



Health Policy Briefing

April 14, 2014

House Approves Ryan FY 2015 Budget Resolution

Before recessing until the week of April 28, the House voted 219-205 to pass H.Con.Res. 96, the fiscal year (FY) 2015 ten-year budget resolution crafted by **House Budget Committee Chairman Paul Ryan (R-WI)**. Using “dynamic” scoring, the resolution is said to cut \$5 trillion in spending over the FY 2015-24 period, including \$791 billion in non-defense discretionary spending below the levels enacted under the Budget Control Act. In general, the measure would repeal the Patient Protection and Affordable Care Act (PPACA) while retaining the law’s cuts to Medicare. The resolution, expected to die after the House’s action because Senate Democrats say they will not adopt a budget resolution, would also block grant Medicaid, increase Medicare premiums for higher-income beneficiaries and transition Medicare into a so-called “premium support” system. Democrats voted along party lines with the **Minority Leader Nancy Pelosi (D-CA)** calling the Republican’s “Path to Prosperity” a “road to recession”. The House also passed H.R. 1871, the Baseline Reform Act, which would amend the Gramm-Rudman-Hollings Act to revise the formula for calculating the baseline for discretionary spending for the budget year and each out-year to eliminate certain adjustments, including for administrative expenses of the Federal Hospital Insurance (Medicare Part A) Trust Fund and the Supplementary Medical Insurance (Medicare Part B) Trust Fund. In addition, the House passed H.R. 1872, the Budget and Accounting Transparency Act, which among other things would require the President’s budget from FY 2017 onward to reflect the costs of direct loan and loan guarantee programs on a fair value basis.

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Appropriations Actions

The House Appropriations Committee adopted interim allocations for the FY 2015 Military Construction/Veterans Administration (VA) and legislative branch appropriations, apparently waiting until the Congressional Budget Office (CBO) scores the Administration's budget to adopt 302(b) allocations for the other ten appropriations subcommittee bills. The committee then approved the \$165 billion FY 2015 Military Construction/VA bill which provides for a total of \$158.2 billion in spending for the VA (\$64.7 billion of which is for discretionary programs).

PPACA Relief Bill Fails in House

The House voted 257-159 to defeat H.R. 4144, the Expatriate Health Coverage Clarification Act of 2014, which would have provided for exemptions from the PPACA's individual and employer mandate for U.S. citizens working abroad. The measure failed under suspension of the rules (requiring a two-thirds vote) after the Administration expressed its opposition to the measure as opening a loophole that might allow U.S. insurers to sell "inferior" products. The bill, which obtained a majority vote, is likely to be brought up after the recess in regular order.

Senate Sends PPACA Bill Back to the House with Unemployment Benefits Extension

The Senate used a previous House-passed bill, H.R. 3979, as a vehicle to extend unemployment benefits for five months and renamed the legislation "The Emergency Unemployment Compensation Extension Act of 2014". House Speaker John Boehner (R-OH) did not support moving the bill further before the recess and the fate of the legislation remains unclear. As passed by the House, the legislation would exempt volunteer firefighters and other emergency responders from being counted as employees under the PPACA's employer mandate.

It's the Law: Children's Hospital GME Legislation

President Obama signed into law S. 1557, legislation which reauthorizes for five years the children's hospital graduate medical education (GME) program (P.L. 113-98). The law authorizes \$300 million in funding for the GME program through FY 2018, thus allows HRSA to make special payments to some hospitals whose inpatients are predominantly under 18 years of age and that are currently excluded from the Medicare inpatient hospital prospective payment system.

PPACA Health Reform Update

HHS Secretary Resigns After PPACA Goal of 7 Million Signups Reached

President Obama announced the resignation of U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius and said he will ask the Senate to approve his nomination of Office of Management and Budget (OMB) Director Sylvia Burwell as the new HHS Secretary. In praising the departing Secretary's efforts to improve medical IT and reduce health care fraud, notably absent was praise by the President for her efforts to implement the PPACA. While Senate Republicans are expected to question Ms. Burwell closely on her next moves to implement the health reform law, her confirmation is still not expected to be held up for long. The HHS Secretary did, however, also testify at a Senate Finance Committee hearing that about 400,000 individuals were enrolled after the March 31st deadline, thus bringing the total enrollment to about 7.5 million persons (still unknown are the number who have actually paid their premiums or who were previously uninsured). The Secretary also said HHS may consider decreasing payments to states for administrative expenses if they don't improve their own state-run eligibility systems. Several Republican senators also wrote to HHS asking for how much more funding HHS will give to the state exchanges and what actions the agency will take if the states don't resolve their marketplace problems. At a hearing held by the House Ways and Means Committee, Republicans continued their criticism of the Treasury/Internal Revenue Service delay until 2015 of the PPACA's employer mandate and pressed the Treasury witness for the agency's reasoning why the same relief should not be extended to the individual mandate (he said there was "no need").

