



President Unveils \$3.8 Trillion Budget; Jobs Bill in Senate and Mini-health Bill in House

President's FY 2011 Budget Recommendations

Last Monday the Administration sent to Congress the President's \$3.8 Trillion FY 2011 budget recommendations which includes a spending freeze affecting only 14% of the budget (the freeze is not across the board, but will allow for increases in some discretionary spending areas, such as NIH spending which increases \$1 billion, while making offsetting cuts in other discretionary programs). The budget proposal assumes passage of comprehensive health reform legislation resulting in a total of \$150 billion in deficit reduction over 10 years after the reform legislation is passed. **House Appropriations Chairman David Obey** said his committee would adhere to the Administration's bottom line but would not follow all of his specific requests.

The proposed budget includes \$1.5 trillion in mandatory spending for only three programs--Medicare (\$491 billion), Medicaid (\$297 billion) and Social Security. To shore up state Medicaid shortfalls, the budget also provides an additional \$25.5 billion for a six month extension of increased FMAP federal matching rates. See Appendix I for the FY 2011 budget schedule.

The budget recommends the following funding for the specified agencies:

◆ Medicare Physician

Payments: the budget assumes that Congress will act to maintain Part B Medicare MD reimbursements and that MDs will not receive a cut in 2011.

◆ SCHIP: \$10.5 billion, with \$200 million directed to the Child Enrollment Contingency Fund.

◆ Competitive Acquisition Program (CAP) for Part B drugs--\$2.5 million to resurrect this CAP.

◆ HHS: \$81.3 billion (an increase of \$1.7 billion).

◆ NIH: \$31 billion (a \$1 billion, 3.2% increase), including \$6 billion for cancer research with the goal of boosting drug and vaccine clinical trials by 2016; i.e. NIH investments will focus on priority areas including genomics, translational research, science to support health care reform,

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Health Reform Update

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global health and reinvigorating the biomedical research community.

◆ **CDC:** \$10.6 billion, including \$10 million for a Health Prevention Corps program to hire and train as many as 150 new public health professionals who will serve as state liaisons to CDC, and \$20 million for a grant program to lower obesity and smoking rates and other health problems in the 10 largest cities in the U.S.

◆ **Agency for Healthcare Research and Quality:** \$286 million for comparative effectiveness research at AHRQ, aimed at finding the best available drugs and treatments.

◆ **Health IT:** \$110 million for new Health Care Data improvement initiatives to change the “data environment from claims processing to state-of-the-art data analysis and information sharing;” \$732 million for information technology systems and other

support, such as systems to manage and administer the Medicare Advantage and Part D (outpatient drug) benefits.

◆ **FDA:** \$4.03 billion (an increase of \$748 million with \$601 million in new user fees); the increase is allocated mainly to improve food safety, approve generic drugs and establish an improved data sharing system for MDs and others).

◆ **Community Health Centers:** \$2.5 billion, a \$290 million increase.

◆ **National Health Service Corps:** \$169 million, up from \$142 million to place providers in medically underserved communities in exchange for loan repayment assistance.

◆ **Americans with Autism Spectrum Disorders (ASD):** \$222 million across HHS to expand research, detection, treatment, and other activities related to improving the lives of individuals and families

affected by ASD.

◆ **Veterans Affairs:** \$342 billion (a 20%, \$57 billion increase), including \$50.6 billion for the VA medical care program (and \$5.2 billion to expand inpatient, residential and outpatient mental health programs and \$799 million to extend medical services to homeless veterans.).

◆ **State Department:** \$8.5 billion for global health initiatives, such as HIV/AIDS prevention and treatment programs, maternal and child care programs and efforts to combat tropical diseases.

◆ **Medicare/Medicaid Demos:** to provide higher quality care at lower costs, improve beneficiary education and the understanding of benefits offered and better align provider payments with costs and outcomes.

House to Take Up Repeal of McCarran-Ferguson

This week the House is expected to consider legislation introduced by **Reps. Tom Perriello and Betsy Markey** that would repeal portions of the McCarran-Ferguson Act for health insurers. The sponsors say that under the legislation insurers will no longer be protected from liability for antitrust practices such as price fixing, dividing up market territories or bid rigging. Democrats argue that the legislation (broken out from a similar provision under the House-passed health reform bill) will repeal the exemption for insurers that has resulted in “a lack of competition and a lack of accountability that has helped send prices up for consumers and working

families across the country....” Opponents argue that the repeal could risk harming consumers by limiting activities that enhance competition and benefit consumers and from the increased costs associated with regulatory uncertainty and the prospect of additional litigation challenging pro-competitive behavior. **House Minority Leader John Boehner** indicated that he is becoming more skeptical of ending the antitrust exemption saying that the current exemption is very narrow and allows insurers to compare claims data so they can more accurately set prices, thus increasing competition, especially among small insurers.

