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## HILL UPDATES

### FY 2011 Budget Agreement Reached, Shutdown Averted

With the very real prospect of a government shutdown looming, President Obama, Senate Majority Leader Harry Reid and House Speaker John Boehner finally came to an agreement on federal funding for the remainder of Fiscal Year (FY) 2011 late on the night of April 8<sup>th</sup>. While the agreement does contain major cuts to a variety of the Department of Health and Human Services’ (HHS) divisions and programs, as well as the repeal of some provisions of the Patient Protection and Affordable Care Act (PPACA), it actually provides minor increases to the Indian Health Service (IHS). A number of highly controversial amendments (or “riders”) were also left out of the bill, including those that would defund Planned Parenthood, Title X funding, and limit the authority of the Environmental Protection Agency.

H.R. 1473, *The Department of Defense and Full-Year Continuing Appropriations Act of 2011*, cuts a total of almost \$40 billion in both discretionary and mandatory spending from FY 2010 enacted levels. IHS, however, receives a total of \$25 million in funding increases, with \$15 million going to services and \$10 million to facilities. The final IHS budget for FY 2011 is \$4.07 billion.

HHS and PPACA do not fare as well. The agreement reduces funding to HHS by \$3.4 billion. Of that, the Health Resources and Services Administration receives a \$1.2 billion cut (including a \$600 million reduction in funding for Community Health Centers), the Centers for Disease Control and Prevention is cut by \$730 million, and the National Institutes of Health is cut by \$260 million. Two provisions within PPACA are also affected in negative ways. Funding to establish health care cooperatives—non-profit insurance providers owned by those they insure—is cut by half, from \$4.4 billion to \$2.2 billion. However, full funding will automatically be restored in 2012 if no further Congressional action is taken against it. Another provision, though, is eliminated outright. H.R. 1473 repeals the creation of the free choice vouchers program, which in 2014 would have allowed low-income workers to opt out of expensive employer-based coverage and shop for a new insurance plan on the health exchanges.

Conditional to the agreement were two stand-alone votes to be taken by the Senate; one on whether to deny federal funding to Planned



Parenthood and the other on repealing PPACA. Both were defeated.

H.R. 1473 passed the House on the afternoon of April 14<sup>th</sup> by a vote of 260-167, with bipartisan support. It was then sent to the Senate later that day, where it passed 81-19. President Obama signed it into law on April 15<sup>th</sup>.

### **“Path to Prosperity” Passes House, FY 2012 Budget Plan Remains Unclear**

Before adjourning for an April recess, the House voted on and passed the highly controversial, heavily partisan, “Path to Prosperity,” the Fiscal Year (FY) 2012 budget framework masterminded by Budget Committee Chairman, Paul Ryan (R-WI). After two days of consideration, H. Con. Res 34 was approved on April 15<sup>th</sup> by a vote of 235-193 on a purely party line basis, with four Republicans and all Democrats voting no.

The Ryan Budget has been, and will likely continue to be, the subject of much debate. As detailed in the April 8<sup>th</sup> NIHB Washington Report, the Ryan Budget, which cuts \$4.4 trillion over the next decade, would, among other things:

- Transform Medicare from the traditional fee-for-service system into a “premium support”, or voucher, program without strong cost-control mechanisms and with progressively less purchasing power over the years. Instead of traditional Medicare, seniors would receive a fixed subsidy with which to purchase private health insurance. This would almost certainly raise out-of-pocket costs for elders. In fact, according to the non-partisan Congressional Budget Office, it would double them.
- Block grant Medicaid to states, instead of guaranteeing federal cost-sharing for new enrollees. With a fixed grant, states are unlikely to be able to maintain their current level of services.

- Freeze federal funding, including Indian Health Service funding, at levels below those of 2008 for five years and cap future spending increases. It would also mandate that for every three federal employees that retire, only one may be hired in their place.

Senate Majority Leader Harry Reid (D-NV) has already deemed the plan, “dead on arrival.” Meanwhile, a self-organized, bipartisan group of senators known as the “Gang of Six,” has been quietly working on an alternate plan for several months that would also reduce the deficit by \$4 trillion. The “Gang” is comprised of Democrats Dick Durbin (IL), Mark Warner (VA), and Kent Conrad (ND), as well as Republicans Saxby Chambliss (GA), Tom Coburn (OK) and Mike Crapo (ID). With a goal of creating a serious, bipartisan proposal, the Gang hopes to release some kind of plan in early May when Congress returns from recess. It is expected to contain a bipartisan mix of higher taxes, reduced military spending, and entitlement reform. It remains unclear, however, when and whether the group will come to an agreement.

President Obama has also entered the budget debate. On April 13<sup>th</sup>, he delivered a speech entitled, “The Country We Believe In,” which outlined his plan to reduce the deficit by \$4 trillion over the next 12 years (into 2023). It includes \$480 billion in Medicare and Medicaid savings, achieved by reducing health care costs overall and strengthening provisions enacted in the health care law, as opposed to benefit reductions. It fully funds physician repayments, sets Medicare growth at a sustainable rate, and tasks the Independent Payment Advisory board with monitoring Medicare spending growth. The plan calls on the National Governors Association to make recommendations on improving and strengthening Medicaid.

