**January 2014 PUBLIC POLICY UPDATE**

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**The Big Picture, Budget, Appropriations, and What’s Next**

The first session of the 113th Congress may be referred to as the most divided and least productive Congress of the modern era. Memorable events for the 113th “do-nothing” Congress include the first government shutdown in 17 years, Congress finally passing a budget resolution, hearings on the federal health insurance exchange’s chaotic opening, and the Senate Majority Leader Harry Reid (D-NV) invoking the “nuclear option.” The *Washington Post* reports that 80 bills were signed into law in the first session of the 112th Congress compared to 58 bills in the first session of the 113th Congress. This marks the 113th Congress as the least productive first session for a Congress since 1973. Of course, passing a bill is not always a good thing.

The 113th Congress ended on a high note with the passage of a bipartisan budget deal. There is hope that compromise and cooperation will continue when trying to tackle the issues of immigration reform, tax reform, increasing the debt ceiling, passing a farm bill, and extending long-term unemployment benefits. The second session of the 113th Congress resumed on January 6, 2014, with the Senate focused on the extension of unemployment benefits.

Key dates to keep an eye on:

1. January 15: Expiration of the current continuing resolution that funds the federal government
2. January 28: State of the Union speech
3. February-March: Raising the debt ceiling
4. Late March: The temporary SGR fix expires
5. March 31: The last day of the enrollment period for the first year of the ACA and the last day to buy health insurance to avoid paying a penalty
6. Mid June: The Supreme Court will revisit the requirement that employers must provide contraceptive coverage for their workers’ health insurance plans
7. November 4: Election Day

**Bipartisan Budget Act**

On December 10, 2013, House Budget Chairman Paul Ryan (R-WI) and Senate Budget Chairwoman Patty Murray (D-WA) came to a two-year budget agreement after weeks of negotiations. The framework of the [Bipartisan Budget Act of 2013](http://www.budget.senate.gov/democratic/index.cfm/files/serve?File_id=104ba8f3-e143-42cf-b0c6-911a85d740d0) (BBA, HJ Res 59) includes $63 billion in discretionary sequester cuts, $85 billion of total savings through cuts to mandatory program and non-tax revenue increases, and $23 billion in net deficit reduction. The bipartisan package would set the discretionary spending level for FY 2014 at $1.012 trillion and $1.014 trillion in FY 2015.

Upon the announcement of the deal, Democrats and Republicans were unhappy with the details of the agreement. For example, Democrats were displeased that it did not extend federal unemployment benefits set to expire on December 28 (affecting about 1.3 million Americans). Meanwhile, conservative Republicans were unhappy that the plan required businesses to pay higher premiums to the federal government to guarantee pension benefits. During a December 10th press conference, Co-chairs Ryan and Murray kept reiterating that this budget was a “first step” in the right direction.

On December 13, the House passed the BBA with a 332-94 vote and approved an amendment to the BBA that would extend the Medicare sustainable growth rate (SGR) ‘doc fix’ by three months. The amendment averts a 24% cut to Medicare physician reimbursement rates scheduled to take effect January 1, 2014, and increases current reimbursement rates by 0.5% over three years.

The Senate passed the BBA on December 17 with a 64-36 vote. President Obama signed the budget deal, which included the three-month extension of the ‘doc fix,’ on December 26. The compromise spending plan does not address the need to raise the debt limit, which will expire in February. The national debt stands at $17.2 trillion. White House Press Secretary Jay Carney told reporters “the president’s position is unchanged. He will not negotiate over Congress’s responsibility to pay the bills that Congress has racked up.”

**Appropriations**

The passage of the Bipartisan Budget Agreement (BBA) in the House and Senate formally sets the stage for the FY14 appropriations process. Congressional appropriators now have the total discretionary spending levels for FY14, both defense and non-defense, at $1.012 trillion. Out of this amount, $520.5 billion will go to defense programs and $491.8 billion will be distributed to fund non-defense programs. House and Senate Appropriations Chairs Hal Rogers (R-KY) and Barbara Mikulski (D-MD) are establishing the spending levels for the 12 annual spending bills, known as 302(b) allocations. Appropriators have the discretion to decide what programs will receive what level of funding.

Appropriators have until January 15, 2014, to pass the 12 appropriations bills either separately or in an omnibus package before the current continuing resolution expires (leading to another government shutdown). Lawmakers will most likely continue to use a continuing resolution (CR) to carry spending allocations for controversial spending measures. Some pundits believe that at least the Labor HHS appropriations bill and the Interior appropriation bill will be too controversial to be a part of the omnibus bill. The Departments of Commerce, Justice, Homeland Security, Defense and Veterans Affairs have favorable support from both parties and will likely be included in an omnibus bill. In an interview with C-SPAN, House Appropriations Chairman Harold Rogers (R-KY) was optimistic about not needing a CR for individual appropriations bills, “if at the last minute we need three or four days, that’s another thing, but I don’t see the need for a CR.”

