

# Issue Brief

FEDERAL ISSUE BRIEF • February 13, 2018

## President Releases FY 2019 Budget

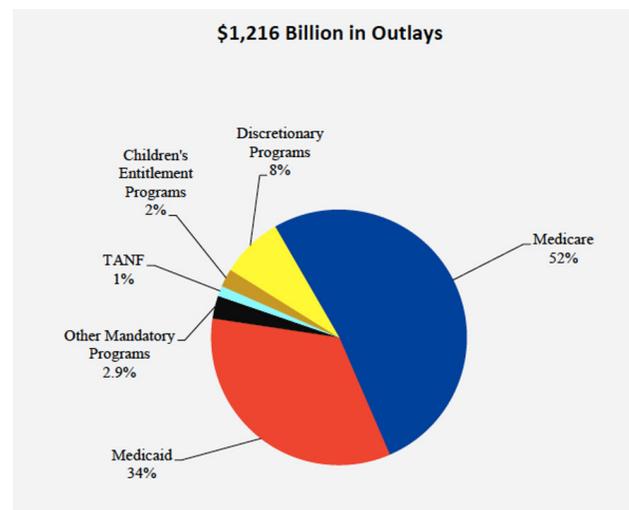
President Donald Trump released his \$4.4 trillion fiscal year 2019 Budget and has sent it to Congress. The 160-page Office of Management and Budget document is at: <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf>. The more detailed and useful 138-page Department of Health and Human Services section is available at: <https://www.hhs.gov/sites/default/files/fy-2019-budget-in-brief.pdf>.

In the past, almost all presidential budgets have been deemed to be “dead on arrival” by Congress. That is because most of the legislative issues were not in sync with Congressional thoughts. However, the presidential budget is helpful on what HHS says it will and can do by regulation.

The FY 2019 budget for all of HHS is as follows.

Dollars in millions	2017	2018	2019
Budget Outlays	1,116,779	1,167,867	1,215,886

The FY 2019 Budget for HHS, inclusive of the addendum to the president’s FY 2019 Budget to account for the Bipartisan Budget Act of 2018, contains the following outlays.



The following table identifies the Composition of the HHS Budget Mandatory Programs.

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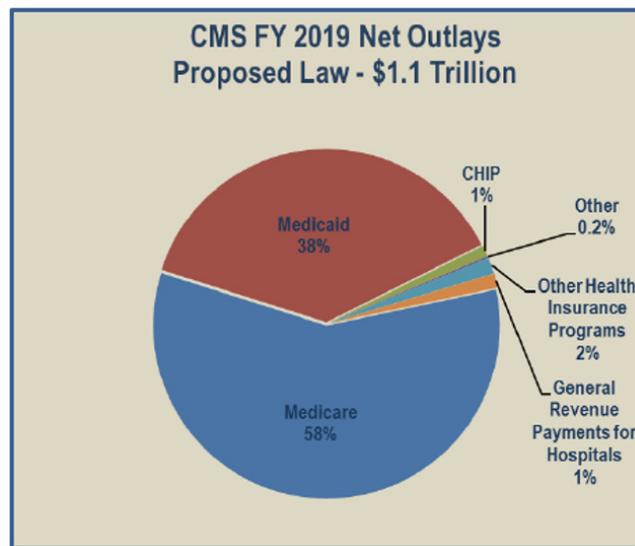