Senate To Take Up Jobs Bill

Senate Majority Leader Harry Reid and Senate Finance Chairman Max Baucus are attempting to negotiate a bipartisan jobs bill in the \$80-90 billion range to be voted on this week. The bill is expected to include an extension of COBRA coverage and unemployment benefits and a Medicare payroll tax

break for new hires being pushed by **Senators Hatch and Schumer**. The bill may also include a 3-month Medicare physician payment fix and an extension for other expiring Medicare provisions, including the financial cap on Medicare Part B outpatient therapy services (**Senators Grassley, Lincoln and Ensign** have asked

HHS for an administrative extension if the cap is not extended by legislation). If not in the jobs bill, Congress will have to take up a separate extenders bill for the Medicare fixes to avoid the 21% MD reimbursement cut that would take place on March 1.

GOP Objects to Presidential Deficit Reduction Commission

Last week **House Minority Leader John Boehner** told **Treasury Secretary Timothy Geithner** that the President's proposed fiscal commission is "nothing more than a partisan Washington exercise rigged to impose massive tax increases and pass the buck on the tough choices we need to be making right now...." He said the

commission membership should be equally divided between Republicans and Democrats. He also suggested that the remainder of the stimulus spending be repealed, money repaid under the Troubled Asset Relief Program be used to reduce the deficit and that federal spending be capped.

Does the President Have a New Strategy to Pass Health Reform?

Last week the **President Obama** said that after congressional leaders work out the differences between the House and Senate reform bills, he wants to meet publicly with Democrats, Republicans and independent experts. He said he wants to clarify particular reform provisions for U.S. residents. **President Obama** said congressional leaders and the independent experts would then hold a debate on the overhaul proposals. He said he hoped Congress would vote on the revised reform legislation after the debate. **Vice President Biden** also indicated the Administration will soon meet with congressional Republicans to get their ideas on health reform. At the HHS budget hearing held last week, **Senate Finance Committee Chairman Max Baucus** said that he is "very confident" the Senate will pass comprehensive health reform this year and was pleased that President Obama's FY 2011 budget request assumes enactment of the legislation. **Senate Majority Leader Harry Reid** is apparently trying to fashion a route using budget reconciliation under which the House would

pass the Senate bill, H.R. 3590, with provisions agreed to by House and Senate Democrats being inserted in the reconciliation legislation which would only require 51 votes for passage in the Senate. **Senator Sherrod Brown** said reconciliation is the only real route to a comprehensive bill. However, **Senator Mary Landrieu** said that using reconciliation is going to be very problematic, because the two bills are vastly different. It is reported that at least 10 Senate moderates have said that they either oppose using the process for health reform. Congress is likely to use the latest CMS report on the increasing costs of health care to push for health reform this year. CMS reported that in 2009 the United States spent \$2.5 trillion on health care (a 5.7% increase and 17.3% of GDP). CMS projected that the economic recession, rising unemployment and an expected increase in Medicare enrollment in 2011 will influence health spending increases between 2009 and 2019 by an average of 6.1% annually (reaching 19.3% of GDP).

Appendix I: FY 2011 Budget Target Dates

- Feb. 1:** President Obama submitted FY 2011 budget request to Congress.
- Feb. 2:** Congressional committees begin hearings on president's budget request.
- April 15:** Statutory deadline for Congress to complete its annual budget resolution. The resolution sets a limit on discretionary spending and may include instructions for a reconciliation bill.
- May 15:** The date after which the House may consider FY 2011 spending bills even if a final budget resolution has not been adopted.
- July 3:** Beginning of Congress' Independence Day recess. This is the informal deadline that House leaders set for passing all 12 regular appropriations bills.
- July 15:** President submits his mid-session review of the budget to Congress, which includes revised deficit estimates.
- Aug. 7:** Beginning of the Senate's summer recess. This is the Senate's informal deadline for passing all 12 spending bills.
- Mid-August:** CBO issues updated budget projections.
- Sept. 13:** House and Senate return from summer recess with 18 days to negotiate their differences and clear all appropriations bills before the new fiscal year begins.
- Oct. 1:** Fiscal 2011 begins. A continuing resolution would be required to finance any agency whose appropriations bill has not been enacted.

