



## Government by CR: This Time \$6 Billion in Cuts for the Next Three Weeks

### *House to Take Up \$6 Billion CR on Tuesday*

On Tuesday, the House is expected to debate the latest extension, until April 8th, of temporary authority for the federal government to continue discretionary spending programs. The CR, H.J.Res. 48, will continue the framework of H.R. 1, which would reduce spending by about \$60 billion over the remaining months of the fiscal year, by cutting discretionary spending by about \$2 billion per week for at total of \$6 billion over the next three weeks. The CR was necessitated when the Senate rejected the House-passed appropriations measure on a mostly party-line vote, as well as the Senate Majority Leader's alternative, with 10 Democrat defections, which would cut about \$10.8 billion through September 30th. As to the status of appropriations for the remainder of FY 2011, **Senate Minority Leader Mitch McConnell** stated that it is likely that all Senate Republicans will vote against raising the federal debt ceiling (which **Treasury Secretary Geithner** says should take place as soon as April 15th), unless Congress passes and the President signs legislation that would significantly reduce federal deficits going forward.

**Senators Mark Warner (D-VA) and Saxby Chambliss (R-GA)** have taken to the public airwaves to educate the nation on the need for deficit reduction, describing the consequences as dire if a bipartisan agreement cannot be reached. Also, the

Senate bipartisan "gang of six" also continues to discuss a long-term deficit reduction plan which would tweak the Bowles/Simpson Deficit Reduction Commission recommendations.

**House Budget Committee Chairman Paul Ryan** is expected to release his FY 2012 budget and entitlement spending reductions before the debt limit deadline. If a bipartisan/presidential deal on spending for at least FY 2011 cannot be reached by the deadline, the burden to pass a debt limit increase will fall principally on **House Speaker John Boehner** to rally enough Republicans and Democrats to pass the measure. All of the Senators in the Democratic Caucus would also have to follow suit to pass the debt limit increase, if

*continued page two*

### *Inside*

|  |     |
|--|-----|
| PPACA Defunding Pushed in House                  | 2   |
| Repeal of IRS Form 1099 Delayed in Senate        | 2   |
| Waivers and More Waivers                         | 2   |
| PPACA A Jobs "Killer"?                           | 3   |
| Update on Constitutional Challenges to the PPACA | 3   |
| Requirement for Insurer Notice of Rate Increases | 3   |
| Medicare Physician Payment Cut for 2012?         | 3   |
| Introduced Health Legislation                    | 4-6 |

*from page one*

Senate Republicans refuse to go along. Given **Secretary Kathleen Sebelius'** testimony last week before the House Appropriations Committee, where she strongly opposed the \$1 billion cut to community health centers under H.R. 1, it appears to be an uphill battle for Republicans to convince the Administration of the need to enact further cuts to discretionary programs this fiscal year. **Senator Orrin Hatch**

**and Rep. Dave Camp** also rebutted the Secretary's contention that the House CR would stymie updated payments to Medicare Advantage plans. The provisions in H.R. 1, which would defund HHS implementation of the PPACA, were said by CBO to result in a ten-year \$5.7 billion increase in the federal deficit. These and other "riders" included in H.R. 1 will only serve to complicate a bipartisan budget agreement going forward. To date, the CR's have not included such riders.

## Repeal of IRS Form 1099 Delayed in Senate

Last week the Senate failed to gain agreement on how to cover the \$19 billion ten-year cost of repealing the PPACA's 1099 reporting requirements.

**Senate Finance Committee**

**Chairman Max Baucus** said the Administration objected to the PPACA payfor under the House-passed bill, H.R. 4, but was apparently open to a compromise which would include an amended

version of the House offset and **Senator Debbie Stabenow's** suggestion to rescind unobligated discretionary funding.

## PPACA Defunding Pushed in House

During a hearing held last week by the **House Energy and Commerce Health Subcommittee**, **Chairman Joe Pitts** said his committee would target five areas of the PPACA in which to convert mandatory funding

into discretionary programs: school-based health centers; grants to states for developing insurance exchanges; a public health and prevention fund; personal responsibility education programs; and teaching health centers development grants. He

said legislation to accomplish the goal would be introduced soon and, perhaps, attached to other "must pass" legislation to overcome potential Democrat opposition.

## Waivers and More Waivers

Last week HHS and the Treasury Department issued a proposed rule that would allow states to receive "innovation waivers," if state alternatives to PPACA mandates could be shown to provide coverage as comprehensive and affordable as under the law without adding to the federal deficit. Adding to the Administration's headaches, **Rep. Mike Rogers and Senator Dan Boren** have introduced legislation that would allow both individual Americans

and all employers to obtain waivers from the mandates under the PPACA. In related news, the Center for Consumer Information and Insurance Oversight approved the request by Maine for a waiver from the 80% loss ratio requirement under the PPACA due to the provision's potential to destabilize the state's health insurance market.