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Dollars in millions	2017	2018	2019	2019 +/-2018
<b>Mandatory Programs (Outlays):/1 /2</b>				
Medicare	591,508	581,662	629,882	+48,220
Medicaid	374,682	400,388	412,033	+11,645
Temporary Assistance for Needy Families /3 /4	16,541	16,957	15,420	-1,537
Foster Care and Adoption Assistance	7,712	8,266	8,615	+349
Children's Health Insurance Program /5	16,251	17,318	11,424	-5,894
Child Support Enforcement	4,075	4,206	4,334	+128
Child Care Entitlement	2,905	3,010	3,165	+155
Social Services Block Grant	1,661	1,621	307	-1,314
Other Mandatory Programs	17,775	40,837	35,550	-5,287
Offsetting Collections	-890	-797	-770	+27
<b>Subtotal, Mandatory Outlays</b>	<b>1,032,220</b>	<b>1,073,468</b>	<b>1,119,960</b>	<b>+46,492</b>
<b>Total, HHS Outlays</b>	<b>1,116,779</b>	<b>1,167,867</b>	<b>1,215,886</b>	<b>+48,019</b>
1/ Totals may not add due to rounding. The Budget does not incorporate the effects of Public Law 115-120, including the reauthorization of the Children's Health Insurance Program.				
2/ Does not include \$2.2 billion in net costs to HHS due to the Repeal and Replace Obamacare proposal in FY 2019. See the Health Reform chapter for more information.				
3/ Includes outlays for the Temporary Assistance for Needy Families program and Temporary Assistance for Needy Families Contingency Fund.				
4/ The amounts listed for FY 2018 Outlays do not take into account updated scoring of legislative proposals in Temporary Assistance for Needy Families that are displayed in ACF budget documents.				
5/ Includes outlays for the Child Enrollment Contingency Fund.				

The FY 2019 Budget estimate for the Centers for Medicare & Medicaid Services is \$1.093 trillion (\$1.1 trillion) in mandatory and discretionary outlays, a net increase of \$53.3 billion from FY 2018. This level finances Medicare, Medicaid, the Children's Health Insurance Program, other health insurance programs, program integrity efforts and operating costs.

Dollars in millions	2017	2018	2019	2019 +/-2018
<b>Current Law/ 1/2</b>				
Medicare/3	597,414	588,346	651,789	+63,443
Medicaid	374,681	402,088	420,241	+18,153
CHIP	16,251	12,818	5,724	-7,094
State Grants and Demonstrations/4	503	583	578	-5
Other Health Insurance Programs/5	8,683	30,880	16,692	-14,188
Center for Medicare & Medicaid Innovation	1,136	1,278	1,592	+314
<b>Total Net Outlays, Current Law</b>	<b>998,668</b>	<b>1,035,993</b>	<b>1,096,616</b>	<b>+60,623</b>
<b>Proposed Law /2</b>				
Medicare/3	-	38	-15,396	-15,434
Medicaid	-	-1,700	-8,209	-6,509
CHIP	-	4,500	5,700	+1,200
General Revenue Payments for Hospitals /6	-	-	14,540	+14,540
Cost Sharing Reduction Impacts	-	-180	-471	-291
Program Management /7	-	812	12	-800
<b>Total Net Outlays, Proposed Law /8</b>	<b>998,668</b>	<b>1,039,463</b>	<b>1,092,792</b>	<b>+53,329</b>



## 2019 LEGISLATIVE PROPOSALS

### Medicare

The budget includes many *legislative proposals* designed “to improve drug pricing and payment, address opioids, reform payment and delivery systems, simplify government-imposed provider burdens, address fraud waste and abuse, and reform the Medicare appeals process. Overall, these proposals are said to produce net savings of \$493.7 billion over 10 years.”

### Medicaid

The budget includes *legislative proposals* in Medicaid, which would produce net savings to the federal budget of \$1,438.8 billion over 10 years. “The budget makes fundamental reforms to Medicaid’s fiscal structure by moving to a per capita cap or block grant structure. The budget also proposes other Medicaid reforms to reset the federal-state partnership, such as providing states greater flexibility to administer their Medicaid programs and refocusing the program on traditional Medicaid populations.”

### Repeal and Replace Obamacare

The budget includes \$679.7 billion in net deficit savings over 10 years from the *repeal and replacement* of Obamacare.

