



## ML Strategies Update

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## Health Care Update

### Medicare Cuts in the Crosshairs?

This week, Congress is back in session after a week-long recess and has a lot of business to address in a short window of time. As House Republicans scramble to bring some level of calm to the conference after a bruising month, issues continue to pile up which should make for a photo-finish end to the first session of the 114<sup>th</sup> Congress.

Along with the Administration, staffers from both sides of the Hill are already working hard to reach a two-year budget agreement, despite skepticism on both sides of the aisle that a deal can be reached by the December 11, 2015 deadline. To add a layer of complexity, Treasury Secretary Jack Lew accelerated his projection for raising the debt limit, moving up the deadline for Congress to act to November 3, 2015, meaning Congress only has 10 legislative days to raise the government's borrowing limit.

So a busy couple of weeks are ahead of us folks, but we at ML Strategies will be covering everything from open enrollment season to the debt limit to the looming budget negotiations. In fact, well-placed sources on the Hill believe cuts in mandatory entitlement programs will be at the center of the budget negotiations.

In working off President Barack Obama's fiscal year 2016 budget request, \$148 billion is needed for a two-year deal on sequestration relief, or \$74 billion annually. The Democratic position is that the \$74 billion should be split evenly between defense and non-defense spending, but this number could be negotiated at a lower level.

It is expected that Republicans, in order to pay for the \$38 billion in non-defense spending, will seek cuts to mandatory entitlement programs, particularly for hospitals and drug reimbursements. Considering the President's budget called for \$423 billion in proposed cuts to Medicare over the next decade, potential cuts in this space are possible; although adjustments to the Consumer Price Index (CPI), or cuts that directly impact beneficiaries, are not expected to be on the table in these negotiations.

Stay tuned for further updates in the coming weeks.

## Medicare Enrollment Season Begins Amid Confusion and Uncertainty

**Medicare Part B Premiums Set for Major Increase:** Absent congressional action, Medicare Part B premiums could increase by as much as 52 percent in 2016. This is due to an abnormality in federal law which requires, in years when there is no cost-of-living adjustment for Social Security, an increase in premiums for beneficiaries who are not covered by Social Security's hold harmless provision. Republican and Democratic staffs continue to discuss a solution, but determining offsets continues to impede progress. Medicare Part B covers certain surgeries and lab tests, as well as supplies like wheelchairs that are considered medically necessary to treat a disease or condition.

As stated above, the law contains a "hold harmless" provision that protects approximately 70 percent of beneficiaries from paying higher Part B premiums. However, those beneficiaries excluded from this provision, which includes dual-eligibles, are the responsibility of state Medicaid programs, which could impose an economic burden on states providing care to these individuals.

Senator Ron Wyden (D-OR), Ranking Member of the Senate Finance Committee, introduced legislation which would prevent an increase in Part B premiums and deductibles in 2016; however, the legislation does not include an offset. If Congress fails to reach an agreement, the Administration could authorize the Department of Health and Human Services to take money from Medicare's contingency reserve. The fund is intended to be utilized when spending is higher than expected.

ML Strategies will continue to monitor this issue in the coming weeks.

**Medicare Part D Premiums to Rise in 2016:** Last week, the Kaiser Family Foundation published analysis on premiums for seniors' prescription drugs in 2016. The analysis concludes that the average premium will increase by 13 percent, the largest increase in seven years. The Centers for Medicare and Medicaid Services (CMS) say the high costs of specialty drugs are to blame for the increases in recent years. To view the Kaiser report, [click here](#).

## Social Security

**Social Security Benefits to Remain Flat in 2016:** For the first time since 2011, the amount of money Social Security pays out to beneficiaries will not increase. Social Security payments are adjusted automatically each year to account for the rate of inflation. This is known as the cost of living adjustment (COLA), which resulted in a 1.7 percent increase in benefits in 2015. However, while the Social Security Act provides for an automatic increase in benefits if there is an increase in inflation, it does not guarantee one. The cost-of-living adjustment for Social Security is determined by measuring the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), which measures prices from the third quarter of the last COLA to the third quarter of the current year. From the third quarter of 2014 to the third quarter of 2015, there was no increase in the CPI-W, meaning there can be no COLA in 2016. For more information on this, please [click here](#).

## All Things ACA

**Reconciliation Ready for Floor Action; House to Vote Friday:** The House Budget Committee approved a package of legislation prior to the October recess that would use reconciliation procedures to repeal several key provisions of the Affordable Care Act. The package would repeal the individual and employer mandates, the medical device tax, the Cadillac tax, as well as eliminate the Independent Payment Advisory Board, which Congress created to control the costs associated with Medicare. Once it passes the full House, it will move to the Senate, where it is also expected to pass; although, provisions to deny Planned Parenthood funding for one year cloud its Senate prospects. Under reconciliation procedures, the vote simply has to pass by a majority vote in the Senate, avoiding the 60-vote filibuster rule. If the measure does clear the Senate, it would go to the President for his signature, where it faces a certain veto.

**Cadillac Tax Impact Will Be Limited at Onset of 2018:** The excise tax on high-cost health plans, known as the Cadillac Tax, will initially affect only four percent of people with employer-sponsored coverage, according to the Treasury's Office of Tax Analysis estimates. The new estimates are much smaller than other frequently cited figures on the tax's impact. That has not stopped efforts to repeal the tax, with legislation introduced in both

chambers receiving bipartisan support. A Center on Budget and Policy Priorities report on this issue can be found [here](#).

