

Issue Brief

FEDERAL ISSUE BRIEF • February 8, 2018

Senate's Appropriation Budget Agreement

Yesterday, the Senate reached a bipartisan agreement that would add hundreds of billions of dollars to military and domestic programs over the next two years while raising the federal debt limit, and moving to end the cycle of fiscal showdowns that have whipped the Capitol with shutdowns and short-term continuing resolutions to fund government operations. The Senate is expected to act and pass its agreement later today.

At this juncture, it is still not known what the House will do.

The Senate measure is more than 600 pages. A copy of the document is at: <https://www.appropriations.senate.gov/download/bipartisan-budget-act-of-2018-text>. Please note that this may be a short-lived item inasmuch as the full Senate has to vote, and House actions are unknown. The Act is being cited as the "**Bipartisan Budget Act of 2018.**" Below are key provisions affecting Medicare. These items are contained in the bill's "Division E — Health and Human Services Extenders."

TITLE I — CHIP

Sec. 50101. Funding extension of the Children's Health Insurance Program through fiscal year 2027. This item expands the six-year extension Congress agreed upon in the last CR to 10 years.

TITLE II — MEDICARE EXTENDERS

Sec. 50201. Extension of Work GPC1 Floor. Extends this item physician until Jan. 1, 2020.

Sec. 50202. Repeal of Medicare Payment Cap for Physical, Speech-language pathology and Occupational Therapy Services, effective Jan. 1, 2018. The claim for such services would contain an appropriate modifier (such as the KX modifier) indicating that such services are medically necessary, as justified by appropriate documentation in the medical record involved.

Sec. 50203. Medicare Ambulance Services. The extension of ground ambulance and super rural ambulance services is continued through 2023. The bill provides for the development and requirement to report cost information beginning in 2022.

Sec. 50204. Extension of Increased Inpatient Hospital Payment Adjustment for Certain Low-Volume Hospitals. This expired provision is extended with respect to each of fiscal years 2019 through 2022, for hospitals having less than 3,800 discharges during the fiscal year; and with respect to FY 2023 and each subsequent fiscal year, less than 800 discharges during the fiscal year.

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continued

Sec. 50205. Extension of the Medicare-Dependent Hospital Program. This expired item would be continued to Oct. 1, 2022.

Sec. 50208. Extension of Home Health Rural Add-On. This provision extends the home health rural add-on for all HHA through 2018. Beginning Jan. 1, 2019, the amount of the add-on would depend on other factors.

The Secretary shall increase the payment amount otherwise made for home health services furnished in a county (or equivalent area) in a rural area as determined by the Secretary—

“(A) is in the highest quartile of all counties (or equivalent areas) based on the number of Medicare home health episodes furnished per 100 individuals who are entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act or enrolled for benefits under part B of such title (but not enrolled in a plan under part C of such title)—

“(i) in the case of episodes and visits ending during 2019, by 1.5 percent; and

“(ii) in the case of episodes and visits ending during 2020, by 0.5 percent;

“(B) has a population density of six individuals or fewer per square mile of land area and is not described in subparagraph (A)—

“(i) in the case of episodes and visits ending during 2019, by 4 percent;

“(ii) in the case of episodes and visits ending during 2020, by 3 percent;

“(iii) in the case of episodes and visits ending during 2021, by 2 percent; and

“(iv) in the case of episodes and visits ending during 2022, by 1 percent; and

“(C) is not described in either subparagraph (A) or (B)—

“(i) in the case of episodes and visits ending during 2019, by 3 percent;

“(ii) in the case of episodes and visits ending during 2020, by 2 percent; and

“(iii) in the case of episodes and visits ending during 2021, by 1 percent.

The Secretary shall use data from 2015. There shall be no administrative or judicial review.

TITLE IX — PUBLIC HEALTH PROGRAMS

Sec. 50901. Extension for Community Health Centers, the National Health Service Corps and Teaching Health Centers that Operate GME Programs. Provision extends payments to Community Health Centers for two years – \$3,800,000,000 for FY 2018 and \$4,000,000,000 for FY 2019.