### Reform Graduate Medical Education

Effective FY 2019, the proposal consolidates federal graduate medical education spending from Medicare, Medicaid and the Children’s Hospitals Graduate Medical Education program into a single grant program for teaching hospitals. Total funds available for distribution in FY 2019 would equal the sum of Medicare and Medicaid’s 2016 payments for graduate medical education, plus 2016 spending on Children’s Hospitals Graduate Medical Education, adjusted for inflation.

This amount would then grow at the consumer price index for all urban consumers minus one percentage point each year. Payments would be distributed to hospitals based on the number of residents at a hospital (up to its existing cap) and the portion of the hospital's inpatient days accounted for by Medicare and Medicaid patients.

The Secretary would have authority to modify the amounts distributed based on the proportion of residents training in priority specialties or programs (e.g., primary care, geriatrics) and based on other criteria identified by the Secretary, including addressing health care professional shortages and educational priorities. [\$48.1 billion in savings over 10 years]

### **Reform Medical Liability**

The budget proposes medical liability reforms that will save HHS programs \$30.8 billion over 10 years and \$52.1 billion to the federal government overall.

Specifically, the budget proposes the following medical liability reforms.

- capping awards for noneconomic damages at \$250,000 indexed to inflation
- providing safe harbors for providers based on clinical standards
- authorizing the Secretary to provide guidance to states to create expert panels and administrative health care tribunals
- allowing evidence of a claimant's income from other sources such as workers' compensation and auto insurance to be introduced at trial
- providing for a three-year statute of limitations
- allowing courts to modify attorney's fee arrangements
- establishing a fair-share rule to replace the current rule of joint and several liability
- excluding provider expressions of regret or apology from evidence
- requiring courts to honor a request by either party to pay damages in periodic payments for any award equaling or exceeding \$50,000

### **Modify Medicare Payments to Hospitals for Uncompensated Care**

“Effective FY 2020, this proposal removes uncompensated care payments from the Inpatient Prospective Payment System and establishes a new process to distribute uncompensated care payments to hospitals based on share of charity care and non-Medicare bad debt, as reported on Worksheet S-10 of the cost report. Under this proposal, empirically justified Disproportionate Share Hospital payments are not changed. The total amount of available uncompensated care is equal to FY 2018 funding levels, grown annually by the consumer price index for all urban consumers. Uncompensated care payments will be funded from the general fund of the Treasury. This proposal more closely aligns Medicare payment policy with private insurers who do not typically cover uncompensated care. [\$138.4 billion in Medicare savings over 10 years; this proposal would increase spending from general revenues by \$68.9 billion over 10 years, for a net savings to the federal government of \$69.5 billion over 10 years]”

## **Address Excessive Payment for Post-Acute Care Providers by Establishing a Unified Payment System Based on Patients' Clinical Needs Rather than Site of Care**

“For FY 2019 to FY 2023, the four primary post-acute care settings, including skilled nursing facilities, home health agencies, inpatient rehabilitation facilities and long-term care hospitals, will receive a lower annual Medicare payment update. Beginning in FY 2024, this proposal implements a unified post-acute care payment system that spans these settings, with payments based on episodes of care and patient characteristics rather than the site of service.”

Rates for the provider types included in this proposal are updated on a fiscal year basis, including those whose payment systems currently are updated on a calendar year basis. The first year of implementation is required to be budget neutral relative to estimated payments that would otherwise have been paid in FY 2024 absent this change.

“Payment rates are set prospectively on an annual basis with episode grouping and pricing based on the average cost for providing post-acute care services for a diagnosis, similar to the Diagnosis-Related Group methodology under the Inpatient Prospective Payment System. Payments are to be risk-adjusted. The Secretary has the authority to adjust payments based on quality of care, geographic differences in labor and other costs, and other factors as deemed appropriate. Beneficiary coinsurance amounts are equal to those under current law. For example, to the extent a beneficiary uses a provider's services, they are responsible for the current law copayment rate. [\$80.2 billion in savings over 10 years]”

