



## Health Policy Briefing

May 30, 2017

### White House Releases FY 2018 Budget Proposal

President Trump released his proposed budget for fiscal year (FY) 2018 last week. The proposal includes \$1.5 trillion in nondefense discretionary spending cuts, and would balance the budget within a decade. While the White House budget would drastically reshape federal spending on anti-poverty and safety net programs, it leaves the Medicare program untouched. The budget assumes that repeal and replacement of the Affordable Care Act (ACA) will be accomplished, resulting in estimated savings of \$250 billion over the next ten years.

The budget features deep cuts to the U.S. Department of Health and Human Service (HHS) – totaling a reduction of \$12.4 billion in discretionary funding.

- Funding for the National Institutes of Health (NIH) would be reduced by nearly 20 percent, or \$6 billion.
- The budget proposes to decrease spending at the Centers for Disease Control and Prevention (CDC) by \$1.3 billion, or 17 percent.
- The budget proposal would consolidate the Agency for Healthcare Research and Quality (AHRQ) into the NIH, but maintain the Agency’s \$272 million in discretionary funding. Additionally, the method by which AHRQ processes grants would be restructured in order to lower operating costs.
- The President’s budget would increase industry user fees at the Food and Drug Administration (FDA) by almost 70 percent while reducing taxpayer funding for the agency by 30 percent. Congressional leadership has already said this proposal is definitely unfeasible given the current status of user fee negotiations.

According to a report to congressional appropriators from the FDA, the proposed budget cuts would reduce staff tasked with ensuring medical product safety, and would adversely impact research investments, employee training, and the FDA’s broader mission to protect the public health.

- The Office of National Drug Control Policy (ONDCP) would be

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cut by 10 percent, which is far short of the 95 percent cut the Administration previously considered. The decision was praised by the lawmakers most focused on addressing the opioid epidemic.

- The HHS General Departmental Management funds, which support offices under the HHS secretary, would be reduced by one-third.
- The Office of the National Coordinator for Health Information Technology (ONC) would see its budget reduced from \$60 million to \$38 million in FY 2018. Funding for the Office for Civil Rights, which investigates HIPAA breaches, would be reduced from \$39 million to \$33 million.
- Within the Substance Abuse and Mental Health Services Administration (SAMHSA), the Community Mental Health Services block grant would be cut by \$116 million, while other state mental health grants would be reduced by \$136 million. Substance abuse treatment grants for states would fall by \$73 million and public awareness programs would decline by \$74 million.
- The budget includes medical liability reforms as one of its major savings components. Proposals such as capping non-economic damages, enactment of a statute of limitations, and creation of a safe harbor for clinicians are estimated to produce \$55.8 billion in savings.
- On the issue of drug pricing, the President's budget expresses support for updating value-based purchasing arrangements, and for encouraging manufacturers to communicate with payers ahead of FDA approval.

The White House budget proposal would also overhaul the Medicaid program in order to rein in entitlement spending. Medicaid's federal funding would be capped, which would result in \$610 billion in savings over the next decade. Medicaid would be transitioned to either a block grant program or a per-capita limit. While states would receive a fixed amount of funding for Medicaid, they would be provided additional flexibility in the administration of the program. The budget proposal's handling of Medicaid mirrors the policies contained in the House-passed American Health Care Act (AHCA), to repeal and replace Obamacare. The combined proposals would slash a total of \$1.4 trillion from the Medicaid program. The budget proposal indicates the President's interest in reforming the program regardless of whether AHCA becomes law. The President's budget also includes a \$5.8 billion cut to the Children's Health Insurance Program (CHIP), along with a two-year extension of CHIP.

While Republicans praised the President for his commitment to balancing the budget, most have distanced themselves from the budget proposal nonetheless. Lawmakers from both sides of the aisle, including Chairman of the House Appropriations HHS Subcommittee Tom Cole (R-Okla.), have been critical of the cuts to medical research – Congress recently gave NIH a \$2 million budget increase in its FY 2017 spending bill. Several Senate Republicans have also expressed opposition to how the budget handles the Medicaid program. Both leadership and rank-and-file lawmakers have been quick to stress that the White House budget is only a recommendation or suggestion. Congress is expected to reject many of the President's proposals as lawmakers move forward with the appropriations process.