TITLE XI — PROTECTING SENIORS' ACCESS TO MEDICARE ACT

Sec. 52001. Repeal of the Independent Payment Advisory Board.

TITLE XII — (PAYMENT) OFFSETS

Sec. 53101. Modifying Reductions in Medicaid Disproportionate Share Hospital Allotments. The reductions in the DSH allocations that were set to start in 2018 would be postponed until 2020. Reductions would be \$4,000,000,000 for FY 2020 and \$8,000,000,000 for each of fiscal years 2021 through 2025.

Sec. 53106. Physician Fee Schedule Update. Would be 0.25 percent in 2019.

Sec. 53107. Payment for Outpatient Physical Therapy Services and Outpatient Occupational Therapy Services Furnished by a Therapy

Assistant. On and after Jan. 1, 2022, in whole or in part by a therapy assistant (as defined by the Secretary), the amount of payment for such service shall be an amount equal to 85 percent of the amount of payment otherwise applicable for the service under this part.

Sec. 53110. Medicare Payment Update for Home Health Services. This provision would cap HHA payments for 2020 at 1.5 percent.

Sec. 53111. Medicare Payment Update for Skilled Nursing Facilities. The skilled nursing facility market basket percentage, after application of clause 18 (ii), is equal to 2.4 percent.

Comment

While the material presented above is still not finalized, it does provide a detailed look at the thinking of some in Congress.

Below is the Senate appropriations bill table of contents with respect to Medicare and related items.

DIVISION E — HEALTH AND HUMAN SERVICES EXTENDERS

Sec. 50100. Short title; table of contents.

TITLE I — CHIP

Sec. 50101. Funding extension of the Children's Health Insurance Program through FY 2027.

Sec. 50102. Extension of pediatric quality measures program.

Sec. 50103. Extension of outreach and enrollment program.

TITLE II — MEDICARE EXTENDERS

Sec. 50201. Extension of work GPCI floor.

Sec. 50202. Repeal of Medicare payment cap for therapy services; limitation to ensure appropriate therapy.

Sec. 50203. Medicare ambulance services.

Sec. 50204. Extension of increased inpatient hospital payment adjustment for certain low-volume hospitals.

Sec. 50205. Extension of the Medicare-dependent hospital program.

Sec. 50206. Extension of funding for quality measure endorsement, input and selection; reporting requirements.

Sec. 50207. Extension of funding outreach and assistance for low-income programs; state health insurance assistance program reporting requirements.

Sec. 50208. Extension of home health rural add-on.

TITLE III — CREATING HIGH-QUALITY RESULTS AND OUTCOMES NECESSARY TO IMPROVE CHRONIC CARE

Subtitle A — Receiving High Quality Care in the Home

Sec. 50301. Extending the Independence at Home Demonstration Program.

Sec. 50302. Expanding access to home dialysis therapy.

Subtitle B — Advancing Team-Based Care

Sec. 50311. Providing continued access to Medicare Advantage special needs plans for vulnerable populations.

Subtitle C — Expanding Innovation and Technology

Sec. 50321. Adapting benefits to meet the needs of chronically ill Medicare Advantage enrollees.

Sec. 50322. Expanding supplemental benefits to meet the needs of chronically ill Medicare Advantage enrollees.

Sec. 50323. Increasing convenience for Medicare Advantage enrollees through telehealth.

Sec. 50324. Providing accountable care organizations, the ability to expand the use of telehealth.

Sec. 50325. Expanding the use of telehealth for individuals with stroke.

Subtitle D — Identifying the Chronically Ill Population

Sec. 50331. Providing flexibility for beneficiaries to be part of an accountable care organization.

Subtitle E — Empowering Individuals and Caregivers in Care Delivery

Sec. 50341. Eliminating barriers to care coordination under accountable care organizations.

Sec. 50342. Government Accountability Office study and report on longitudinal comprehensive care planning services under Medicare part B.

