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“HISTORIC MEDICARE REFORM LEGISLATION PASSES”

by

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In what was originally described as the \$400 billion Medicare reform legislation, the U. S. Senate, on Tuesday, November 25, 2003, passed the most comprehensive revisions to our federal health laws in nearly 40 years. Despite several advantageous features, more recent estimates suggest the real cost will be closer to \$600 billion.

The House-Senate conferees' summary of this legislation can be found at <http://waysandmeans.house.gov/media/pdf/healthdocs/confagreement.pdf>.

The most hotly debated provisions of the legislation is the new Medicare prescription drug option which includes a transitional prescription drug discount card, new quality measures to improve therapeutic outcomes and reduce adverse drug interactions, and new standards and grants to support electronic prescription drug programs. Dubbed “Part D,” the new prescription drug provisions represent an entirely new benefit in the form of reimbursement for prescription drug expenses incurred by Medicare participants. The reimbursements will eventually be structured as direct reimbursements to participants under a complex formulation which is based upon the participants' income, the applicable deductibles, and the total amount of annual expenditures on prescription drug medications. The Part D option is scheduled to be available starting January 1, 2006 and will require payment of an additional premium. As such, many speculate that the cost of prescription drugs will increase for many of those seventy six percent (76%) of Medicare participants who currently have prescription plans associated with their medical insurance.

One of the more exciting components of the legislation for individuals is provision for tax-free health savings accounts (HSAs) which allow for tax-free contributions by individuals, with the added benefit of tax-free distributions. Hopefully, in the future the HSA features will be expanded/improved in order to permit supplemental contributions by employers and family members.

The legislation also provides for the establishment of the Medicare Advantage Program to promote competition among private health insurers in the Medicare market.

In an effort to combat waste, fraud and abuse, there are provisions which include a freeze on durable medical equipment rates and a phase-in of competitive bidding. In order to support the delivery of healthcare in rural areas, there is a \$25 billion funding increase. There are also provisions to reform and in some instances increase payments to hospitals and other Part A (Medicare's Part A covers the costs of in-house facility charges for hospitals, physicians, nurses, diagnostic testing, medicines, etc...) providers, including a \$600 million technology integration package and a \$400 million increase in indirect medical education payments. Additionally, there are provisions to promote submission of quality data to the Health and Human Services' Center for Medicaid and Medicare Service by hospitals.

The legislation provides one billion dollars over four years to help states pay for emergency healthcare services provided to undocumented immigrants. There is also an increase of \$2.5 billion for physician rates over the next five years, while there is a two year moratorium on out-patient physical therapy and occupational therapy rate caps beginning with the enactment of the legislation and ending in the year 2005.

In an effort to test a less restrictive "home bound" definition used for eligibility for Medicare home health services, the legislation provides for new testing/demonstration criteria. Likewise, the legislation provides for new demonstrations to test delivery of home health services at medical adult day care centers.

A key component of the legislation is coverage for new preventive health benefits including screenings for diabetes and cardiovascular disease.

There is a 16% increase in Medicaid allotments in 2004 with supplemental provisions for certain states to receive a 16% annual increase for up to five years.

The legislation provides an exclusion for the 28% employer subsidiary for retiree prescription drug coverage worth \$70 billion in direct payments and sixteen billion dollars in new tax breaks over the next ten years.

A package of regulatory reform proposals includes, among other things, limits on new matters that may appear in final rules, prohibition of retroactive application of substantive changes in regulations, manual instructions and other policy guidelines; a study on the feasibility of the Secretary provided legally binding advisory opinions on the Medicare program; creation of a Medicare ombudsman program for providers and beneficiaries; and other reforms.

There are many other technical provisions in the comprehensive legislation which can be accessed at the website referenced above. The bottom line is that while the Medicare reform package provides some benefits for the individual taxpayer, its net effect on businesses large and small as well as the overall federal budget, remains to be determined over time.