Lawmakers face a challenging timeline for passing appropriations bills under regular order by the start of FY 2018 on October 1. Majority Leader Mitch McConnell (R-Ky.) has said that he expects to begin negotiating with Democrats on topline spending levels in the near future.

### ***Lawmakers Send 'Dear Colleague' in Support of NIH Funding***

Fifty-seven bipartisan senators penned a 'Dear Colleague' letter last week urging appropriators to maintain a strong commitment to funding for the National Institutes of Health (NIH) during the fiscal year (FY) 2018 appropriations process. "We urge you to consider the tremendous benefits of sustained investment in the NIH, and ask you to remember our Nation's role as a world leader in biomedical research, and the impact this research has on patients," the lawmakers write. The letter was sent to Chairman of the Senate Appropriations Committee Thad Cochran (R-Miss.) and Vice Chairman Patrick Leahy (D-Vt.), and Chairman of the Subcommittee on Labor, Health and Human Services (HHS), and Education Roy Blunt (R-Mo.) and Ranking Member Patty Murray (D-Wash.).

### ***Congressional Telehealth Caucus Launched***

Members of the House of Representatives have launched a coalition to bring awareness to the issue of technology use in the delivery of health care. The Congressional Telehealth Caucus will welcome input from stakeholders to educate lawmakers, particularly those outside of committees with Medicare jurisdiction, about the importance of telehealth. The four founding members of the caucus are Reps. Mike Thompson (D-Calif.), Gregg Harper (R-Mass.), Diane Black (R-Tenn.), and Peter Welch (D-Vt.). The Medicare Telehealth Parity Act (H.R. 2550) and the CONNECT for Health Act (S. 1016) were also introduced last week. Both bills would improve reimbursement for and expand the use of telehealth services. Components of the CONNECT for Health Act were included as part of the CHRONIC Care Act (S.870), which was advanced by the Senate Finance Committee earlier this month.

### ***Ways and Means Marks Up Health Care Reform Legislation***

The House Ways and Means Committee has advanced three bills aimed at reforming the nation's health care system. The markup was considered part of the third phase of the Republican approach to repealing and replacing the Affordable Care Act (ACA). The first phase is the American Health Care Act (AHCA) – repeal legislation that can be advanced through reconciliation. The second phase consists of administrative changes that can be made unilaterally by Secretary of the U.S. Department of Health and Human Services (HHS) Tom Price to roll back the law. The third phase encompasses legislation that reforms the health care system but cannot be passed under the rules of reconciliation. The Committee advanced H.R. 1671, introduced by Rep. Lou Barletta (R-Pa.), to require verification of eligibility by the Social Security Administration and Homeland Security in order to qualify for premium subsidies, with no Democratic support. H.R. 2372, offered by Rep. Sam Johnson (R-Texas), would codify the current practice of allowing veterans to access premium subsidies if they are not enrolled in coverage at the Veterans Administration, in the event that the American Health Care Act becomes law. H.R. 2372 was also passed with no Democratic committee member support. H.R. 2579, from Rep. Pat Tiberi (R-Ohio), would allow the ACA's premium subsidies to be applied to COBRA coverage. The bill was advanced with the support of one committee Democrat, Rep. Ron Kind (D-Wis.). Republicans hope to pass these bills through the House with bipartisan support.