Subtitle F — Other Policies to Improve Care for the Chronically Ill

Sec. 50351. GAO study and report on improving medication synchronization.

Sec. 50352. GAO study and report on impact of obesity drugs on patient health and spending.

Sec. 50353. HHS study and report on long-term risk factors for chronic conditions among Medicare beneficiaries.

Sec. 50354. Providing prescription drug plans with parts A and B claims data to promote the appropriate use of medications and improve health outcomes.

TITLE IV — PART B IMPROVEMENT ACT AND OTHER PART B ENHANCEMENTS

Subtitle A — Medicare Part B Improvement Act

Sec. 50401. Home infusion therapy services temporary transitional payment.

Sec. 50402. Orthotist's and prosthetist's clinical notes as part of the patient's medical record.

Sec. 50403. Independent accreditation for dialysis facilities and assurance of high quality surveys.

Sec. 50404. Modernizing the application of the Stark rule under Medicare.

Subtitle B — Additional Medicare Provisions

Sec. 50411. Making permanent the removal of the rental cap for durable medical equipment under Medicare with respect to speech-generating devices.

Sec. 50412. Increased civil and criminal penalties, and increased sentences for Federal Health Care Program Fraud and Abuse.

Sec. 50413. Reducing the volume of future EHR-related significant hardship requests.

Sec. 50414. Strengthening rules in case of competition for diabetic testing strips.

TITLE V — OTHER HEALTH EXTENDERS

Sec. 50501. Extension for family-to-family health information centers.

Sec. 50502. Extension for sexual risk avoidance education.

Sec. 50503. Extension for personal responsibility education.

TITLE VI — CHILD AND FAMILY SERVICES AND SUPPORTS EXTENDERS

Subtitle A — Continuing the Maternal, Infant and Early Childhood Home Visiting Program

Sec. 50601. Continuing evidence-based home visiting program.

Sec. 50602. Continuing to demonstrate results to help families.

Sec. 50603. Reviewing statewide needs to target resources.

Sec. 50604. Improving the likelihood of success in high-risk communities.

Sec. 50605. Option to fund evidence-based home visiting on a pay for outcome basis.

Sec. 50606. Data exchange standards for improved interoperability.

Sec. 50607. Allocation of funds.

Subtitle B — Extension of Health Professions Workforce Demonstration Projects

Sec. 50611. Extension of health workforce demonstration projects for low-income individuals.

TITLE VII — FAMILY FIRST PREVENTION SERVICES ACT

Subtitle A — Investing in Prevention and Supporting Families

Sec. 50701. Short title.

Sec. 50702. Purpose.

PART I — PREVENTION ACTIVITIES UNDER TITLE IV–E

Sec. 50711. Foster care prevention services and programs.

Sec. 50712. Foster care maintenance payments for children with parents in a licensed residential family-based treatment facility for substance abuse.

Sec. 50713. Title IV–E payments for evidence-based kinship navigator programs.

PART II—ENHANCED SUPPORT UNDER TITLE IV–B

Sec. 50721. Elimination of time limit for family reunification services while in foster care and permitting time-limited family reunification services when a child returns home from foster care.

Sec. 50722. Reducing bureaucracy and unnecessary delays when placing children in homes across state lines.

Sec. 50723. Enhancements to grants to improve well-being of families affected by substance abuse.

PART III — MISCELLANEOUS

Sec. 50731. Reviewing and improving licensing standards for placement in a relative foster family home.

Sec. 50732. Development of a statewide plan to prevent child abuse and neglect fatalities.

Sec. 50733. Modernizing the title and purpose of title IV–E.

Sec. 50734. Effective dates.

PART IV — ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME

Sec. 50741. Limitation on federal financial participation for placements that are not in foster family homes.

Sec. 50742. Assessment and documentation of the need for placement in a qualified residential treatment program.

Sec. 50743. Protocols to prevent inappropriate diagnoses.

Sec. 50744. Additional data and reports regarding children placed in a setting that is not a foster family home.