The President also called for reductions in domestic and military spending, as well as tax code simplification and reform. He has



proposed the assembly of a 16-member bipartisan congressional working group representing both chambers that would be chaired by the Vice President to bring his deficit reduction plan to fruition. So far, Senate Majority Leader Harry Reid has named Sens. Max Baucus (D-MT) and Daniel Inouye (D-HI) to the group. The remainder of the composition remains undecided and it is unclear exactly when work would begin, but most likely, very soon.

### **House Repeals ACA's Public Health and Prevention Fund**

On April 13<sup>th</sup>, in yet another nearly party line vote, the House approved by a vote of 236 - 183, with only four Democrats voting in the affirmative, H.R. 1217, a bill that would completely defund the Public Health and Prevention Fund, a provision in the Patient Protection and Affordable Care Act. The provision appropriates \$15 billion over the next decade in for such national public health issues as obesity, nutrition, and smoking. The Fund has a number of Indian specific features including the establishment of a related national council and task force, oral health prevention programs, community transformation grants, and improved data collection on health disparities. The legislation is not expected to be taken up by the Senate and in the event that it does make it through the Congressional process, President Obama has threatened to veto.

## **ADMINISTRATION UPDATES**

### **IHS Initiates Consultation on Sexual Assault Policy**

Dr. Yvette Roubideaux, the Director of the Indian Health Service, has initiated consultation with Tribes via a recent 'Dear Tribal Leader' letter. In conjunction with the Department of Justice, it requests comments on sections 17 and 25 of the Tribal Law and Order Act regarding sexual assault. IHS and DOJ seek input in standardizing policies for

the treatment of survivors and ensuring that perpetrators are swiftly prosecuted. Comments are due no later than Monday, May 30, 2011 and can be emailed to [SAPolicyComments@ihs.gov](mailto:SAPolicyComments@ihs.gov). Alternately, comments can be mailed to: Yvette Roubideaux, M.D., M.P.H. Director  
Indian Health Service  
801 Thompson Avenue, Suite 440  
Rockville, MD 20852

Please visit [www.ihs.gov](http://www.ihs.gov) for more information on this and other opportunities for consultation.

### **HHS Office of Health IT Seeks Comments on Strategic Plan**

The Office of the National Coordinator for Health Information Technology within the Department of Health and Human Services is seeking Tribal comments on a draft strategic plan for the years 2011-2015. The comments should be filed via the Office's blog by April 22, 2011. For more information, please visit: <http://healthit.hhs.gov/portal/server.pt?open=512&objID=1211&parentname=CommunityPage&parentid=2&mode=2>

## **NIHB UPDATES**

### **NIHB Leads on ACA Amicus Brief**

The National Indian Health Board with numerous Tribes and Tribal organizations from across the country have jointly filed an amicus brief in the most prominent case pertaining to the Patient Protection and Affordable Care Act (ACA) - *State of Florida et al. vs. U.S. Department of Health and Human Services et al.* Immediately filed after the enactment of the ACA, 26 state government plaintiffs challenged the constitutionality of the individual mandate – the ACA requirement for all individuals who can afford health care insurance to purchase a minimally comprehensive insurance policy. In his opinion, Judge Roger Vinson, a federal District Court judge in the Northern District



of Florida, concluded that Congress overstepped its bounds with this requirement and because this provision is unseverable from the ACA, i.e., not able to be separated from rest of the law, the entire ACA must be struck down along with the individual mandate provision

This case is now on appeal at the U.S. Court of Appeals for the Eleventh Circuit, and the National Indian Health Board, Tribes and Tribal organizations are adding their voice in the case as amicus curiae – meaning “friend of the court.” (Individuals or entities that are not parties in the case but have an interest or perspective on issues of a case may seek to file an amicus brief to provide input on the issues being argued.) The amicus brief effort was initiated by the Seminole Tribe of Florida, and with their backing, the National Indian Health Board is serving as the lead on the Tribal amicus brief. In this brief, the Tribes are expressing that the lower court’s ruling on this issue was overbroad and that the IHCA and the Indian specific provisions of the ACA are independent from ACA’s individual mandate provision and these provisions should not be struck down.

This case is one of the many cases to watch as it proceeds through the appeal process and, likely, the Supreme Court will hear this case in the near future.

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## CALENDAR OF EVENTS

### **NIHB HEALTH REFORM IMPLEMENTATION SUMMIT**

APRIL 19-20, 2011

WASHINGTON COURT HOTEL

WASHINGTON, DC

### **NATIONAL COUNCIL ON URBAN INDIAN HEALTH LEADERSHIP CONFERENCE**

APRIL 19-20, 2011

HYATT REGENCY CAPITOL HILL

WASHINGTON, DC

### **WHITE HOUSE TRIBAL OUTREACH CALL ON THE AFFORDABLE CARE ACT**

APRIL 19, 2011 (3:00 PM)

CONFERENCE CALL #: 888-552-9182

PASS CODE: 4056143

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