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IN THIS ISSUE:

- **HOUSE WAYS AND MEANS DEMOCRATS AND THE HEALTH CARE INDUSTRY PROPOSE “SUPER” COMMITTEE FEDERAL SPENDING CUTS AND REFORMS**
 - **SENATE COMMITTEE CONSIDERS INCREASING FDA’S POWERS, ADDITIONAL FEES TO IMPROVE PRESCRIPTION DRUG SAFETY**
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- **HOUSE WAYS AND MEANS DEMOCRATS AND THE HEALTH CARE INDUSTRY PROPOSE “SUPER” COMMITTEE FEDERAL SPENDING CUTS AND REFORMS**

Last week, House Ways and Means Committee Democrats leaked a list of potential spending cuts and reforms to federal programs for consideration by the bipartisan congressional “super” committee. The committee must find up to \$1.5 trillion in federal savings by November 23 to avoid triggering across-the-board cuts in military spending, education, transportation and Medicare payments (capped at 2%) matching the size of the debt ceiling increase.

The Democrats’ proposed cuts and changes include:

- Creating a government-run “public” plan option in the federal and state health insurance exchanges;
- Negotiating Medicare prescription drug prices directly with the pharmaceutical companies;
- Freezing Medicare provider payments for 2 years;
- Raising Medicare’s eligibility age to 67;
- Reducing Medicare reimbursements and requiring prior authorization for medical imaging;
- Means testing or raising Medicare Part B (medical insurance) premiums for beneficiaries with incomes above \$85,000/year (\$170,000 for couples);
- Reforming the Quality Improvement Organizations (QIOs);
- Cutting reimbursements for Graduate Medical Education payments to hospitals to train medical residents;
- Increasing cost sharing for clinical laboratory tests;
- Requiring Part D prescription drug company rebates for dual eligibles (individuals eligible for both Medicare and Medicaid); and

- Increasing cost-sharing/premiums or taxing beneficiaries with Medigap coverage.

The Democrats' list also includes a few potential reforms they expect Republicans to propose, which include:

- Repealing the individual coverage mandate; and
- Reducing or eliminating the tax credits and cost-sharing subsidies in the health insurance exchanges.

The Democrats' list represents politically sensitive cuts and reforms to federal entitlement programs where the bipartisan "super" committee may find agreement.

A number of health care industry stakeholders [prefer](#) the across-the-board cuts because they would result in only a 2% cut in Medicare provider reimbursements (\$130 billion to \$150 billion) as opposed to potentially deeper cuts from the "super" committee. However, hospital groups oppose the 2% cut based on a [report](#) that it could cost them up to 194,522 jobs and \$5.8 billion over 10 years.

Another group of medical systems, drug manufacturers, health insurers and medical-device companies sent a [proposal](#) to the "super" committee that would save \$410 billion in Medicare over 10 years without cutting reimbursements by raising Medicare eligibility to age 67; establishing a Medicare insurance exchange; and implementing medical liability reforms.

This week, the "super" committee created a website at <http://deficitreduction.senate.gov/public/> and adopted rules to hold both private and public meetings. The "super" committee's first private (closed door) meeting is scheduled for today.

The "super" committee already held its first hearing where Congressional Budget Office (CBO) Director Douglas Elmendorf testified that without any changes to reduce federal health care spending for Medicare and Medicaid, Congress will need to increase taxes or cut benefits.

Recently, the President also stated that the "super" committee should find additional savings or taxes to help pay for his \$450 billion "jobs" proposal. House Speaker John Boehner (R-OH) stated that the "super" committee should focus on tax and entitlement reform without raising taxes.

IMPACT ON EMPLOYERS AND EMPLOYEES: Reforming our nation's expensive entitlement programs (Medicare, Medicaid and Social Security) will save the federal government from fiscal ruin and our economy too. We need to make these reforms before the Medicaid expansion begins in 2014, and both Medicare and Social Security run out of money, respectively, in 2020 and 2036. We need to rationalize payment for Medicare and Medicaid to pay only for needed services done well, and stop paying for services done regardless of their quality or need.

Providers would likely shift costs to employers and other private payers to make up for a "public option" that would pay providers at rates similar to Medicare rates—which are already 30% less for hospitals' and 20% less for physicians' actual costs and private plan payments. The "public option" also would likely perpetuate the same quality and

efficiency problems of Medicare unless it significantly improves the effectiveness and efficiency of the health care delivery system.

OUTLOOK: *Congressional committees must submit their recommendations for reforms and cuts to the “super” committee by October 14. The “super” committee must report out its recommendations by November 23 with an up-or-down vote without amendments by December 23. The President may announce his support for specific entitlement reforms he wants the “super” committee to consider next week.*

BACKGROUND: The federal government's debt is \$13.5 trillion and rising. The U.S. currently borrows \$125 billion per month to pay for all of commitments, including Medicare. In January, the CBO raised its estimate for the annual deficit (spending more than it takes in on revenues) from \$1.1 trillion to \$1.5 trillion.

