



Health Policy Briefing

April 15, 2013

Republicans Criticize But Do Not Close the Door on Health Cuts under Obama Budget

President's Budget Recommendations Include Significant Entitlement Changes

The FY 2014-2023 federal budget released last Wednesday by the Obama Administration recommends \$3.778 trillion in discretionary and mandatory spending in the next fiscal year, an increase of about 6% over FY 2013. While the President's budget framework would keep the Budget Control Act's annual spending limits, the specific spending cuts mandated under sequestration (\$1.2 trillion) would be replaced by other program increases and decreases. For example, discretionary spending for the Department of Health and Human Services (HHS) would be increased to \$80.1 billion, a 4.87% increase over FY 2013. Also, the National Institutes of Health (NIH) would get a boost over FY 2012 of about \$472 million to \$31.3 billion in FY 2014, with a major boost to mental health/brain research. However, similar to prior budget proposals, the Administration renews proposed 10-year cuts to Medicare providers (about \$306.3 billion extending the Part A (Hospital Insurance) trust fund solvency by 4 years) and to Medicaid (about \$22.1 billion). The proposal recommends

revising Social Security and other federal pension program cost-of-living adjustments (COLAs) to reflect a newly formed "chained" consumer price index (chained CPI), projected to save \$130 billion over ten years. In total, the ten-year budget savings are projected to reduce the federal deficit by about \$1.8 trillion and down to about 1.7% of gross domestic product (GDP). In testimony before the House Ways and Means Committee, **HHS Secretary Kathleen Sebelius** said the Administration's recommendations would help to reduce the deficit in a balanced, sustainable way and ensure the full implementation of the Patient Protection and Affordable Care Act (PPACA). The White House called the comprehensive proposal a "balanced compromise" and hinted that the provisions of the package, particularly the entitlement and

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health-related changes, should not be cherry-picked and enacted without the proposed \$680 billion in new revenues. While Republicans generally criticized the tax increases as “more of the same” and the Medicare changes as falling short of keeping the program solvent in the long-term, House **Speaker John Boehner (R-OH)** appeared to leave the door open to further negotiations in stating that the President deserves credit for proposing the modest entitlement reforms (although he said these changes should not be “held hostage” to enact additional tax increases). House Budget Committee Chairman **Paul Ryan (R-WI)** said he is skeptical about the President’s intentions to reduce long-term spending which might lead to some kind of “grand bargain” on taxes and spending this year. Nonetheless, the President appears to be reaching out to a select group of Senate Republicans in order to forge a bipartisan consensus on a package of spending and revenue changes that can be passed first in the Senate. Notable among the health-related changes are the following:

