



### INSIDE THIS ISSUE

**Congress Passes Payroll Tax Extension,  
UI and SGR Fix**

**HRSA Distributes Pre-decisional Tribal  
Consultation Policy**

**HHS FY 2013 National Budget  
Consultation Update**

### **HILL UPDATES**

#### **Congress Passes Payroll Tax Extension, UI and SGR Fix**

On February 17th, after several weeks of deliberation by a conference committee and well ahead of its end-of-the-month deadline, Congress voted to approve H.R. 3630, a bill to extend the payroll tax holiday through the end of the year. The bill also extends unemployment insurance (UI) and avoids a planned 27% cut to Medicare provider payments due to the Sustainable Growth Rate (SGR), the formula tying reimbursement rates to economic growth.

At a cost of \$100 billion, the payroll tax holiday extension is unpaid-for. However, the UI extension and SGR patch are financed by increasing retirement contributions by federal workers, \$5 billion from the Affordable Care Act's (ACA) Prevention and Public Health fund, and reduced payments to hospitals, Medicaid, and clinical labs.

Although the lack of financing for the payroll tax holiday and the methods of paying for other provisions were somewhat contentious topics among both parties, the bill passed both chambers easily and on a bi-partisan basis. In the House, it was approved 293-132 and in the Senate, it passed 60-36. It now will go to the President's desk for signature.

### **ADMINISTRATION UPDATES**

#### **HRSA Distributes Pre-decisional Tribal Consultation Policy**

The Health Resources and Services Administration (HRSA) has distributed a pre-decisional, draft Tribal Consultation Policy for comment. HRSA will be accepting comments through March 16, 2012 at [AIANhealth@hrsa.gov](mailto:AIANhealth@hrsa.gov). The policy and a "Dear Tribal Leader" letter are attached for your review and comment.

#### **IRS Extends Comment Period for Comment on General Welfare Exclusion for Tribal Benefit Programs**

The IRS is extending the time limit for commenting on guidance the agency issued regarding the application of the general welfare exclusion to Indian tribal government programs. Comments may now be submitted through March 14, 2012.

The Internal Revenue Service (IRS) and Treasury Department are requesting Tribal comment regarding the application of the general welfare exclusion to Tribal government programs that provide benefits to Tribal members. According to



the Internal Revenue Code, an individual's gross income includes income from all sources (including non-monetary) and can therefore be taxed. However, The Internal Revenue Service has held that under a limited general welfare exclusion, that payments under governmental social benefit programs for the promotion of the general welfare are not includible in a recipient's gross income.

On Nov. 15, 2011, the IRS issued [Notice 2011-94](#), which requested that comments be provided by February 13. The guidance solicits comments regarding the application of the exclusion to Indian tribal government programs such as:

- Housing (for example, programs providing housing on and off the reservation, with income limits different from those of the United States Department of Housing and Urban Development);
- Cultural (for example, programs involving tours of sites that are historically significant to a tribe; language preservation programs; community recreational programs; cultural and social events);
- Education (for example, programs providing tutors or supplies to primary and secondary school students; job retraining programs for adults); and
- Elder programs (for example, programs providing heating assistance or meals).

Comments now may be submitted in writing on or before **March 14, 2012**. Comments should be submitted to Internal Revenue Service, CC:PA:LPD:PR (Notice 2011-94), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, or electronically to [Notice.Comments@irs.counsel.treas.gov](mailto:Notice.Comments@irs.counsel.treas.gov). Please include "Notice 2011-94" in the subject line of any electronic communications. Alternatively, comments may be hand delivered between the hours of 8:00 a.m. and 4:00 p.m. Monday to Friday to CC:PA:LPD:PR (Notice 2011-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, D.C.

## Insurance Customers see Better Value Under ACA

Health and Human Services Secretary Kathleen Sebelius announced last week that consumers will soon begin receiving unprecedented information on the value of their health insurance coverage, and some will receive rebates from insurance companies that spend less than 80 percent of their premium dollars on health care.

The Affordable Care Act requires that insurance companies this year begin notifying customers how much of their premiums they have spent on medical care and quality improvement. Beginning in 2011, insurers were required to spend at least 80 percent of total premium dollars they collect on medical care and quality improvement. Insurance companies that do not meet the 80/20 standard (also known as the Medical Loss Ratio) are required to pay rebates to their customers this year.

The proposed consumer notices about whether their insurance company has met the new standard have been posted on [HealthCare.gov](http://HealthCare.gov), and HHS is seeking public comment to help ensure the notices are useful transparency tools for consumers.

