



Medicare MD Payment/COBRA Extenders

This week the Senate looks to finish up on financial reform legislation and turn its attention to extending COBRA subsidies to and a possible longer-term fix for Medicare physician payments which remain frozen at 2009 levels (and absent legislation would be cut by 21% on June 1st). While Senate Majority Leader Harry Reid would like to complete the so-called extenders legislation before the Memorial Day recess, it is likely that Senate Republicans will continue to insist that the legislation be fully paid-for by means of spending cuts or other offsets. The **House E&C Health Subcommittee Chairman Frank Pallone** said he favors a permanent fix for the SGR, however the PAYGO rules adopted in February allow only for a five-year \$88.5 billion fix (which CBO has estimated would be the cost of freezing current payment rates for such a five-year period). CBO also estimated that merely eliminating Medicare MD payment cuts through 2020 would cost \$276 billion.

Senator Leahy files bill to repeal McCarran-Ferguson

In connection with the financial reform bill, it might be noted that **Senator Patrick Leahy** has filed an amendment to S. 3217 that would repeal the federal antitrust exemption

for health insurers provided under the McCarran-Ferguson Act. He said that repealing the exemption would make certain health insurers “follow basic rules of fair competition. Competition ensures that consumers will pay lower prices and receive more choices.”

Budget and Appropriations Issues

Senate Budget Chairman

Kent Conrad has indicated that he is uncertain when, and if, the full Senate will consider the FY 2011 budget resolution reported from his committee. The House continues to struggle in gaining enough Democrat votes for a budget resolution, given the demands by Blue Dogs for a 2% cut for each of three budget years and a freeze for another two. Both

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Health Reform Update

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bodies hope to pass a resolution by the Memorial Day recess. Also, at a Senate Labor/HHS/Education Appropriations Subcommittee hearing last week, **Chairman Tom Harkin** said “I don’t have a magic pot I can go to,” when ranking member **Arlen Specter** insisted that a bigger FY 2011 increase for NIH could be found than the \$1 billion included the Administration’s budget. **NIH Director Francis S. Collins** said “If our nation can be bold enough to act upon these many unprecedented opportunities, we’ll be amazed at what tomorrow will bring and how swiftly we can turn discovery into health.” He also announced that NIH will start a new center to study induced pluripotent stem (iPS) cells, human stem cells with qualities similar to embryonic stem cells. In a surprise announcement, **House Appropriations Chairman David Obey** of Wisconsin reported last week that this will be his last term after serving 40 years in the House. In another turn of events, Senate Appropriations member **Bob Bennett** will also serve his last term this year after two other Utah Republicans outlasted the incumbent senator in the Utah Republican party’s convention voting.

Hearing on Health Price Transparency

Last week the House Energy and Commerce Health Subcommittee held hearings on three different bills requiring various forms of medical price disclosure. However, **Subcommittee Chairman Frank Pallone** did not give a timetable for a markup of price transparency legislation. **Rep. Joe Barton** urged the committee to mark up the bill before the August recess.

Mental Health Parity Regulations

Last week the chairmen of the House Energy and Commerce, Ways and Means and Education and Labor Committees and their health subcommittee chairmen sent a letter to CMS, DOL and the IRS urging that the final regulations implementing the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. No. 110-343) (MHPAEA) be further strengthened to ensure they are clear and adhere to congressional intent regarding issues such as treatment limitations and service parity. In addition they said the final rule should clarify that Medicaid managed care organizations are subject to MHPAEA and the interim final rule.

PPACA Early Retiree Reinsurance Program

Last week the President announced that a program to provide \$5 billion in financial assistance for companies that offer coverage to retirees 55 and older but who are not yet eligible for Medicare will be available June 1, ahead of the program’s start-up date as required under the PPACA. HHS released interim final regulations to implement the temporary reinsurance program providing premium relief to employer plans under the Patient

Protection and Affordable Care Act of 2010 (PPACA) (Pub. L. No. 111-148). The program will be phased out after the \$5 billion is spent or January 1, 2014 when the state health insurance exchanges begin offering coverage. The HHS Office of Consumer Information and Insurance Oversight will begin accepting applications by the end of June.

HHS plan to unveil by July 1st an initial website designed to help individuals and small businesses find information about insurance options in their state. The HHS Office of Consumer Information and Insurance Oversight will oversee the web portal that will provide consumers with state-

HHS Consumer Website

based information about private insurance, high-risk pools, Medicaid, and SCHIP. The web portal will include information about plan services, providers and formularies and about eligibility and enrollment procedures for public programs. In related news, the CRS has released a report detailing the private health

insurance provisions included under PPACA. The report includes a list of market reforms, details on individual and employer responsibilities and the creation of insurance exchanges and information on premium credits and cost-sharing subsidies.

Temporary High-Risk Pools Announced

At the beginning of last week, HHS announced that 46 states and the District of Columbia have provided their intent to participate in the PPACA temporary high-risk pool program with 30

states to operate their own programs and 17 electing to have HHS run the program in their states.

Incentive Payments under Home Health Demo

CMS has announced that it is sharing more than \$15 million in savings with 166 home health agencies (HHAs) based on their performance during the first year of the Medicare Home Health Pay for Performance demonstration (HHP4P). Performance was measured using seven home health quality measures that were computed from the Outcome-Based Quality Improvement (OBQI) data set and are currently publicly reported on the Home Health Compare website.

National Provider Identifier Required

CMS has issued an interim final rule under which all providers and suppliers who qualify for a National Provider Identifier (NPI) will be required to include the NPI on any enrollment applications to Medicare and Medicaid, as well as on any payment claims.