Medicare/Medicaid/PHSA Corner

Amid Criticism, HHS Releases Medicare Payments to Providers

The Centers for Medicare and Medicaid Services (CMS) made available on its website the 2012 payments made by Medicare to physicians and other medical professionals. A spokesperson said that the fact that almost 4,000 doctors and medical professionals were paid more than \$1 million should not be taken as evidence of fraud or other improper practices (it was said that some physician billings were merely pass-through payments to drug companies, thus inordinately spiking the amounts). Excluding payments for 11 or fewer patients, the data discloses the type and frequency of the procedures performed. In another announcement, the agency said it will create a five-star rating system for hospitals, home-health agencies and dialysis providers with the transition to begin later this year or early next year.

Medicare Advantage Rate Increases Restored

CMS announced that the agency will increase the rates for Medicare Advantage (MA) plans by about 0.4% in 2015 rather than decrease them by 1.9% as previously disclosed. Health insurers and congressional Republicans have been lobbying the Administration to avoid the payment reductions which could leave MA beneficiaries with fewer benefits.

CMS Releases DSH Guidance

CMS released a 23-page document on Medicaid disproportionate share hospital (DSH) reporting and audit requirements which includes guidance on, among other things: audit verification, physician services, and indigent care programs.

FDA/DEA Issues

The House Energy and Commerce Health Subcommittee held a hearing during which members asked questions of a Drug Enforcement Administration (DEA) official as to how the agency can take more timely action on scheduling drugs that already are approved by the Food and Drug Administration (FDA). In response, the DEA official testified that his agency and the FDA are working on a MOU (memorandum of understanding) that would improve the drug scheduling process. Chairman Joe Pitts (R-PA) also promoted his bill H.R. 4299, legislation which is designed to improve the regulatory transparency of new medical therapies. The FDA also gave notice requesting comments on an initiative that would allow for innovative packaging, storage and disposal systems that could be used to prevent or deter the misuse and abuse of opioid pain drugs.

Upcoming Health-Related Hearings and Markups

POSTPONED: *House Veterans' Affairs Oversight and Investigations Subcommittee: will mark up draft legislation, including a bill related to biological implants.*

POSTPONED: *House Veterans' Affairs Health Subcommittee: will mark up pending legislation.*

Health Legislation Recently Introduced

H.R. 4406 (REFORM), to amend Title I of the Affordable Care Act to impose restrictions on the risk corridor program; LANCE; to the Committee on Energy and Commerce, April 7.

H.R. 4414 (REFORM), to clarify the treatment under the PPACA of health plans in which expatriates are the primary enrollees, and for other purposes; CARNEY; jointly, to the committees on Ways and Means, Energy and Commerce, Education and the Workforce, the Judiciary, Natural Resources and House Administration, April 7.

H.R. 4418 (MEDICARE), to amend Title XVIII of the Social Security Act to increase access to Medicare data; RYAN of Wisconsin; jointly, to the committees on Energy and Commerce and Ways and Means, April 7.

S. 2220 (MEDICAL SERVICES), to provide protections for certain sports medicine professionals who provide certain medical services in a secondary state; THUNE; to the Committee on Health, Education, Labor, and Pensions, April 8.

H.R. 4437 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program to further transparency of payment methodologies to pharmacies, and for other purposes; COLLINS of Georgia; jointly, to the committee on Energy and Commerce and Ways and Means, April 9.

H.R. 4438 (RESEARCH), to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit; BRADY of Texas; to the Committee on Ways and Means, April 9.

S. 2236 (ANTIMICROBIAL RESISTANCE), to amend the Public Health Service Act to enhance efforts to address antimicrobial resistance, and for other purposes; BROWN; to the Committee on Health, Education, Labor, and Pensions, April 10.

S. 2240 (MEDICARE), to amend Title XVIII of the Social Security Act to encourage Medicare beneficiaries to voluntarily adopt advance directives guiding the medical care they receive; COONS; to the Committee on Finance, April 10.

S. 2251 (LONG-TERM CARE), to amend the Older Americans Act of 1965 to develop and test an expanded and advanced role for direct care workers who provide long-term services and supports to older individuals in efforts to coordinate care and improve the efficiency of service delivery; CASEY; to the Committee on Health, Education, Labor, and Pensions, April 10.

S. 2253 (REFORM), to amend the Affordable Care Act to provide for a temporary shift in the scheduled collection of the transitional reinsurance program payments; FRANKEN; to the Committee on Health, Education, Labor, and Pensions, April 10.

H.R. 4445 (LONG-TERM CARE), to amend the Older Americans Act of 1965 to develop and test an expanded and advanced role for direct care workers who provide long-term services and supports to older individuals in efforts to coordinate care and improve the efficiency of service delivery; CARTWRIGHT; to the Committee on Education and the Workforce, April 10.

H.R. 4475 (INVESTIGATIONAL DRUGS), to allow the manufacture, importation, distribution and sale of investigational drugs and devices intended for use by terminally ill patients who execute an informed consent document, and for other purposes; GRIFFITH of Virginia; to the Committee on Energy and Commerce, April 10.

H.R. 4484 (MEDICARE), to amend Title XVIII of the Social Security Act to provide improvements for Medicare Advantage special needs plans, and for other purposes; SINEMA; jointly, to the committees on Ways and Means and Energy and Commerce, April 10.

H.RES. 554 (BREAST CANCER), recognizing the alarming mortality rate of African-American breast cancer patients; HAHN; to the Committee on Energy and Commerce, April 10