### ***CBO Scores the American Health Care Act***

The Congressional Budget Office (CBO) has released its score of the American Health Care Act (AHCA), which would repeal and replace Obamacare. According to the non-partisan budget agency, AHCA would lead to 23 million more uninsured over the next decade. This estimate is in keeping with previous versions of the bill. The House-passed legislation, however, would produce fewer savings than previous versions of the bill. CBO estimates that the AHCA would reduce the deficit by \$119 billion over the next ten years, down from earlier projections of \$151 billion and \$337 billion. Premiums would increase for two years before decreasing by 20 percent in 2018 and five percent in 2019. CBO predicts that the changes to the Medicaid program would reduce coverage by 10 million people and cut program funding by \$834 billion over the next decade. The agency also warns that the bill could undermine the stability of insurance markets in one-sixth of the country – those states which choose to waive ACA insurance regulations. As a result, older and sicker Americans would see a drastic increase in the cost of their insurance coverage. While the score was well-received by Speaker of the House Paul Ryan (R-Wis.) for confirming that the bill would lower the deficit, Secretary of the U.S. Department of Health and Human Services (HHS) Tom Price questioned the score's accuracy. In the Senate, some Republican members warned that the CBO's analysis underscored the need for the upper chamber to pass legislation that does more to protect those with pre-existing conditions. Majority Leader Mitch McConnell (R-Ky.), however, reiterated that the ACA status quo was unacceptable and unsustainable, regardless of the CBO report.

## ***Senate Repeal Legislation to be Drafted This Week***

Senate staff plans to spend the week of Memorial Day recess drafting a health care bill and building consensus around a plan to repeal and replace the Affordable Care Act (ACA). Staff will also confer with the Senate parliamentarian to discuss which aspects of Obamacare repeal and replacement can be accomplished through reconciliation. Majority Leader Mitch McConnell (R-Ky.) has confirmed that he does not yet have the votes to bring repeal legislation to the Senate floor. The biggest sticking point appears to be Medicaid – lawmakers in the Senate can't seem to agree on how much to scale back Obamacare's expansion, or how to rein in program spending. Additionally, there is still disagreement about whether to allow states to waive the health care law's insurance regulations, which require coverage of essential health benefits and community rating. The Senate GOP is currently in the early stages of weighing a proposal to stabilize the insurance market in 2018 and 2019, while postponing ACA repeal until 2020. Lawmakers are also looking into the idea of reinsurance as an alternative to the use of high-risk pools to provide coverage to high cost patients.

## ***Continuous Coverage Legislation Introduced***

Lawmakers in the House and Senate introduced the bipartisan Stabilize Medicaid and CHIP Coverage Act of 2017 last week. The legislation would offer continuous eligibility for Medicaid and Children's Health Insurance Program (CHIP) enrollees for the full year, in order to reduce the number of beneficiaries going on and off the programs because of slight changes to their income. The bill was introduced by Reps. Gene Green (D-Texas) and Joe Barton (R-Texas) in the House (H.R. 2628), and by Sen. Sherrod Brown (D-Ohio) in the Senate (S. 1227).

## ***Recently Introduced Health Legislation***

***H.R.2550 (introduced by Rep. Mike Thompson): To amend title XVIII of the Social Security Act to provide for an incremental expansion of telehealth coverage under the Medicare program; Ways and Means***

***H.R.2556 (introduced by Rep. Diane Black): To amend title XVIII of the Social Security Act to expand access to telehealth services, and for other purposes; Energy and Commerce, Ways and Means***

***H.R.2557 (introduced by Rep. Larry Bucshon): To amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of certain DNA Specimen Provenance Assay clinical diagnostic laboratory tests; Energy and Commerce, Ways and Means***

***H.R.2558 (introduced by Rep. Chris Collins): To direct the Secretary of Health and Human Services to issue guidance with respect to three-dimensional human tissue models, and for other purposes; Energy and Commerce***

***H.R.2562 (introduced by Rep. Mike Kelly): To improve access to prescription drugs; Energy and Commerce***

***H.R.2569 (introduced by Rep. Ed Perlmutter): To promote transparency in health care pricing, and for other purposes; Energy and Commerce, Ways and Means, Oversight and Government Reform***

***H.R.2574 (introduced by Rep. Raul Ruiz): To amend the Public Health Service Act to help build a stronger health care workforce; Energy and Commerce***

***H.R.2587 (introduced by Rep. John K. Delaney): To provide for the coverage of medically necessary food and vitamins for digestive and inherited metabolic disorders under Federal health programs and private health insurance, and for other purposes; Energy and Commerce, Ways and Means, Armed Services, Oversight and Government Reform***