- **Medicare Physician Payment Reform**--The budget suggests the current sustainable growth rate (SGR) physician payment formula should be replaced by an unspecified period of “stable payments” followed by a revised scheme under which physicians would be encouraged to partner with the Center for Medicare and Medicaid Services (CMS) in a scalable, accountable payment model which reflects risk adjustments for providing high quality and coordination of care. The Administration expressed interest in working with Congress to enact legislation to reform the process. The budget does not specify the means for paying for the \$250 billion ten-year cost of the proposal. However, the budget does assume that Congress will eliminate the scheduled 25% cut in CY 2014 Medicare physician payments.
- **Other Major Health Spending Increases/Reallocations for FY 2014/FY 2012**-- CMS would get \$5.2 billion, an increase of \$1.4 billion, plus \$0.1 billion, directed to PPACA health exchange implementation (CMS would also get \$640 million in combined mandatory and discretionary program integrity funding to implement activities that reduce payment error rates, prevent fraud and abuse, target high-risk services and supplies, and enhance civil and criminal enforcement for Medicare, Medicaid, and the children’s health insurance program (CHIP)); the Internal Revenue Service (IRS) would get \$440 million to process PPACA tax credits; the Health Resources and Services Administration (HRSA) would get an increase of \$821 million to \$9 billion, including \$2.4 billion for the Ryan White program; the Centers for Disease Control and Prevention (CDC) would get an increase of \$71 million to \$11.3 billion; the Substance Abuse and Mental Health Services Administration (SAMHSA) would get an increase of \$46 million to \$3.3 billion with \$130 million allocated to new mental health treatment and prevention programs along with HRSA; the Indian Health Service would get an increase of \$244 million to \$5.7 billion; the Agency for Healthcare Research and Quality (AHRQ) would get an increase of \$29 million to \$434 million; and the Office of the National Coordinator for Health Information Technology would receive a \$17 million increase. The Food and Drug Administration (FDA) would get an increase of \$821 million to \$4.7 billion, including new user fees related to generic drug and biosimilar biological reviews. Also, savings of \$3.2 billion would accrue by reducing the period of exclusivity from 12 to 7 years to speed up generic biologic drug development. The Transitional Medical Assistance program would be reauthorized at a cost of \$1.1 billion over 10 years. In related news, House Majority Leader Eric Cantor (R-VA) said Republicans will introduce legislation to beef up the funding of the Pre-Existing Condition Insurance Plan (PCIP) program and pay for the increase by reallocating funds from the PPACA Prevention and Public Health Fund.
- **Other Major Health Spending Cuts**--Among the ten-year cuts for **Medicare**--Save \$79 billion by reducing payment updates for inpatient rehabilitation facilities (IRFs), long term care hospitals (LTCHs), skilled nursing facilities (SNFs) and home health agencies (HHAs), and \$8.2 billion by bundling such payments and an additional \$6.7 billion from IRF and SNF changes; save \$11 billion by reducing Medicare indirect medical education (IME) add-on payments; save \$2 billion by aligning Medicare payments to rural providers with the cost of care; save \$25.4 billion by reducing payments to providers when beneficiaries fail to pay for services; save \$50 billion by increasing the percentages of total costs paid by Part B and Part D beneficiaries and \$2.9 billion in premium cost for those with small Medigap deductibles; save \$3.3 billion by modifying the Part B deductible for new beneficiaries; save \$730 million by requiring home health service copays; save \$123 billion under Part D by among other things providing low-income beneficiaries with **Medicaid**-level drug rebates for brand name and generic drugs and save another \$7 billion by modifying copayments for such beneficiaries; and save \$19.3 billion from Medicare Advantage (MA).

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Among the ten-year savings for Medicaid--Save \$4.5 billion by limiting durable medical equipment (DME) payments; save \$3.6 billion by reducing disproportionate share hospital (DSH) payments; save \$8.8 billion by lowering Medicaid drug costs through various means; and save \$3.7 billion by enhancing integrity programs. In addition, the **Federal Trade Commission (FTC)** would be given authority to prevent brand-name drug to generic “pay-for-delay” agreements which would save \$11 billion in Medicare/Medicaid and other federal health programs. Also, \$4.1 billion would be saved by lowering the trigger point for the **Independent Payment Advisory Board (IPAB)** to make cost savings recommendations.

House Republicans Release Medicare Reform Proposal

House Republicans Marsha Blackburn (R-TN) and Renee Ellmers (R-NC) released a white paper to promote Medicare reforms that would among other things: reform the Medicare physician payment system; combine the Medicare Part A and B deductibles and increase premiums for higher-income beneficiaries; create a catastrophic coverage spending cap; adopt medical liability reform; and prevent waste, fraud and abuse.

CMS Nominee to Get Vote

After an uneventful, but successful, hearing last week on the nomination of Marilyn Tavenner to become the Administrator of CMS, Chairman Max Baucus (D-MT) said he hopes to have the Senate Finance Committee vote on the nomination this week.

Mental Health Bill Passes Senate HELP Committee

The Senate HELP Committee voice voted to pass S. 689, the Mental Health Awareness and Improvement Act of 2013, which is intended to promote awareness and early identification of mental health problems, especially among youths and young adults. Senator Sheldon Whitehouse said he plans to offer an amendment to the bill when it reaches the Senate floor to cover behavioral health facilities under the “meaningful use” health IT standards.

Hart Health Strategies

PPACA Health Reform Update

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CMS Grants for PPACA Navigators

Following the release of proposed rules for PPACA navigators, CMS announced that the agency will provide \$54 million in one-year grants for individuals and entities who will help consumers understand and facilitate the choice of coverage options to be offered under the online health insurance exchanges opening for enrollment on October 1st. At a Senate appropriations hearing on the budget, Senator Tom Harkin (D-IA) objected to the Administrations reallocation of spending under the PPACA's Prevention and Health Fund (which Senator Harkin authored) to pay for the navigator program.

National Physician Payment Transparency Program Website

CMS announced that the new National Physician Payment Transparency Program website will begin posting data in September to make publicly available the information collected on payments made to physicians by drug and device manufacturers (who must register on the website in 2014).

