including as part of telehealth services, under part B of the Medicare program; WHITFIELD; jointly, to the committees on Energy and Commerce and Ways and Means; March 26

H.R. 1727 (PART D), to amend title XVIII of the Social Security Act to provide for coverage, as supplies associated with the injection of insulin, of containment, removal, decontamination and disposal of home-generated needles, syringes, and other sharps through a sharps container, decontamination/destruction device, or sharps-by-mail program or similar program under part D of the Medicare program; WHITFIELD; jointly, to the committees on Energy and Commerce and Ways and Means; March 26

H.RES. 182 (HIV/AIDS), supporting the goals and ideals of National Youth HIV & AIDS Awareness Day; LEE; to the House Committee on Energy and Commerce; March 26

S. 884 (EMERGENCY MEDICINE), to improve access to emergency medical services, and for other purposes; BLUNT; to the Committee on Health, Education, Labor, and Pensions; March 26

S. 894 (INNOVATION), to support innovation, and for other purposes; KLOBUCHAR; to the Committee on Health, Education, Labor, and Pensions; March 26