In the individual market, the Affordable Care Act allows the Secretary to adjust the medical loss ratio standard for a state if it is determined that meeting that standard may destabilize the state's individual insurance market. HHS has concluded its review of 18 state requests for adjustments to the medical loss ratio rule. As a result of HHS' decision to deny insurance companies the ability to spend more premium dollars on administrative overhead costs rather than on medical claims, consumers will receive up to \$323 million in rebates this year compared to what would have been owed if all state adjustment requests were fully granted, according to data from state regulators and issuer reports.

These adjustment request determinations were made as a result of a transparent and data-driven process, and the documentation related to each state's request has been publicly posted. In total,



HHS determined that no adjustment was necessary in ten states, approved an altered adjustment in six states, and approved the request sought by one state. This includes a denied adjustment for Wisconsin, and an altered adjustment for North Carolina, both announced today.

The announcement is part of the Obama Administration's effort to increase transparency in the health insurance marketplace. The notification will let consumers know if their insurer did not meet the 80/20 standard -- and that they or their employer will receive a rebate. HHS is also considering requiring insurers notify consumers if their insurer did meet the 80/20 standard. For the text of these proposed notifications, please visit:

<http://cciio.cms.gov/resources/other/index.html#mlr>

For more information on the MLR provision in the Affordable Care Act, please visit:

<http://www.healthcare.gov/news/factsheets/2010/11/medical-loss-ratio.html>

For documentation of state requests for MLR adjustments, including specific information on rebates saved by HHS' MLR adjustment determinations, visit:

<http://cciio.cms.gov/programs/marketreforms/mlr/index.html>

### **HHS FY 2013 National Budget Consultation Update**

On January 11th, the Department of Health and Human Services released a "Dear Tribal Leader Letter" inviting Tribes to the 14th Annual U.S. Department of Health and Human Services (HHS) Tribal Budget Consultation (ATBC) which will take place from March 7th to March 9th, 2012, in the Great Hall of the Hubert H. Humphrey Building at 200 Independence Avenue, SW, Washington.

Update: HHS has released the following presentation protocol for the consultation: Presentation Protocol for the March 2012 National Department of Health and Human Services (HHS) Tribal Budget and Policy Consultation

For the National HHS Tribal Budget and Policy Consultation, HHS will use the presentation protocol as set forth in the HHS Tribal Consultation Policy on page 13 of 22, which reads:

*9. Presentation protocol will ensure that the highest ranking official from each respective Tribe is given the opportunity to address the session first, followed by other elected officials, those designated by their elected official to represent their respective Indian Tribes and representatives of Indian/Tribal Organizations.*

*i. Official letter from the Indian Tribe designating a representative must be presented to IGA before the session begins.*

**Order of Tribal Leadership Presentation:** In the open sessions, HHS will offer the highest-ranking official from each respective Tribe the first opportunity to address the session followed by other elected officials and those designated to speak for a Tribe or Tribal Organizations. For example, the order of presentation in which HHS will follow is:

1. Tribal President/Chairperson/Governor
2. Tribal Vice-President/Vice-Chairperson/Lt. Governor
3. Elected or Appointed Tribal Official
4. Designated Tribal Official/ Representative of Indian/Tribal Organization

**Designation of Non-Elected Tribal Official:**

Individuals who are not elected or appointed Tribal Officials but will be representing his/her respective Tribe will need to bring an official letter from the Tribe authorizing he/she to speak on behalf of the Tribe.

### **Reminders:**

- Bring an official letter from your Tribe to the HHS Consultation if you are not an elected Tribal Leader and planning to represent your Tribe.
- Register for the consultation by completing the attached registration form.
- Submit Written Testimony by **Thursday, February 23<sup>rd</sup>**.

### **HHS Announces Intent to Delay ICD-10 Compliance Date**

Health and Human Services Secretary Kathleen G. Sebelius announced that HHS will initiate a



process to postpone the date by which certain health care entities have to comply with International Classification of Diseases, 10th Edition diagnosis and procedure codes (ICD-10).

The final rule adopting ICD-10 as a standard was published in January 2009 and set a compliance date of October 1, 2013 – a delay of two years from the compliance date initially specified in the 2008 proposed rule. HHS will announce a new compliance date moving forward.

ICD-10 codes provide more robust and specific data that will help improve patient care and enable the exchange of our health care data with that of the rest of the world that has long been using ICD-10. Entities covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will be required to use the ICD-10 diagnostic and procedure codes.

### **Affordable Care Act Extended Free Preventive Services to 54 Million Americans With Private Health Insurance in 2011**

Health and Human Services Secretary Kathleen Sebelius announced that the Affordable Care Act provided approximately 54 million Americans with at least one new free preventive service in 2011 through their private health insurance plans. Secretary Sebelius also announced that an estimated 32.5 million people with Medicare received at least one free preventive benefit in 2011, including the new Annual Wellness Visit, since the Affordable Care Act was enacted.