Last year, retiring House Progressive Caucus Chair Lynn Woolsey (D-CA) and 128 other Democrats reintroduced a bill that would establish a government-run "public option" for the federal government to offer through the state insurance exchanges. Congress ultimately decided to eliminate the public option from the new health care law.

NATIONAL BUSINESS GROUP ON HEALTH VIEW AND ACTION ON THESE ISSUES: The National Business Group on Health believes that we need to put our government's fiscal house in order and invest in high value services and programs in order to strengthen our economy. We also believe that we need a long term solution to the country's unsustainable entitlement spending.

The Institute of Medicine (IOM) has listed ways to save hundreds of billions of dollars annually in the health care system by reducing medical errors, overuse or patient safety problems without hurting the quality and safety of health care.

Link to the IOM's list of excess cost domains:

http://books.nap.edu/openbook.php?record_id=12750&page=52

Creating a “public option” without making any of the hard payment and delivery changes will not solve any problem and could exacerbate the current problems.

The Business Group believes Congress needs to tie physician payments to performance on quality and safety in any reform of Medicare's physician payment system.

➤ **SENATE COMMITTEE CONSIDERS INCREASING FDA'S POWERS, ADDITIONAL FEES TO IMPROVE PRESCRIPTION DRUG SAFETY**

This week, the Senate Health, Education, Labor, and Pensions (HELP) Committee, led by Senators Tom Harkin (D-IA) and Michael Enzi (R-WY), held a hearing on prescription drug safety and securing the U.S. pharmaceutical supply chain. The Senators held the hearing to gear up for the upcoming reauthorization of the Food and Drug Administration's (FDA) authority and its mechanism to collect fees from drug manufacturers to fund the approval process of new prescription drugs. Because about 80% of the active ingredients found in U.S. pharmaceuticals come from abroad,

Congress needs to determine if it should increase these fees in order to maintain the safety of the nation's prescription drugs.

The FDA testified that it needs more authority to ensure product safety of global supply chains including the ability to:

- Refuse product admission to the U.S. if inspection of prescription drug manufacturing facilities (both foreign and domestic) is delayed, limited, or denied;
- Issue a mandatory recall for prescription drugs;
- Detain and destroy drugs at the border;
- Require foreign and domestic companies to provide more complete information on counterfeiting, theft and non-compliance with U.S. standards,
- Create a unique facility identifier for every pharmaceutical manufacturer;
- Share certain non-public information with other regulatory agencies and foreign governments and other new powers.

The pharmaceutical industry testified that Congress should:

- Require all foreign entities manufacturing prescription drugs to register with the FDA and list their products, if they don't already;
- Allow the FDA to rely on the inspection results of other foreign regulatory bodies or use accredited third parties to conduct some foreign inspections; and
- Consider if any new burdens on the import of materials may have adverse effects on the availability of prescription drugs.

The generic pharmaceutical industry testified that Congress should:

- Ensure that all contributors to the U.S. drug system, both foreign and domestic, meet the same quality standards; and
- Implement a "risk-based" model at the FDA that prioritizes domestic and foreign inspections according to companies' safety and compliance track records.

IMPACT ON EMPLOYERS AND EMPLOYEES: Employers and employees would benefit from strengthening the FDA's ability to ensure the safety and effectiveness of prescription drugs. Employers and employees may face increased prescription drug costs if pharmaceutical companies shift any additional fees onto employers and private payers.

OUTLOOK: *Congress will renew the program to collect fees from drug manufacturers to fund the approval process of new prescription drugs this year. It is unclear if the reauthorization will also expand the FDA's authority.*

BACKGROUND: Enacted in 1992, Congress renewed the Prescription Drug User Fee Act (PDUFA) in 1997 (PDUFA II), 2002 (PDUFA III), and 2007 (PDUFA IV). It authorizes FDA to collect fees from companies that produce certain human drug and biological products. FDA calculates the fees for the following year based on the expected work (applications, etc) and the amount it wants to raise from the fees. User fees imposed

under PDUFA added \$707 million to the FDA budget in 2011, roughly a quarter of the agency's total spending. User fees cover roughly 65 percent of the drug approval process. Congress needs to renew PDUFA V by 2012 and may also authorize a generic drug user free act.

NATIONAL BUSINESS GROUP ON HEALTH VIEW ON THESE ISSUES: The National Business Group on Health believes that the safety of U.S. consumers' prescription drugs is a paramount concern that would require substantial increases in FDA and U.S. Customs Service resources.

As part of the costs of doing business, paying for the fees should not be shifted onto employers and employees, particularly in the current economic environment.

If you would like more details on these or other issues or would like a phone briefing on legislation, or want to express concerns about specific issues, please contact Steven Wojcik, Vice President, Public Policy at wojcik@businessgrouphealth.org or 202-558-3012. **Also, as part of our "Ask a Benefits Question" service, we are happy to respond within 24 hours to any health benefits question on policy, regulations or legislation.**

This material is provided for information purposes only and is not a substitute for legal advice.

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