Health IT Grants

Last week HHS announced will be awarding \$220 million in Beacon Community AARA grants to 15 communities to establish pilot projects to test the use of health care information technology. There were 137 applications for the 15 grants and an additional \$30 million is expected to be awarded in the near future.

Medicare Coverage for Certain Blood Disorder Treatments

CMS has proposed covering a type of stem cell transplant only for patients enrolled in certain clinical studies. CMS believes the available evidence suggests that allogeneic HSCT for MDS is reasonable and necessary under Coverage with Evidence Development and, thus, proposed that the treatment be covered by Medicare in the context of a prospective controlled clinical study that meets specific standards.

H.R. 5179 (FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM), to amend Title 5, United States Code, to make clear that family coverage under the Federal Employees Health Benefits Program remains available with respect to an otherwise eligible child of a federal employee or annuitant until that child attains 26 years of age, and for other purposes; DAHLKEMPER; to the Committee on Oversight and Government Reform, April 29.

H.R. 5185 (MILITARY HEALTH), to amend titles 10 and 38, United States Code, to increase the maximum age for children eligible for medical care under the TRICARE program and the CHAMPVA program; DEFAZIO; jointly, to the committees on Armed Services and Veterans' Affairs, April 29.

H.R. 5187 (LONG-TERM CARE), to require the secretary to establish a commission that is designed to construct a comprehensive national strategy on how to increase the affordability, accessibility, and effectiveness of long-term care and community services; HASTINGS of Florida; jointly, to the committees on Energy and Commerce and Ways and Means, April 29.

H. RES. 1309 (DISEASE RESEARCH), expressing the sense of the House of Representatives that there is need for further study of the Functional Gastrointestinal Disorder (FGID) Irritable Bowel Syndrome (IBS); BALDWIN; jointly, to the committees on Energy and

Commerce, Armed Services, and Veterans' Affairs, April 29.

H. RES. 1311 (PRESCRIPTION DRUGS), support for the charitable collection and good samaritan distribution to uninsured, low-income Americans of Food and Drug Administration-approved, medically-appropriate, non-expired, non-narcotic prescription medications by non-profit organizations licensed to dispense such medications; COHEN; jointly, to the committees on Energy and Commerce and the Judiciary, April 29.

S. RES. 512 (DISEASE AWARENESS), designating June 2010 as "National Aphasia Awareness Month" and supporting efforts to increase awareness of aphasia; JOHNSON; to the Committee on the Judiciary, May 3.

H.R. 5200 (FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM), to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act; VAN HOLLEN; to the Committee on Oversight and Government Reform, May 4.

H.R. 5206 (VETERANS' HEALTH), to amend Title 38, United States Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program; TEAGUE; to the Committee on Veterans'

Affairs, May 4.

S. 3315 (MEDICARE), to amend Title XVIII of the Social Security Act to protect Medicare beneficiaries' access to home health services under Medicare; COLLINS; to the Committee on Finance, May 5.

S. 3318 (MEDICARE), to amend Title XVIII of the Social Security Act to eliminate contributing factors to disparities in breast cancer treatment through the development of a uniform set of consensus-based breast cancer treatment performance measures for a six-year quality reporting system and value-based purchasing system under Medicare; GILLIBRAND; to the Committee on Finance, May 5.

H.R. 5209 (OBESITY), to provide a comprehensive approach to preventing and treating obesity; KIND; jointly, to the committees on Energy and Commerce, Education and Labor, Ways and Means, Agriculture, Transportation and Infrastructure and Natural Resources, May 5.

H.R. 5215 (TAX POLICY), to amend the Internal Revenue Code of 1986 to repeal the \$2,500 limitation on health flexible spending arrangements; AKIN; to the Committee on Ways and Means, May 5.

H.R. 5216 (REFORM PROPOSALS), to repeal the Patient Protection and Affordable Care Act; AKIN; jointly, to the committees on Energy and Commerce, Appropriations, Ways and Means, Education and Labor,

the Judiciary, Natural Resources, House Administration and Rules, May 5.

S. 3320 (PANCREATIC CANCER INITIATIVE), to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes; WHITEHOUSE; to the Committee on Health, Education, Labor, and Pensions, May 6.

S. 3325 (VETERANS' HEALTH), to amend Title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes; BEGICH; to the Committee on Veterans' Affairs, May 6.

H.R. 5234 (PHARMACY BENEFIT MANAGERS), to amend the Public Health Service

Act, the Employee Retirement Income Security Act, the Internal Revenue Code of 1986, and Title XVIII of the Social Security Act to ensure transparency and proper operation of pharmacy benefit managers; WEINER; jointly, to the committees on Energy and Commerce, Ways and Means and Education and Labor, May 6.

H.R. 5235 (MEDICARE), to amend Title XVIII of the Social Security Act to exempt blood glucose self-testing equipment and supplies furnished by small retail community pharmacies from Medicare competitive acquisition programs; WELCH; jointly, to the committees on Energy and Commerce and Ways and Means, May 6.

H.R. 5238 (MEDICAID), to exempt the State of Utah from

federal programs in the areas of education, transportation, and Medicaid so that the State of Utah can undertake innovative methods to manage these government programs using Utah's portion of federal revenues for these programs, and for other purposes; BISHOP of Utah; jointly, to the committees on Education and Labor, Energy and Commerce and Transportation and Infrastructure, May 6.

H.R. 5243 (MEDICAL MALPRACTICE), to amend the Patient Protection and Affordable Care Act to clarify that the act does not affect standards or procedures in medical malpractice actions; CUELLAR; jointly, to the committees on Energy and Commerce and the Judiciary, May 6.