

In Focus

Independence Day

They Said It

"I believe IPAB is the largest yielding of sovereignty from the Congress since the creation of the Federal Reserve," Peter Orzag, 37th Director of the Office of Management and Budget.

Deep inside the Patient Protection and Affordable Care Act (Section 3403) is language describing the formation, duties and parameters of a yet-to-be-created organization first known as the Independent Medicare Advisory Board and now known as the Independent Payment Advisory Board or IPAB.

Readers of In Focus have long since grown weary of self-serving legislative labeling. Indeed, the very title of our present preoccupation, "The Patient Protection and *Affordable Care Act*" no doubt gives some readers pause. Will it be the same way with the *Independent Payment Advisory Board*? And if so, what difference might this make to benefits managers?

If we were to ask Sens. Orrin Hatch (R-Utah), John Kyl (R-Ariz.), Pat Roberts (R-Kans.) Tom Coburn (R-Okla. and John Cornyn (R-TX), the IPAB's independence is for real and these Senators are upset. Says Senator Cornyn, "In the true fashion of Obama-Reid-Pelosi hubris, the IPAB is the definition of a government takeover. America's seniors deserve the ability to hold elected officials accountable for the decisions that affect their Medicare, but the IPAB takes that away from seniors and puts power in the hands of politically-appointed Washington bureaucrats."

These Senators are so wee-weed up about IPAB that they have sponsored a bill to get rid of it, "The Health Care Bureaucrats Elimination Act". No hidden feelings here!

So what is IPAB and why are these Senators so teed off?

For starters, IPAB will be made up of 15 presidential appointees. Each appointee must be confirmed by the Senate (the mind boggles at the prospect of this 15-act play). The Board's members must be drawn from the healthcare industry, academia, think tanks and consumer groups. Their job is to recommend ways the cost of Medicare can be held in check, though they can't recommend things like higher deductibles, higher taxes and care rationing.

We've had boards and commissions pretty much like this before. So where's the buzz? It's all in the procedural rules. Get this: If IPAB's recommendations are not passed by Congress, then Congress has to pass alternatives. If the President vetoes Congress and the veto is not overturned, IPAB's recommendations go into effect. If IPAB's recommendations aren't acted upon by Congress, the recommendations go into effect anyway. If Congress wants to water down the recommendations (and save less money), it will take a three-fifths majority to do so. It's only if Congress votes the recommendations down, and the President agrees, that the recommendations die. And oh, by the way, filibusters are specifically prohibited.

This is breathtaking power for an "advisory" board and good news for those hoping for additional healthcare reforms to escape Congressional gridlock. According to Robert Reischauer, director of the Urban Institute and former director of the Congressional Budget Office, "It (the parliamentary rules) will allow Congress to rant against the cuts without actually stopping them."

Do you think you don't have a dog in this hunt; that reducing the cost of Medicare is simply beyond your scope of professional obligations? Think again. Here's why. IPAB could well recommend large-scale pilots of hope-filled reforms like scrapping fee-for-service provider reimbursement in favor of paying providers to keep their patients healthy, or patient-centered medical homes, or wide-spread application of evidence-based medicine.

Many benefit managers are understandably reluctant to apply vanguard techniques to their covered populations. After all, their title is benefit *manager* not benefit *experimenter*. But if IPAB's recommendations are along the lines mentioned above (and surely they must be with higher deductibles and higher taxes not permitted recommendations), and if some of these recommendations actually work, then Medicare will have provided the necessary air cover to allow similar application by employer-sponsored plans. This may be how we finally begin to get out of the swamp.

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Frank Mulvaney - 27500 Detroit Rd., Suite 201, Westlake, OH, 44145, United States