S. 2964 (MEDICARE/MEDICAID/CHIP), to amend titles XVIII, XIX, and XXI of the Social Security Act to prevent fraud, waste, and abuse under Medicare, Medicaid, and CHIP, and for other purposes; GRASSLEY; to the Committee on Finance, Jan. 28.

H.R. 4555 (VETERANS' HEALTH), to amend Title 38, United States Code, to direct the Secretary of Veterans Affairs to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune, and for other purposes; MILLER of North Carolina; to the Committee on Veterans' Affairs, Feb. 2.

H.R. 4563 (HEALTH INSURANCE COVERAGE), to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage of screening for breast, prostate, and colorectal cancer; MALONEY; jointly, to the committees on Energy and Commerce, Education and Labor, Ways and Means and Oversight and Government Reform, Feb. 2.

H.R. 4568 (MILITARY HEALTH), to direct the secretary of defense and the secretary of veterans affairs to carry out a pilot program under which the secretaries make payments for certain treatments of traumatic brain injury and post-traumatic stress disorder; SESSIONS; jointly,

to the committees on Armed Services and Veterans' Affairs, Feb. 2

H. RES. 1053 (DISEASE AWARENESS), recognizing that women are equally affected by colon cancer; DAHLKEMPER; to the Committee on Energy and Commerce, Feb. 2.

H. RES. 1056 (NATIONAL LIMB LOSS AWARENESS MONTH), expressing support for designation of April as National Limb Loss Awareness Month; DUNCAN; to the Committee on Energy and Commerce, Feb. 2.

H.R. 4577 (MEDICAL REIMBURSEMENT), to direct the president, acting through the National Disaster Medical System, to reimburse states for expenses incurred in providing treatment for health conditions and illnesses resulting, directly or indirectly, from the earthquake in Haiti Jan. 12, 2010; CORRINE BROWN of Florida; to the Committee on Energy and Commerce, Feb. 3.

H.R. 4580 (HOMELAND SECURITY), to amend the Homeland Security Act of 2002 to authorize the Metropolitan Medical Response System Program, and for other purposes; MARKEY of Massachusetts; jointly, to the committees on Energy and Commerce and Homeland Security, Feb. 3.

H.R. 4593 (MEDICARE), to amend Part B of Title XVIII of the Social Security Act to waive Medicare Part B premiums for certain military retirees; VAN HOLLEN; jointly, to the

committees on Energy and Commerce and Ways and Means, Feb. 3.

H. RES. 1063 (HEALTH INSURANCE), expressing the sense of the House of Representatives that a mandate imposed by the federal government requiring individuals to purchase health insurance is unconstitutional; SULLIVAN; to the Committee on Energy and Commerce, Feb. 3.

S. 2984 (MEDICAID), to direct the secretary of health and human services to revise regulations implementing the statutory reporting and auditing requirements for the Medicaid disproportionate share hospital ("DSH") payment program to be consistent with the scope of the statutory provisions and avoid substantive changes to preexisting DSH policy; LANDRIEU; to the Committee on Finance, Feb. 4.

S. 2987 (MEDICARE), to amend Title XVIII of the Social Security Act to extend the exceptions process for one year with respect to the caps on payments for therapy services under Medicare; ENSIGN; to the Committee on Finance, Feb. 4.

S. 2988 (MEDICARE), to amend Title XVIII of the Social Security Act to extend the exceptions process for two years with respect to caps on payments for therapy services under Medicare; ENSIGN; to the Committee on Finance, Feb. 4.

S. 2997 (MEDICARE), to amend Title XVIII of the Social Security

Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes; WICKER; to the Committee on Finance, Feb. 4.

S. 3000 (FEDERAL MEDICAL ASSISTANCE PERCENTAGE RATES), to extend the increase in the FMAP provided in the American Recovery and Reinvestment Act of 2009

for an additional six months; ROCKEFELLER; to the Committee on Finance, Feb. 4.

S. 3003 (CHILDREN'S HEALTH), to enhance federal efforts focused on public awareness and education about the risks and dangers associated with Shaken Baby Syndrome; DODD; to the Committee on Health, Education, Labor, and Pensions, Feb. 4.

H.R. 4601 (NURSES), to amend the Public Health Service Act

to establish the Office of the National Nurse; BLUMENAUER; to the Committee on Energy and Commerce, Feb. 4.

H.R. 4615 (DENTISTS), to amend the Federal Food, Drug, and Cosmetic Act to require dentists to provide patients with a fact sheet before performing any dental restoration work, and for other purposes; WATSON; to the Committee on Energy and Commerce, Feb. 4.