## **Reduce Medicare Coverage of Bad Debts**

“Effective FY 2019, this proposal reduces Medicare reimbursement of bad debt from 65 percent to 25 percent over three years. Rural hospitals with fewer than 50 beds, Critical Access Hospitals, Rural Health Clinics and Federally Qualified Health Centers are exempt from the reduction. [\$37.0 billion in savings over 10 years]”

## **Pay All Hospital-Owned Physician Offices Located Off-Campus at the Physician Office Rate**

“Medicare pays for services at certain off-campus hospital outpatient departments under the Physician Fee Schedule. Most off-campus facilities are exempt from this site-neutral payment policy, including grandfathered off-campus hospital outpatient departments that were billing or under construction as of Nov. 2, 2015, emergency departments, and cancer hospitals. This proposal eliminates all exemptions effective CY 2019. [\$34.0 billion in savings over 10 years]”

## **Address Excessive Hospital Payments by Reducing Payment When a Patient is Quickly Discharged to Hospice**

Effective FY 2019, when a Medicare beneficiary has a shorter than average hospital stay prior to being transferred to hospice. The hospital transfer policy is the same policy used for discharges to post-acute care facilities when the inpatient length of stay is at least one day less than the geometric mean length of stay for the Medicare

Severity-Diagnosis Related Groups. “This proposal would set Medicare payments at a rate more reflective of the resource intensity of the given stay and would better align with how Medicare pays early discharge to other facilities. [\$1.3 billion in savings over 10 years]”

### **Repeal the Independent Payment Advisory Board**

The budget proposes to repeal the Independent Payment Advisory Board. All remaining unobligated administrative funds would be rescinded. [\$29.5 billion in costs over 10 years]

### **Provide Additional Resources for Medicare Appeals**

This proposal provides HHS \$127 million per year in mandatory funding to invest in addressing the backlog of pending Medicare appeals.

#### **Comment**

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The above list is not all-inclusive. There are other items that do not directly impact providers. The items above require legislation that will most likely prove difficult, to say the least.

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## **2019 ADMINISTRATIVE PROPOSALS**

### **Implement a More Accurate Payment System for Home Health**

The proposal would implement a new patient case-mix classification methodology to more accurately account for clinical differences among patients in Medicare’s payments to home health agencies. The new methodology, referred to as the home health grouping model, would be implemented for periods of care starting on or after Jan. 1, 2020. [\$16.7 billion in savings over 10 years]

### **Eliminate Excessive Payment in Medicare Advantage by Using Claims Data from Patient Encounters**

The proposal phases in the use of encounter data for Medicare Advantage payment risk adjustments. [\$11.1 billion in savings over 10 years]

### **Eliminate Excessive Payment to Medicare Advantage Employer Group Waiver Plans by Basing Payment on Competitive Individual Market Plan Bids**

For payment year 2019 and future years, the proposal would calculate the bid-to-benchmark ratios using individual market plan bids only, rather than a 50/50 blend of individual market plan bids and Employer Group Waiver Plan bids from the previous year. [\$10.7 billion in savings over 10 years]

## Final Thoughts

Many of the items in this budget are not new. Most items would require legislative approval. The few so-called Administrative proposals are not new either. Nonetheless, there is a higher chance of their adoption.

In these few pages, it is not possible to discuss all the items in the HHS budget document. Many items involving drug pricing, health care reform, opioids and other activities require more review by those interested.

The budget is not an easy document to follow. It also is difficult in many places to understand the numbers being presented. In the Office of Management and Budget's summary, it says, "The Budget requests \$68.4 billion for HHS, a \$17.9 billion or 21 percent decrease from the 2017 enacted level." Yet, in the HHS document, it says the FY 2019 budget is \$53 billion more than the FY 2018 and \$94 billion more than FY 2017.

Finally, the president is not giving up trying to repeal and replace the *Affordable Care Act*, aka ObamaCare.

*Analysis provided for MHA  
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