House Lawmakers Debate IPAB

BY FRANCES CORREA

WASHINGTON – Partisan squabbling from both sides of the aisle was the highlight of 2 days of House committee hearings on the Independent Payment Advisory Board.

"The Affordable Care Act ends the Medicare guarantee; it ends Medicare as we know it," chairman Paul Ryan (R-Wisc.) said during a July 12 hearing before the House Budget Committee. "Nobody is arguing against capping spending around here. The only difference is, this law empowers the [Independent Payment Advisory Board] with the unilateral power to decide how to live underneath that cap."

Rep. Henry Waxman (D-Calif.) and Rep. Frank Pallone (D-N.J.) defended the health reform law and its capacity to improve Medicare.

"Republicans just assert [that the Affordable Care Act] doesn't control costs and then they attack the new law's comprehensive approach it takes to control costs," Mr. Waxman said during a July 13 hearing of the House Energy and Commerce Committee's Subcommittee on Health. He argued that Republicans also ignore Congressional Budget Office estimates that the Republican budget proposal could double costs for Medicare beneficiaries once the law is fully enacted in 2022.

Republicans ignore estimates that their budget proposal could double costs for Medicare beneficiaries.

REP. WAXMAN

The IPAB is a board created by the Affordable Care Act. Slated to start in 2014, the board will consist of 15 members appointed by the president, plus three ex-officio members from the Executive Branch. The IPAB will make yearly recommendations to Congress on how to stay within Medicare budget targets; if Congress does not reject the recommendations by a two-thirds majority or come up with equivalent savings of its own, the recommendations become law automatically.

During rounds of questioning before both committees, Health and Human Services Secretary Kathleen Sebelius drove home the point that the IPAB recommendations would keep Congress in the "driver's seat," requiring its approval. Ms. Sebelius also argued in favor of the board's potential to improve the health care system and added that the Republican budget plan would do the opposite.

"I think [the IPAB] could look at a lot of the underlying rising costs and recommend payment strategies that much more closely align with what doctors tell me they really want to do," Ms. Sebelius testified. "I would suggest that the House Republican plan just shifts costs onto seniors and those with disabilities."

IPAB opponents disagree with the requirement that the House and Senate approve recommendations by a two-thirds vote. They said that this cedes to the board powers that the Constitution gives to Congress, making the IPAB fundamentally unconstitutional.

Although the board is charged with devising recommendations to reduce costs within Medicare, it lacks the ability to increase revenue or change existing benefits. This is one of the reasons opponents argue against the board's potential to enact further cuts in provider payments and, in their view, decrease access to care.

Rep. Tom Price (R-Ga.), who is also an orthopedic surgeon, spoke before the committee. "If I'm told by the federal government that I will not be paid for a service, what happens in my presentation of the options to that patient?

"As that treating physician, I may be coerced by the federal government into not even presenting that option to the patient," Rep. Price said. ■

Part D Reduced Nondrug Medical Spending

BY NASEEM S. MILLER

FROM JAMA

Medicare Part D coverage significantly reduced nondrug medical spending for beneficiaries who had limited drug coverage prior to the start of the federal prescription drug plan, Harvard Medical School researchers reported.

The 10.6% savings was mostly due to a decrease in spending on acute and postacute care under Medicare Part A (JAMA 2011;306:402-409).

"These reductions in nondrug medical spending suggest that Part D has not cost as much as what we initially thought," Dr. J. Michael McWilliams, the study's lead author, said in an interview.

'The cost of closing the doughnut hole could be' partially offset by these reductions in nondrug spending.

DR. MCWILLIAMS

The findings could also lend support to the Affordable Care Act's goal of closing the "doughnut hole," the gap in drug coverage under Part D, he added. "The cost of closing the doughnut hole could be less than what we might expect because of these partially offsetting reductions in spending on nondrug medical care."

VITALS

Major Finding: Medicare Part D reduced nondrug medical spending for beneficiaries who had limited drug coverage prior to enrolling in the federal prescription drug plan by 10.6%.