**Co-Ops Struggling as Open Enrollment Nears:** The eighth ACA co-op, the Health Republic Insurance of Oregon, announced that it is shutting down due to funding shortfalls. This comes barely two weeks after the Administration announced its decision to pay just 12.6 percent of requested payments for the first year of the risk corridor program, which was designed to shield health plans from the risk of joining the health care exchanges with limited consumer data. With prices set for 2016 plans, insurers big and small are concerned about the level of uncertainty going forward and what it will mean for cost adjustments in 2017.

**Provider's to Share Costs to Fund Medicaid Expansion:** In 2017, when the federal matching rate for Medicaid drops from 100 percent to 95 percent, some states are planning to utilize provider taxes and fees to cover the costs of the five percent states will now be on the hook for, according to the latest Kaiser Family Foundation annual survey of Medicaid directors. For more on this report, please [click here](#).

**Jeb Bush unveils latest ACA replacement:** Republican candidate for President Jeb Bush unveiled his alternative to the Affordable Care Act last week, focusing on key Republican principles such as giving states greater control while capping the federal funding they receive. While details of the proposal have not been released, the proposal appears to lean heavily on innovative initiatives, including proposals included in the House-passed 21<sup>st</sup> Century Cures Act, an indication that he may be courting Congressional support as the primaries draw near.

**Health Insurance for Undocumented Immigrants Gains Traction:** Following the first Democratic Presidential Debate, in which the leading candidates endorsed the general idea of providing health care to undocumented immigrants, there is renewed interest in legislation to do just that. Representative Luis Gutierrez (D-IL) introduced H.R. 3659, the Exchange Inclusion for a Healthy America Act of 2015, which would provide undocumented immigrants with access to the Affordable Care Act marketplace and subsidies, so long as can prove their residency and tax-filings. You can read more about the legislation [here](#).

## Regulatory Business

**CMS Issues Request for Information (RFI) Regarding Alternative Payment Models:** The Centers for Medicare and Medicaid Services (CMS) released its RFI and extended the comment period for more information on how to implement the 2014 law that repealed the Sustainable Growth Rate. The final rules are expected to be released next spring. To review the RFI, please [click here](#).

**MedPAC to Weigh In on Alternative Payment Models:** The Medicare Payment Advisory Commission, or MedPAC, has raised concerns about alternative payment models, as well as the Merit-Based Incentive Payment System, which will be used in replacing the Sustainable Growth Rate. MedPAC officials have stressed the importance of learning from past mistakes to ensure the strength and vitality of the program.

**Government Accountability Office (GAO) Will Also Support Efforts:** GAO has also established a committee of health policy experts and providers to assist the Secretary of Health and Human Services in flushing out the new models. To view members of the committee, please [click here](#).

**Congress Continues Exploring Ways to Combat Opioid Crisis:** Earlier this month, the House Subcommittee on Health held a hearing discussing legislation that would address the drug abuse crisis, particularly when it comes to opioid abuse. Last week, Senator Pat Toomey (R-PA) held a hearing at Allegheny General Hospital in Pennsylvania to discuss heroin and opiate abuse in Southwestern Pennsylvania, where abuse has been on the rise in recent years. Senator Toomey also touted S. 1913, the Stopping Medication Abuse and Protecting Seniors Act of 2015, which would crack down on painkiller diversion in the Medicare program. You can review Senator Toomey's legislation [here](#).

## Hearings

### House of Representatives

On Tuesday, October 20, the House Energy and Commerce Subcommittee on Health will reconvene the hearing titled, “Examining Legislative Proposals to Combat our Nation’s Drug Abuse Crisis.” For more information, [click here](#).

On Wednesday, October 21, the House Energy and Commerce Subcommittee on Health will hold a hearing titled, “Examining the Medicare Part D Medication Therapy Management Program.” For more information, [click here](#).

On Friday, October 23, the House Energy and Commerce Subcommittee on Health will hold a hearing titled, “Reviewing the Accuracy of Medicaid and Exchange Eligibility Determinations.” For more information, [click here](#).

### Votes of Interest

Senator Tom Carper’s (D-DE) legislation, S. 1362, to amend title XI of the Social Security Act to clarify waiver authority regarding programs of all-inclusive care for the elderly (PACE programs). After passing the Senate by Unanimous Consent, S. 1362 will be considered by the House of Representatives on Wednesday, October 21, under suspension of the rules.

### The Last Word

**Stakeholders Split on Further ACA fixes:** After President Obama quietly signed H.R. 1624, the Protecting Affordable Coverage for Employees Act, into law on October 7th, there is renewed optimism among the business community that the President and Congress can continue discussing other potential fixes to the Affordable Care Act. While some stakeholders are less optimistic, there are a number of issues that have enjoyed bipartisan interest that could come up in the next year. Those issues include: restoring the forty-hour work week, repealing the Cadillac tax, the medical device tax, correcting a tax provision known as the “family glitch,” or enacting legislation regarding the use of Health Reimbursement Arrangements (HRAs), among others.

ML Strategies will continue to monitor to closely monitor these issues.

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