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ADMINISTRATION IGNORES MEDPAC FINDINGS AND RECOMMENDATION IN THREATENING VETO OVER SENATE MEDICARE PROVISION

By Edwin Park

The Senate budget reconciliation bill includes a provision to eliminate the so-called Medicare stabilization fund for regional Preferred Provider Organizations (PPOs). The Congressional Budget Office estimates that elimination of this fund will reduce Medicare spending by \$5.4 billion over five years and \$10.2 billion over ten years.

On November 1, the Administration issued a Statement of Administration Policy declaring that if the final reconciliation legislation presented to the President eliminates or reduces the stabilization fund, the President's senior advisors will recommend that the President veto the bill.¹ The Administration's justification for this veto threat is a claim that the stabilization fund is necessary to ensure participation of regional PPOs in the Medicare program.

This claim was refuted earlier this year, however, by the Medicare Payment Advisory Commission (MedPAC), the official, independent advisory body to Congress on Medicare payment policy. In its June 2005 report to Congress, MedPAC explicitly called for the stabilization fund to be eliminated. Thus, Congress' independent expert advisory body called on Congress to take the very step that has now prompted a veto threat. MedPAC approved this recommendation on a nearly unanimous basis — a 15-1 vote.²

- The 2003 Medicare Prescription Drug, Improvement and Modernization Act (MMA) developed a new type of private managed care plan — the *regional* Preferred Provider Organization (PPO) — that will be available to provide care to Medicare beneficiaries starting in 2006. Intended as an inducement for PPOs to enter and remain in regional markets, the MMA established a \$10

¹ Office of Management and Budget, "Statement of Administration Policy: S. 1932 Deficit Reduction Omnibus Reconciliation Act of 2005," November 1, 2005. The President's senior advisors will also recommend the President veto the reconciliation legislation if it "takes away" beneficiaries' prescription drug coverage.

² MedPAC Recommendation 3A included in Medicare Payment Advisory Commission, "Report to the Congress: Issues in a Modernized Medicare Program," June 2005. The recommendation to eliminate the stabilization fund was approved 15-1 with one member absent.

billion “stabilization fund” that could provide additional funds to PPOs from 2007 through 2013, with the added funds being *above and beyond* the regular Medicare managed care payments these PPOs would receive. (MedPAC already considers the regular managed care payment rates to be excessive). These additional payments from the stabilization fund would *not* be available to Medicare HMOs.

- In recommending the elimination of the stabilization fund, MedPAC said there should be a “level playing field” for competing types of Medicare plans, including traditional fee-for-service, HMOs, and the new regional PPOs. MedPAC explained, “the PPO stabilization fund explicitly makes available additional funds to regional PPOs — funds that are not available to other” Medicare managed care plans such as HMOs. Otherwise, due to the higher reimbursements that would be made through the stabilization fund, PPOs would have an unfair competitive advantage in attracting Medicare beneficiaries to their plans.
- MedPAC acknowledged Congress’ goal of encouraging regional PPO plans to participate and that uncertainty about the financial risks borne by PPO plans could discourage their participation. But MedPAC pointed out that Congress has already instituted other protections to limit PPOs’ risks and thereby increase their incentive to participate. For example, through the use of “risk corridors” that provide additional Medicare payments if PPO’s costs are higher than expected, the PPOs will be partially shielded from financial risk for the first two years they participate in the Medicare program.
- MedPAC’s members agreed overwhelmingly that Congress should eliminate the stabilization fund. MedPAC noted that if problems regarding the entry of regional PPOs into Medicare (or their continued participation over time) subsequently materialized, Congress could revisit the need for financial inducements and act at that time.

Furthermore, the inclusion in the Senate bill of the provision to eliminate the stabilization fund serves another goal as well — the provision helped the Senate achieve its reconciliation savings target for health care programs *without* harming the millions of low-income children, parents, seniors, and people with disabilities who rely on *Medicaid* for health care coverage. The House reconciliation bill, by contrast, maintains the stabilization fund for regional PPOs — and hits low-income Medicaid beneficiaries hard.

It is unfortunate that an Administration that has never vetoed a bill has chosen to issue a veto threat to save a provision that would confer billions of dollars in excessive government payments on one group of firms (and that thus essentially constitutes a form of “corporate welfare”). It will be even more unfortunate if the veto threat ultimately leads a House-Senate conference committee to drop this Senate provision and replace it with savings obtained by reducing low-income beneficiaries’ access to health care instead.