Data Source: Data from the Health and Retirement Study survey linked with Medicare claims from 2004 to 2007.

Disclosures: The authors had no conflicts of interest to disclose. The study was supported by grants from several charitable foundations.

The results also highlight a need for better coordination between all parts of Medicare, the investigators wrote. "Even though Part D plans function completely separately from Part A and Part B of the Medicare program, and even though they have no financial incentive to lower copayments, particularly for beneficial medications, clearly providing this benefit to seniors through stand-alone Part D plans has been quite effective," Dr. McWilliams said.

The authors used data from the Health and Retirement Study and linked it to Medicare claims data from 2004 to 2007 on 6,001 beneficiaries, then categorized the beneficiaries as having had generous (2,538) and limited (3,463) drug coverage prior to implementation of Part D. Nontraditional Medicare beneficiaries, such as those who qualified for Medicare before age 65, were excluded.

For the control cohort, they selected a similar group of 5,988 beneficiaries who had generous (2,537) and limited (3,451) drug coverage in 2002. They studied the group up to 2005.

They found total nondrug medical spending before Part D implementation was not significantly higher for beneficiaries with limited drug coverage compared with those who had generous drug coverage (7.6% relative difference). However, after implementation of Part D, nondrug medical spending for beneficiaries who previously had limited drug coverage was 3.9% lower than those with generous drug coverage, leading to a significant differential reduction of 10.6%.

In dollars, Medicare spent nearly $306 per quarter less than expected on beneficiaries who previously had limited drug coverage.

"The economic and clinical benefits suggested by these reductions may be enhanced by further expansions in prescription drug coverage for seniors, improvements in benefit designs for drug-sensitive conditions, and policies that integrate Medicare payment and delivery systems across drug and nondrug services," the authors wrote.

Previous studies have shown that the implementation of Part D has been associated with reduced out-of-pocket costs and better medication adherence (N. Engl. J. Med. 2009;361:52-61). ■

Court Upholds Individual Mandate

BY ALICIA AULT

In the first appeals court ruling on the Affordable Care Act, a three-judge panel of the 6th U.S. Circuit Court of Appeals ruled that the individual mandate requirement is constitutional.

The three judges – two Democratic appointees and one Republican appointee – said that requiring individuals to buy health insurance or face a penalty is legitimate and a "valid exercise of Congress's authority under the Commerce Clause."

"The provision regulates active participation in the health care market, and in any case, the Constitution imposes no categorical bar on regulating inactivity," the judges concluded.

Judge James Graham dissented somewhat from the majority, stating that he was concerned that if Congress was allowed to use its power to levy the mandate, there might not be any limit to that ability in the future.

Challenges to the individual mandate have asserted that Congress does not have the ability to regulate inactivity, that is, the choice to not buy insurance. They also have argued that if Congress can order someone to purchase insurance, it could require Americans to do other things.

The plaintiffs in the 6th Circuit case had appealed a lower court ruling upholding the constitutionality of the individual mandate. Those plaintiffs – the Thomas More Law Center, a public interest law firm in Ann Arbor, Mich., and three individuals – presented oral arguments to the appeals court on June 1, as did the Department of Justice (DOJ), as the defendant.

In a statement issued after the ruling, DOJ spokeswoman Tracy Schmaler said that the government welcomed the judges' opinion. "We will continue to vigorously defend the health care reform statute in any litigation challenging it," said Ms. Schmaler, adding that challenges to other landmark laws such as the Social Security Act and the Civil Rights Act had failed.

Ron Pollack, executive director of the advocacy group Families USA, also praised the ruling. "The court – made up of judges appointed by both Republican and Democratic presidents – recognized that health care makes up a substantial portion of the national economy and that Congress has the power to regulate that market," he said in a statement. "We expect that other appellate courts, and ultimately the Supreme Court, will reach the same decision."

Opinions from those other appellate courts – the 4th U.S. Circuit in Richmond, Va., and the 11th U.S. Circuit in Atlanta – are expected soon. ■

Pages 64a—64d