**C**onflicting testimony was given last week at the House Education and the Workforce Subcommittee hearing on whether the PPACA would result in job losses. A New York bowling lane owner said he absolutely believes that businesses would lay off employees to get under the 50 employee threshold which mandates employer paid health coverage. On the other

## PPACA A Jobs “Killer”?

hand, an auto shop witness called by Democrats said his health insurance premiums have decreased and the small business tax credits have made his company’s coverage more affordable. In related news, **House Minority Leader Nancy Pelosi** and other others touted the benefits of the PPACA after one year, citing the coverage of children up to age 26 and the removal of pre-existing

condition barriers to coverage. On the other hand, House Energy and Commerce Committee Republicans continued their inquiry into PPACA proceedings by again pressing the White House to produce information on White House contacts with industry and other non-governmental groups leading up to the enactment of the law.

## Update on Constitutional Challenges to the PPACA

**L**ast week the Department of Justice provided to the Eleventh Circuit its notice of appeal of the U.S. District Court for the Northern District of Florida’s decision that the entire PPACA is null and void. The DOJ is asking that the appeals court rule on the constitutionality of the PPACA’s individual mandate and

whether it can be decoupled from the statute. The Florida Attorney General has asked the appeals court for an “en banc” hearing instead of one before the usual three-judge panel. Also, the U.S. Court of Appeals for the Sixth Circuit has granted a motion to expedite review in late May or early June in the Thomas More case, under

which the district court upheld the statute. Oral arguments are scheduled in the Fourth Circuit Court of Appeals for mid-May to hear the Virginia case which struck down the individual mandate. Of note, the Massachusetts Attorney General filed a brief in support of the PPACA in the Virginia case.

### Requirement for Insurer Notice of Rate Increases

**L**ast week CMS published proposed consumer disclosure notices that insurers would be required to complete when proposing rate increases of more than 10%, including an explanation of the drivers of the increase.

### Medicare Physician Payment Cut for 2012?

**L**ast week CMS alerted MedPAC that Medicare physician reimbursements would be reduced by about 29.5% in 2012 unless Congress engages in its annual ritual to suspend such cuts. The President’s FY 2012 budget includes \$62 billion to eliminate the cuts for the next two years.

**S. 478 (TAXATION)**, amend the Internal Revenue Code of 1986 to apply a 100 percent continuous levy to Medicare providers and certain federal contractors with delinquent tax debt; PRYOR; to the Committee on Finance, March 3.

**S. 481 (EATING DISORDERS)**, to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes; HARKIN; to the Committee on Health, Education, Labor, and Pensions, March 3.

**S. 483 (MEDICARE)**, to amend Title XVIII of the Social Security Act to provide for the treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under Medicare; SNOWE; to the Committee on Finance, March 3.

**S. 490 (MILITARY HEALTH)**, to amend Title 38, United States Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program, and for other purposes; AKAKA; to the Committee on Veterans' Affairs, March 3.

**S. 494 (COLORECTAL CANCER)**, to amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend Title XIX of the Social Security Act to provide states the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer; LIEBERMAN; to the Committee on Health,

Education, Labor, and Pensions, March 7.

**S. 495 (ADULT DAY CARE)**, to expend and enhance existing adult day programs for individuals with neurological diseases or conditions, including multiple sclerosis, Parkinson's disease, traumatic brain injury, and other similar diseases or conditions, to support and improve access to respite services for family caregivers who are taking care of such individuals, and for other purposes; CASEY; to the Committee on Health, Education, Labor, and Pensions, March 7.

**H.R. 891 (MEDICARE)**, to amend Part D of Title XVIII of the Social Security Act to promote medication therapy management under the Medicare Part D prescription drug program; MCMORRIS RODGERS; jointly, to the committees on Energy and Commerce and Ways and Means, March 3.

**H.R. 893 (COLORECTAL CANCER)**, to provide for the issuance and sale of a semipostal by the United States Postal Service for the fight against colorectal cancer; DENT; jointly, to the committees on Oversight and Government Reform, Energy and Commerce, and Armed Services, March 3.

**H.R. 894 (REPRODUCTIVE HEALTH)**, to amend Title V of the Social Security Act to provide grants to states to establish state maternal mortality review committees on pregnancy-related deaths occurring within such states; to develop definitions of

severe maternal morbidity and data collection protocols; and to eliminate disparities in maternal health outcomes; CONYERS; to the Committee on Energy and Commerce, March 3.

**H.R. 896 (HEALTH LIABILITY REFORM)**, to provide health care liability reform, and for other purposes; BURGESS; to the Committee on the Judiciary, March 3.

**H.R. 905 (MEDICARE)**, to amend Part B of Title XVIII of the Social Security Act to exclude customary prompt pay discounts from manufacturers to wholesalers from the average sales price for drugs and biologicals under Medicare; WHITFIELD; jointly, to the committees on Energy and Commerce and Ways and Means, March 3.

**H.R. 912 (COLORECTAL CANCER)**, to amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend Title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer; GRANGER; to the Committee on Energy and Commerce, March 3.

**H.R. 930 (VETERANS' HEALTH)**, to amend Title 38, United States Code, to improve the disability compensation evaluation procedure of the secretary of veterans affairs for veterans with post-traumatic stress disorder or

mental health conditions related to military sexual trauma, and for other purposes; PINGREE of Maine; to the Committee on Veterans' Affairs, March 3.

