



The Bipartisan Budget Act of 2013 Summary of Hospital-Related Provisions

Updated January 10, 2014

On December 12, the U.S. House of Representatives passed the *Bipartisan Budget Act of 2013*. The Senate is expected to pass the measure December 13, and the President has indicated he will sign it. The House vote was 332-62, with nine Californians voting against passage. The legislation contains both good news and bad news for California's hospitals.

Announced December 10 by House Budget Committee Chairman Paul Ryan (R-WI) and Senate Budget Committee Chairwoman Patty Murray (D-WA), the measure proposes a two-year budget agreement that sets new spending targets for federal agencies to allow them flexibility under the budget sequester for fiscal years (FYs) 2014 and 2015. It includes \$85 billion in spending cuts and new revenue through fees to replace \$63 billion in sequester cuts, and it reduces the deficit. It also increases discretionary domestic and defense spending to \$1.012 trillion in FY 2014 and \$1.014 trillion in FY 2015.

In addition to the budget provisions, the House included an amendment that provides a three-month "patch" for the Medicare physician payment problem and a number of other hospital-related provisions. Without congressional intervention, physicians' Medicare rates are scheduled to be reduced substantially on January 1, 2014.

Together, the *Bipartisan Budget Act of 2013* and the amendment contain a number of provisions of interest to hospitals, including:

- **Sequestration** – Extends for two years, 2022 and 2023, the 2 percent cut to Medicare providers. ***Cuts Medicare payments in California by \$730,404,500.***
- **Medicaid Disproportionate Share Hospital (DSH) Payments** – Eliminates the Medicaid DSH cuts in FY 2014 and delays the scheduled FY 2015 DSH reductions until FY 2016. Medicaid DSH cuts would also be extended by one year to FY 2023. ***CMS has not provided specific state data.***
- **Long-term Care Hospital (LTCH) Payments** – Sets new criteria for hospitals to be paid the increased LTCH rate, establishing that only patients who stay longer than three days in an intensive care unit or are on a ventilator would qualify for the higher payment rate. Delays the 25 percent rule for three years. Implements site-neutral payment for patients with certain diagnoses beginning in FFY 2015. Reinstates LTCH moratorium for January 1, 2015, to September 30, 2017. ***Analysis under review.***

- **Physician Payment** – Provides a 0.5 percent update for Medicare payments for physician services through March 31, 2014.
- **Medicare-Dependent Hospital (MDH) Program** – Extends the MDH program through March 2014. *California’s sole MDH will retain \$1,423,000.*
- **Low-Volume Hospital Adjustment** – Extends the Medicare low-volume hospital payment through March 2014. *California has 22 LVHs, and they will retain \$7,223,100.*
- **Therapy Cap Exceptions Process** – Extends the Medicare therapy cap exceptions process through March 31, 2014. In addition, the new law extends the application of the cap and threshold to therapy services furnished in a hospital outpatient department (OPD) that had been scheduled to expire December 31, 2013. Notably, the ATRA that extended the cap to the HOPD also required CMS to count therapy services furnished by a critical access hospital (CAH) toward the therapy cap using the amount that would be paid for the service under the PFS. However, the ATRA did not apply the therapy cap to the CAH itself – meaning that a CAH may provide therapy services above the cap without following the therapy cap exceptions process.

In the CY 2014 Physician Fee Schedule, CMS reassessed and reversed its longstanding interpretation of existing statute by subjecting CAHs to the therapy cap beginning Jan. 1. Because this change is an interpretation of the original therapy cap statute, it is permanent and would require congressional action to fix.

Finally this legislation extends the mandate that Medicare perform manual medical review of therapy services furnished January 1, 2014 through March 31, 2014, for which an exception was requested when the beneficiary has reached a dollar aggregate threshold amount of \$3,700 for therapy services, including OPD therapy services, for a year. There are two separate \$3,700 aggregate annual thresholds: (1) physical therapy and speech-language pathology services, and (2) occupational therapy services.

- **Ambulance Add-on Payments** – Extends the increased Medicare rates for ambulance services, including those in “super rural” areas, until April 1, 2014.

CHA is disappointed by the extension of sequestration and will continue to advocate for relief from the Medicare DSH cuts, improvements to the Recovery Audit Contractor program and other measures to support hospitals.

For additional information, please contact Anne O’Rourke, CHA senior vice president for federal relations, at aorourke@calhospital.org.