ACO Working Group Activities

The FTC and Department of Justice have published a summary of the activities of the Accountable Care Organization (ACO) Working Group that includes Q&As from providers looking for assistance in setting up ACOs.

Medicare/Medicaid/Public Health Services Corner

Medicare DME Providers Chosen

CMS announced that 799 durable medical equipment (DME) providers have been selected, from among 2,641 bidding suppliers, to participate in the 91 city expansion of the Medicare competitive bidding program during Round Two. CMS estimated that for eight product categories the average payment will be 45% less than under the Medicare fee schedule, thus saving Medicare Part B about \$25.7 billion between 2013 and 2022.

MACPAC Expresses Concerns About Medicaid Physician Payment Increases

At a meeting last week, members of the Medicaid and CHIP Payment and Access Commission (MACPAC) raised concerns about the PPACA's two-year mandate to increase primary care physician reimbursement rates under Medicaid to the rates generally available under Medicare in 2013-14. Several members called the initiative a failure in its attempt to draw more PCPs into the Medicaid system (particularly in light of the vast expansion of Medicaid under the PPACA). However, another member suggested that MACPAC recommend that Congress make the program permanent.

Upcoming Health-Related Hearings/Markups

House Energy and Commerce Oversight and Investigations Subcommittee: will hold a hearing titled “*A Continuing Investigation into the Fungal Meningitis Outbreak and Whether It Could Have Been Prevented;*” 10:00 a.m., 2123 Rayburn Bldg; April 16.

Senate Finance Committee: will hold a hearing on the *President’s Fiscal Year 2014 Budget*; 10:00 a.m., 215 Dirksen Bldg.; April 17.

House Energy and Commerce Health Subcommittee: will hold a hearing titled “*A Financial Review of the Department of Health and Human Services and its Fiscal Year 2014 Budget;*” 10:00 a.m., 2123 Rayburn Bldg; April 18.

Senate Appropriations, Subcommittee on Agriculture, Rural Development, FDA, and Related Agencies will hold a hearing on proposed *fiscal 2014 appropriations for the Food and Drug Administration*, 10:30 a.m., 124 Dirksen Bldg; April 18

House Veterans’ Affairs, Subcommittee on Health will hold a Round Table Discussion regarding *Patient-Centered Procurement*, 10:00 a.m., 334 Cannon Bldg; April 18

Health Legislation Recently Introduced

S. 672(MEDICARE), to amend Title XVIII of the Social Security Act to provide for coverage of 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 Medicare; ISAKSON; to the Committee on Finance, April 9.

S. 689 (MENTAL HEALTH), to reauthorize and improve programs related to mental health and substance use disorders; HARKIN; to the Committee on Health, Education, Labor, and Pensions, April 9.

H.R. 1416 (MEDICARE), to terminate application of sequestration to payment for certain physician-administered drugs under Part B of Medicare; ELLMERS; jointly, to the committees on the Budget, Ways and Means, and Energy and Commerce, April 9.

H.R. 1427 (ADVERTISING), to ensure that patients receive accurate health care information by prohibiting misleading and deceptive advertising or representation in the provision of health care services, and to require the identification of the license of health care professionals; BUCSHON; to the Committee on Energy and Commerce, April 9.

H.R. 1428 (MEDICARE), to amend Title XVIII of the Social Security Act to provide Medicare entitlement to immunosuppressive drugs for kidney transplant recipients; BURGESS; jointly, to the committees on Energy and Commerce and Ways and Means, April 9.

H.R. 1429 (DISEASE RESEARCH AND AWARENESS), to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes; CAPPs; to the Committee on Energy and Commerce, April 9.

H.R. 1443 (VETERANS’ HEALTH), to direct the secretary of veterans affairs to recognize tinnitus as a mandatory condition for research and treatment by the Department of Veterans Affairs, and for other purposes; MICHAUD; to the Committee on Veterans’ Affairs, April 9.

Health Legislation Recently Introduced cont.

H.RES. 144 (CONGENITAL DIAPHRAGMATIC HERNIA), expressing support for designation of April 2013 as National Congenital Diaphragmatic Hernia Awareness Month; ROBY; to the Committee on Energy and Commerce, April 9.

S. 701 (REFORM), to amend the Internal Revenue Code of 1986 to modify the definition of full-time employee for purposes of the individual mandate in the Patient Protection and Affordable Care Act; COLLINS; to the Committee on Finance, April 10.