Together, this means an estimated 86 million Americans were helped by health reform's prevention coverage improvements. The new data were released in two new reports from HHS.

The Affordable Care Act requires many insurance plans to provide coverage without cost sharing to enrollees for a variety of preventive health services, such as colonoscopy screening for colon cancer, Pap smears and mammograms for women, well-child visits, and flu shots for all children and adults. The law also makes proven preventive services free for most people on Medicare.

The report on private health insurance coverage also examined the expansion of free preventive services in minority populations. The results showed that an estimated 6.1 million Latinos, 5.5 million Blacks, 2.7 million Asian Americans and 300,000 Native Americans with private insurance received expanded preventive benefits coverage in 2011 as a result of the new health care law.

The report discussing Medicare preventive services found that more than 25.7 million Americans in traditional Medicare received free preventive services in 2011. The report also looked at Medicare Advantage plans and found that 9.3 million Americans – 97 percent of those in individual Medicare Advantage plans – were enrolled in a plan that offered free preventive services. Assuming that people in Medicare Advantage plans utilized preventive services at the same rate as those with traditional Medicare, an estimated 32.5 million people benefited from Medicare's coverage of prevention with no cost sharing.

The full report on expanded preventive benefits in private health insurance is available at <http://aspe.hhs.gov/health/reports/2012/PreventiveServices/ib.shtml>. The report on expanded preventive benefits in Medicare and other ways that the Affordable Care Act strengthens Medicare is available at <http://www.cms.gov/newsroom/>.



**Save the Date****Tribal Health Reform: National Training  
on the Affordable Care Act and the  
Indian Health Care Improvement Act**

*Hosted by NCAI and NIHB*  
through support of the National Indian Health  
Outreach and Education (NIHOE) partnership with  
the Indian Health Service

**Mystic Lake Casino  
Prior Lake, MN  
April 18-19, 2012**

**Save the Date**

**May 30 – June 1, 2012**  
**National Indian Health Board 2012 Public  
Health Summit**  
*Hard Rock Café and Casino  
Tulsa. OK*

*You are cordially invited to attend*  
**National Indian Health Board's  
29<sup>th</sup> ANNUAL CONSUMER  
CONFERENCE**  
*Celebrating  
NIHB'S 40<sup>th</sup> Anniversary*

**September 24- 28, 2012  
DENVER, COLORADO**

**Sign Up for Washington Report, at:**  
[http://www.nihb.org/legislative/washington\\_report.php](http://www.nihb.org/legislative/washington_report.php)

For More Information Contact:  
Jennifer Cooper, JD, Legislative Director  
[jcooper@nihb.org](mailto:jcooper@nihb.org) or  
Liz Malerba, Legislative Assistant  
[lmalerba@nihb.org](mailto:lmalerba@nihb.org)

**UPCOMING EVENTS****MEDICARE, MEDICAID AND HEALTH  
REFORM POLICY COMMITTEE (MMPC)  
MEETING**

DATE: FEBRUARY 21-22<sup>ND</sup>

LOCATION: KAISER FAMILY FOUNDATION  
1330 G STREET, NW

WASHINGTON, DC 20005

TELECONFERENCE:

CALL IN NUMBER: 1-866-303-3137

PASSCODE: 414526#

**LONG TERM SERVICES AND SUPPORTS IN  
INDIAN COUNTRY WEBINAR – PART #2:  
HOME AND COMMUNITY BASED**

DATE: FEBRUARY 22<sup>ND</sup>

TIME: 2-3 PM EST

1. TO CONNECT: GO TO  
[HTTP://RAULFEMANING.ADOBECONNECT.COM/RGB5KQ9GNG/](http://raulfemaning.adobeconnect.com/rgb5kq9gng/).
2. SELECT "ENTER AS A GUEST."
3. TYPE IN YOUR FIRST AND LAST NAME.
4. CLICK "ENTER ROOM."
5. FOR AUDIO, CALL IN TO THE FOLLOWING  
CONFERENCE NUMBER: 1-800-201-2375.
6. ENTER THE FOLLOWING PARTICIPANT  
CODE AND PRESS #: 185041.

**OFFICE OF PERSONNEL MANAGEMENT  
TELECONFERENCE ON THE FEDERAL  
EMPLOYEES HEALTH BENEFITS (FEHB)  
PROGRAM**

DATE: FEBRUARY 24<sup>TH</sup>

TIME: 3-4 PM

CALL-IN INFO:

888-989-4620

PASSCODE: FEHB