***H.R.2589 (introduced by Rep. Adam Kinzinger): To waive the 24-month waiting period for Medicare eligibility for individuals disabled by Huntington's disease; Ways and Means***

*S.1191 (introduced by Sen. Chuck Grassley): A bill 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; Finance*

*S.1194 (introduced by Sen. Robert P. Casey, Jr.): A bill to provide for the coverage of medically necessary food and vitamins for digestive and inherited metabolic disorders under Federal health programs and private health insurance, and for other purposes; Finance*

*S.1197 (introduced by Sen. Kirsten E. Gillibrand): A bill to waive the 24-month waiting period for Medicare eligibility for individuals disabled by Huntington's disease; Finance*

*S.1201 (introduced by Sen. Claire McCaskill): A bill to allow individuals living in areas without qualified health plans offered through an Exchange to have similar access to health insurance coverage as members of Congress and congressional staff; Finance*

*H.R.2599 (introduced by Rep. Glenn Thompson): 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; Energy and Commerce, Ways and Means*

*H.R.2601 (introduced by Rep. Neal P. Dunn): To amend the Veterans Access, Choice, and Accountability Act of 2014 to improve the access of veterans to organ transplants, and for other purposes; Veterans' Affairs*

*H.R.2628 (introduced by Rep. Gene Green): To amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment of individuals under the Medicaid program and Children's Health Insurance Program, and for other purposes; Energy and Commerce*

*H.R.2639 (introduced by Rep. Peter T. King): To reauthorize the Elder Justice Act of 2009; Ways and Means, Judiciary, Energy and Commerce, Education and the Workforce*

*H.R.2641 (introduced by Rep. Billy Long): To promote the development of safe drugs for neonates; Energy and Commerce*

*H.R.2644 (introduced by Rep. Tom Marino): To improve the understanding of, and promote access to treatment for, chronic kidney disease, and for other purposes; Energy and Commerce, Ways and Means*

*S.1227 (introduced by Sen. Sherrod Brown): A bill to amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment under Medicaid and the Children's Health Insurance Program, and for other purposes; Finance*

*H.R.2663 (introduced by Rep. Kenny Marchant): To amend title XVIII of the Social Security Act to make changes to documentation of eligibility for Medicare home health services, and for other purposes; Ways and Means, Energy and Commerce*

*H.R.2677 (introduced by Rep. Judy Chu): To amend the Public Health Service Act to provide for behavioral and mental health outreach and education strategies to reduce stigma associated with mental health among the Asian American, Native Hawaiian, and Pacific Islander population; Energy and Commerce*

*H.R.2687 (introduced by Rep. Bill Foster): To amend title XIX of the Social Security Act to provide States with an option to provide medical assistance to individuals between the ages of 22 and 64 for inpatient services to treat substance use disorders at certain facilities, and for other purposes; Energy and Commerce*

*H.R.2688 (introduced by Rep. Gene Green): To amend title XIX of the Social Security Act to provide the same level of Federal matching assistance for every State that chooses to expand Medicaid coverage to newly eligible individuals, regardless of when such expansion takes place; Energy and Commerce*

*H.Res.358 (introduced by Rep. Theodore E. Deutch): Expressing support for the designation of May 25 as “National Moonshot Day” and recognizing the importance of conquering scientific challenges from medicine to space and beyond; Education and the Workforce*

*S.1255 (introduced by Sen. Christopher Murphy): A bill to amend title II of the Social Security Act to credit individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service, and to support State medical training programs for caregivers; Finance*

*S.1276 (introduced by Sen. Dianne Feinstein): A bill to require the Attorney General to make a determination as to whether cannabidiol should be a controlled substance and listed in a schedule under the Controlled Substances Act and to expand research on the potential medical benefits of cannabidiol and other marijuana components; Finance*

*S.Res.182 (introduced by Sen. Jack Reed): A resolution designating May 2017 as “Melanoma Awareness Month”; submitted in the Senate, considered, and agreed to without amendment*