H.R. 1464 (MILITARY HEALTH), to amend Title 10, United States Code, to provide notice to members of the armed forces, beginning with recruit basic training and the initial training of officer candidates, regarding the availability of mental health services, to help eliminate perceived stigma associated with seeking and receiving mental health services, and to clarify the extent to which information regarding a member seeking and receiving mental health services may be disclosed; CARSON of Indiana; to the Committee on Armed Services, April 10.

H.R. 1472 (MEDICAID), to restore the longstanding partnership between states and the federal government in managing Medicaid; GINGREY of Georgia; to the Committee on Energy and Commerce, April 10.

H.R. 1473 (MEDICAL MALPRACTICE), to prevent certain federal health care laws from establishing health care provider standards of care in medical malpractice cases, and for other purposes; GINGREY of Georgia; jointly, to the committees on Energy and Commerce and the Judiciary, April 10.

H. RES. 148 (HIV/AIDS), supporting the goals and ideals of “National Youth HIV & AIDS Awareness Day”; LEE of California; to the Committee on Energy and Commerce, April 10.

H.R. 149 (PARKINSON’S AWARENESS), expressing support for designation of April as Parkinson’s Awareness Month; CAROLYN B. MALONEY of New York; to the Committee on Energy and Commerce, April 10.

S. 709 (MEDICARE), to amend Title XVIII of the Social Security Act to increase diagnosis of Alzheimer’s disease and related dementias, leading to better care and outcomes for Americans living with Alzheimer’s disease and related dementias; STABENOW; to the Committee on Finance, April 11.

S. 719 (LYME DISEASE), to provide for the expansion of federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; BLUMENTHAL; to the Committee on Health, Education, Labor, and Pensions, April 11.

H.R. 1484 (MEDICARE), to amend Title XVIII of the Social Security Act to make publicly available on the official Medicare internet site Medicare payment rates for frequently reimbursed hospital inpatient procedures, hospital outpatient procedures, and physicians’ services; HUIZENGA of Michigan; jointly, to the committees on Ways and Means and Energy and Commerce, April 11.

H.R. 1487 (PHYSICIAN SELF-REFERRAL/SAFE HARBOR), to amend titles XVIII and XI of the Social Security Act to establish an exception from the physician self-referral prohibition and a safe harbor from federal anti-kickback and other sanctions for incentive payments made by hospitals to physicians under certain incentive payment programs; MCDERMOTT; jointly, to the committees on Energy and Commerce and Ways and Means, April 11.

H.R. 1490 (VETERANS’ HEALTH), to amend Title 38, United States Code, to prohibit the recording of a patient in a facility of the Department of Veterans Affairs without the informed consent of the patient; MILLER of Florida; to the Committee on Veterans’ Affairs, April 11.

H.R. 1507 (MEDICARE), to amend Title XVIII of the Social Security Act to increase diagnosis of Alzheimer’s disease and related dementias, leading to better care and outcomes for Americans living with Alzheimer’s disease and related dementias; MARKEY; jointly, to the committees on Energy and Commerce and Ways and Means, April 11.

Health Legislation Recently Introduced cont.

H.R. 1508 (ALZHEIMER'S DISEASE), to provide for the issuance of an Alzheimer's Disease Research Semipostal Stamp; MARKEY; jointly, to the committees Oversight and Government Reform and Energy and Commerce, April 11.

H.R. 1515 (HEALTH TECHNOLOGY), to amend the Foreign Assistance Act of 1961 to codify the cooperative agreement, known as the Health Technologies program, under which the United States Agency for International Development supports the development of technologies for global health, and for other purposes; SIREN; to the Committee on Foreign Affairs, April 11.

H.R. 1517 (SOCIAL SECURITY TRUST FUNDS), to amend titles II and XVIII of the Social Security Act to establish a Social Security Surplus Protection Account in the Federal Old-Age and Survivors Insurance Trust Fund to hold the Social Security surplus and a Medicare Surplus Protection Account in the Federal Hospital Insurance Trust Fund, to provide for suspension of investment of amounts held in such accounts until enactment of legislation providing for investment of the trust funds in investment vehicles other than obligations of the United States, and to establish a Social Security and Medicare Part A Investment Commission to make recommendations for alternative forms of investment of the Social Security and Medicare surpluses; WALBERG; to the Committee on Ways and Means, April 11.