**H. RES. 142 (FEDERAL PROGRAMS)**, amending the Rules of the House of Representatives to require authorizing committees to hold annual hearings on GAO investigative reports on the identification, consolidation, and elimination of duplicative Government programs; GARDNER; to the Committee on Rules, March 3.

**S. 501 (MEDICARE)**, to establish pilot projects under Medicare to provide incentives for home health agencies to utilize home monitoring and communications technologies; THUNE; to the Committee on Finance, March 8.

**S. 507 (PRESCRIPTION DRUGS)**, to provide for increased federal oversight of prescription opioid treatment and assistance to states in reducing opioid abuse, diversion, and deaths; ROCKEFELLER; to the Committee on Health, Education, Labor, and Pensions, March 8.

**H.R. 941 (MEDICARE)**, to amend Title XVIII of the Social Security Act to provide for Medicare coverage of services of qualified respiratory therapists performed under the general supervision of a physician; ROSS of Arkansas; jointly, to the committees on Energy and Commerce and Ways and Means, March 8.

**H. RES. 152 (OSTOMY CARE AND PROSTHETICS)**, recognizing the life-saving role of ostomy care and prosthetics in the daily lives of hundreds of thousands of people in the United States; LANCE; jointly, to the committees on Energy and Commerce and Ways and Means, March 8.

**S. 525 (MENTAL HEALTH)**, to amend the Public Health Service Act to provide for integration of mental health services and mental health treatment outreach teams, and for other purposes; COLLINS; to the Committee on Health, Education, Labor, and Pensions, March 9.

**H.R. 965 (DRUGS)**, to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; SLAUGHTER; jointly, to the committees on Energy and Commerce and Rules, March 9.

**H.R. 969 (HEALTH PLANS)**, to prohibit conditioning licensure of a health care provider upon participation in a health plan; PRICE of Georgia; to the Committee on Energy and Commerce, March 9.

**H.R. 971 (CRITICAL CARE)**, to improve the understanding and coordination of critical care health services; BALDWIN; to the Committee on Energy and Commerce, March 9.

**H.R. 978 (PRIVACY)**, to amend

Title II of the Social Security Act to preclude use of the social security account number on Government-issued identification cards issued in connection with Medicare, Medicaid, and SCHIP benefits and for other purposes; ISRAEL; jointly, to the committees on Ways and Means and Energy and Commerce, March 9.

**H.R. 979 (FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM)**, to amend Chapter 89 of Title 5, United States Code, to ensure program integrity, transparency, and cost savings in the pricing and contracting of prescription drug benefits under the Federal Employees Health Benefits Program; LYNCH; to the Committee on Oversight and Government Reform, March 9.

**H.R. 984 (REFORM)**, to amend Title I of the Patient Protection and Affordable Care Act to provide for a process for waiver of requirements of that title where the requirement is asserted to otherwise result in a significant decrease in access to coverage or significant increase in premiums or other costs; ROGERS of Michigan; jointly, to the committees on Energy and Commerce, Ways and Means, and Education and the Workforce, March 9.

**H.R. 989 (MEDICAID)**, to amend Title XIX of the Social Security Act to require, at the option of a state, drug manufacturers to pay rebates to state prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs

under Medicaid; VAN HOLLEN; to the Committee on Energy and Commerce, March 9.

**H. RES. 158 (PATIENT SAFETY)**, expressing support for the goals and ideals of National Patient Safety Awareness Week; ISRAEL; to the Committee on Energy and Commerce, March 9.

**S. 539 (MENTAL HEALTH)**, to amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes; WHITEHOUSE; to the Committee on Finance, March 10.

**S. 560 (MEDICARE), to amend Title XVIII of the Social Security Act** to deliver a meaningful benefit and lower prescription drug prices under Medicare; DURBIN; to the Committee on Finance, March 10.

**S. 563 (COBRA)**, to provide for equal access to COBRA continuation coverage; BOXER; to the Committee on Health, Education, Labor, and Pensions, March 10.

**H.R. 999 (MEDICARE)**, to amend Title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under Medicare; SCHAKOWSKY; jointly, to the committees on Energy and Commerce and Ways and Means, March 10.

**H.R. 1004 (TAXATION)**, to amend the Internal Revenue Code of 1986 to increase participation in medical flexible spending arrangements; BOUSTANY; to the Committee on Ways and Means, March 10.

**H.R. 1005 (MEDICARE)**, to amend Title XVIII of the Social

Security Act to preserve access to ambulance services under Medicare; BOUSTANY; jointly, to the committees on Energy and Commerce and Ways and Means, March 10.

**H.R. 1010 (REFORM)**, to provide for expedited consideration by the Supreme Court of certain actions challenging the constitutionality of certain provisions of the Patient Protection and Affordable Care Act; FORBES; to the Committee on the Judiciary, March 10.

**H.R. 1028 (COBRA)**, to provide for equal access to COBRA continuation coverage; WEINER; jointly, to the committees on Education and the Workforce, Energy and Commerce, and Ways and Means, March 10.