

Health Summary of H.R. 3630, the “Middle Class Tax Relief and Job Creation Act of 2011”

Latest Action

On December 9, 2011, House Republican leaders unveiled an end of the year package – H.R. 3630, the “Middle Class Tax Relief and Job Creation Act of 2011.” Their bill contains provisions to extend the current payroll tax rate for one year, continue unemployment benefits, and prevent a scheduled cut in Medicare physician reimbursements. The House Rules Committee will meet to discuss the rule at 5 pm on Monday, December 12, paving the way for House floor action sometime next week.

This is a summary of the health-related provisions contained within the package.¹

Health-Related Provisions -- Extenders

SGR. With respect to the Sustainable Growth Rate (SGR) formula, provides a 1% update for 2012 and 2013, with the cliff reinstated on January 1, 2014. Also requires a series of studies (all requiring consultation with medical professional societies and other stakeholders), including:

- study by the Secretary of Health and Human Services (HHS) regarding “options for bundled or episode-based payments” . . . “for one or more prevalent chronic conditions (such as cancer, diabetes, and congestive heart failure) or episodes of care for one or more major procedures (such as medical device implantation)”, with a report due not later than January 1, 2013;
- Government Accountability Office (GAO) study regarding “initiatives of private entities offering or administering health insurance coverage, group health plans, or other private health benefit plans to base or adjust physician payment rates under such coverage or plans for performance on quality and efficiency as well as demonstration of care delivery improvement activities (such as adherence to evidence based guidelines and patient shared decision making programs)”, with a report due not later than January 1, 2013;
- Medicare Payment Advisory (MedPAC) study which “examines the feasibility of aligning private payer quality and efficiency programs with those in the Medicare program,” with a report due not later than March 1, 2013; and
- Congressional study and review during the 112th Congress (carried out through the House Ways and Means, House Energy and Commerce Committee, and Senate Finance Committee) regarding “value-based measures and practice arrangements which may improve health outcomes and efficiency in the Medicare program to the end of replacing the Medicare sustainable growth rate in a fiscally responsible manner and establishing a sustainable payment system.

Ambulance add-ons. Extends for one year (from 2012 to 2013) increases in payment rates for (1) certain ground ambulance services, (2) certain ambulance services in “super” rural areas. Also requires a series of reports, including –

- an updated GAO study, due October 1, 2012, regarding “current costs to ambulance providers” ; and
- MedPAC report on “the appropriateness of the add-on payments for ambulance providers, the effect these additional payments have on the Medicare margins of ambulance providers; and whether there is a need to reform the Medicare ambulance fee schedule under such section and, if so, what should such reforms be, including rolling the add-on payments into the base rate” due on July 1, 2012.

Outpatient Therapy Services. Extends for 2 years (from December 31, 2011 to December 31, 2013) additional payments for outpatient therapy services, provided that “such services are medically necessary as justified by appropriate documentation in the medical record involved.” Further clarifies that the total therapy cap is \$3700, applied separately to (1) physical therapy and speech pathology services and (2) occupational therapy services. Clarifies

¹ Version = f:\VHLC\120911\120911.025.xml, December 9, 2011 (10:17 a.m.), as posted on the House Rules Committee website

that such cap applies to hospital inpatient services, provided that such services are furnished before July 1, 2012. Also requires that claims for such services include the National Provider Identifier (NPI). Provides additional funding to CMS to carry out the additional oversight activities, including a claims-based data collection strategy and manual medical review. Requires a series of studies, including:

- A MedPAC report, due March 1, 2013, regarding “recommendations on how to improve the outpatient therapy benefit;” and
- GAO study, due May 1, 2012, regarding “implementation of the manual medical review process.”

Work Geographic Adjustment. Extends for one year (from January 1, 2012 to January 1, 2013) the work geographic adjustment. Requires a MedPAC report, due June 1, 2012, to assess “whether any geographic adjustment is needed . . . to distinguish the difference in work effort by geographic area and, if so, what that level should be and where it should be applied.”

Qualifying Individual (QI). Extends for 1 year (from December 2011 to December 2012) the QI program, and also extends the total amount for allocation to \$450 M for January 1, 2012 through September 30, 2012; and \$280 M for October 1, 2012 through December 31, 2012.

Transitional Medical Assistance (TMA). Extends for 1 year (from December 31, 2011 to December 31, 2012) the transitional medical assistance program. Adds additional income and other requirements.

Physician Owned Hospitals. Clarifies that the exceptions included within the Affordable Care Act regarding physician owned hospitals includes hospitals under construction as of December 31, 2010. Alters the paragraph (E) requirements (related to patient safety) to focus on non-discrimination issues.

Health-Related Provisions – Pay Fors

Recapturing overpayments. Requires higher recapturing amounts for lower income levels and increases the total amount of funds that can be recaptured as part of the auditing of individuals who inappropriately receive tax benefits from the Affordable Care Act. Reduces the budget deficit by \$13.4 B.

Prevention and Public Health Fund. Reduces the total amount of funds available to the Fund by a total of \$8 billion by providing \$640 M for fiscal year 2013 and thereafter.²

Hospital Outpatient E&M Services. Alters the fee schedule for certain hospital outpatient department services related to evaluation and management for fiscal year 2012 and thereafter.

Bad Debt Reduction. Alters the bad debt requirements for hospitals (beginning in fiscal year 2013), skilled nursing facilities (beginning in fiscal year 2013), and certain other providers.

State DSH Allotments. Rebases the state disproportionate share allotments for fiscal year 2021 and subsequent years.

Medicare Part B Premiums for High Income Beneficiaries. Beginning in calendar year 2017, increases the Part B premiums for certain high income Medicare beneficiaries. Savings of \$31 B.

Adjustment for Part B and Part D Premiums. Makes further refinements to the calculations for Part B and Part D premiums.

² In the original ACA, the Fund would receive \$1.2 B in FY13, \$1.5 B in FY14, and \$2.0 B in FY15 and thereafter.