Appropriators and staff worked through the holiday break and hope to reach the budget deadline on January 15. Committee chairs have met during the week of January 6 and have sifted through more than 134 policy riders. Contentious policy riders are slowing down the process between the Chairmen and Ranking Members of the House and Senate Appropriations Committees as they work to finalize a spending package. A draft of the final agreement is likely to be made available to House and Senate leaders over the weekend of January 11.

**SGR**

On December 12, the Senate Finance Committee held a markup of the *SGR Repeal and Medicare Beneficiary Access Improvement Act of 2013* based on the [bipartisan joint SGR repeal proposal](http://www.ascrs.org/sites/default/files/resources/2013-10-30%20DISCUSSION%20DRAFT%20FINAL.pdf) developed with the House Ways and Means Committee. More than 140 amendments were offered but only a few amendments were included in the [modifications](http://www.finance.senate.gov/imo/media/doc/Modified%20Mark%20Summary%20of%20Changes%20Tracking%20Document%2012%2012%20to%20bipart.pdf) to the committee bill, known as the “chairman’s [mark](http://www.finance.senate.gov/imo/media/doc/Chairmans%20Mark%20of%20SGR%20Repeal%20and%20Medicare%20Beneficiary%20Access%20Improvement%20Act%20of%202013%20FINAL.pdf).” The bill was passed by the Finance Committee and also “permanently” fixes a number of health care policies that have been extended annually, known as “extenders.” A similar SGR bill was approved by the House Ways and Means Committee on December 12 with a 39-0 vote, but it did not include the Senate amendments.

As mentioned above, on December 18, the Senate voted to pass a House-approved bipartisan budget deal. The bill includes a three-month delay of a 24% cut to Medicare physician reimbursement rates under the sustainable growth rate (SGR) formula scheduled to take effect January 1.

The approved bipartisan budget deal provides Congress some time to work on the final SGR bill changing how Medicare pays physicians. Members of the House Ways and Means Committee and the Energy and Commerce Committee and the Senate Finance Committee will work on the differences between bills and determine how to pay for the cost of modifying the SGR system over the next three months.

**Older Americans Act Reauthorization**

A working group, composed of members from the HELP Subcommittee on Primary Health and Aging, has met privately throughout the past two months. The working group is tasked with finding a solution to the state funding formula issue (disagreement) but has not come up with a resolution. According to staffers on the HELP Committee, the committee hopes the OAA reauthorization bill will go to the floor early in 2014.

There are conversations taking place on the House side about OAA reauthorization, finally. A number of members, including Representative Chris Gibson (R-19th-NY), are considering supporting a straight reauthorization that would not change any program policies.

**Affordable Care Act**

On December 20, the Obama Administration extended the healthcare enrollment deadline by a day. Americans had to enroll in a healthcare plan by Christmas Eve to begin receiving coverage on January 1, 2014. The administration said 2.1 million have enrolled through state and federal insurance marketplaces since October 1, 2013, and about 4 million people signed up for Medicaid or the Children’s Health Insurance Plan.

A key focus in Washington is now on Supreme Court Justice Sonia Sotomayor’s decision to temporarily exempt employees at the Little Sisters for the Poor Home for the Aged from the Affordable Care Act’s contraception mandate. On New Year’s Eve, Justice Sotomayor granted a temporary reprieve from the coverage requirement. She will now have to decide whether to continue enforcing the temporary requirement, dissolve it, or take the issue to the other justices. The government has until Friday, January 10, 2014, to respond.

In addition, some Republicans in Congress have said they will renew their work to repeal the ACA as soon as the second session of the 113th Congress begins.

**Observation Status**

Senators Brown and Stabenow filed the Improving Access to Medicare Coverage Act of 2013 (S. 569) as an amendment to the Senate Finance Committee SGR legislation. The amendment was not accepted by the committee. It would count all the time in the hospital toward meeting the 3-day inpatient requirement for coverage of skilled nursing facility (SNF) services under Medicare. It was withdrawn prior to a vote, but continues to be an issue that the sponsors would like to have included in the final bill. The Improving Access to Medicare Coverage Act of 2013 (H.R. 1179 and S. 569) currently has 110 cosponsors in the House and 24 cosponsors in the Senate.

The Observation Stays Coalition, a coalition made up of patient advocates and provider groups, was featured in *The Hill’s Healthwatch Blog.* The [op-ed](http://thehill.com/blogs/healthwatch/medicare/193952-dont-deny-seniors-nursing-care) piece describes the frustrating experience patients and their families undergo when hospitals classify a patient as “outpatient observation” rather than admitting them as “inpatient.” To become eligible for Medicare Part A skilled nursing facility coverage, Medicare beneficiaries must meet the 3-day inpatient stay requirement. Time spent under “observation” cannot be counted toward the 3-day minimum stay. Hospitals are increasingly classifying patients under observation. As a result, patients are cutting their care short because they are unable to cover the costs that would have been covered by Medicare.