Sec. 50745. Criminal records checks, and checks of child abuse and neglect registries for adults working in child-care institutions and other group care settings.

Sec. 50746. Effective dates; application to waivers.

PART V — CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES

Sec. 50751. Supporting and retaining foster families for children.

Sec. 50752. Extension of child and family services programs.

Sec. 50753. Improvements to the John H. Chafee Foster Care Independence Program and related provisions.

PART VI — CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP

Sec. 50761. Reauthorizing adoption and legal guardianship incentive programs.

PART VII — TECHNICAL CORRECTIONS

Sec. 50771. Technical corrections to data exchange standards to improve program coordination.

Sec. 50772. Technical corrections to state requirement to address the developmental needs of young children.

PART VIII — ENSURING STATES REINVEST SAVINGS RESULTING FROM INCREASE IN ADOPTION ASSISTANCE

Sec. 50781. Delay of adoption assistance phase-in.

Sec. 50782. GAO study and report on state reinvestment of savings resulting from increase in adoption assistance.

TITLE VIII — SUPPORTING SOCIAL IMPACT PARTNERSHIPS TO PAY FOR RESULTS

Sec. 50801. Short title.

Sec. 50802. Social impact partnerships to pay for results.

TITLE IX — PUBLIC HEALTH PROGRAMS

Sec. 50901. Extension for community health centers, the National Health Service Corps and teaching health centers that operate GME programs.

Sec. 50902. Extension for special diabetes programs.

TITLE X — MISCELLANEOUS HEALTH CARE POLICIES

Sec. 51001. Home health payment reform.

Sec. 51002. Information to satisfy documentation of Medicare eligibility for home health services.

Sec. 51003. Technical amendments to Public Law 114–10.

Sec. 51004. Expanded access to Medicare intensive cardiac rehabilitation programs.

Sec. 51005. Extension of blended site neutral payment rate for certain long-term care hospital discharges; temporary adjustment to site neutral payment rates.

Sec. 51006. Recognition of attending physician assistants as attending physicians to serve hospice patients.

Sec. 51007. Extension of enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2017.

Sec. 51008. Allowing physician assistants, nurse practitioners and clinical nurse specialists to supervise cardiac, intensive cardiac and pulmonary rehabilitation programs.

Sec. 51009. Transitional payment rules for certain radiation therapy services under the physician fee schedule.

TITLE XI — PROTECTING SENIORS' ACCESS TO MEDICARE ACT

Sec. 52001. Repeal of the Independent Payment Advisory Board.

TITLE XII — OFFSETS

Sec. 53101. Modifying reductions in Medicaid DSH allotments.

Sec. 53102. Third party liability in Medicaid and CHIP.

Sec. 53103. Treatment of lottery winnings and other lump-sum income for purposes of income eligibility under Medicaid.

Sec. 53104. Rebate obligation with respect to line extension drugs.

Sec. 53105. Medicaid Improvement Fund.

Sec. 53106. Physician fee schedule update.

Sec. 53107. Payment for outpatient physical therapy services and outpatient occupational therapy services furnished by a therapy assistant.

Sec. 53108. Reduction for non-emergency end-stage renal disease ambulance transports.

Sec. 53109. Hospital transfer policy for early discharges to hospice care.

Sec. 53110. Medicare payment update for home health services.

Sec. 53111. Medicare payment update for skilled nursing facilities.

*Analysis provided for MHA
by Larry Goldberg,
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Sec. 53112. Preventing the artificial inflation of star ratings after the consolidation of Medicare Advantage plans offered by the same organization.

Sec. 53113. Sun-setting exclusion of biosimilars from Medicare part D coverage gap discount program.

Sec. 53114. Adjustments to Medicare part B and part D premium subsidies for higher income individuals.

Sec. 53115. Medicare Improvement Fund.

Sec. 53116. Closing the donut hole for seniors.

Sec. 53117. Modernizing child support enforcement fees.

Sec. 53118. Increasing efficiency of prison data reporting.

Sec. 53119. Prevention and Public Health Fund.