

By Robert Betz, Ph.D.



The Devil You Know

Will the Congressional Super Committee solve the nation's deficit problems, or create new ones for healthcare providers?

There is a choice right now before healthcare providers regarding the Congressional Joint Select Committee on Deficit Reduction, commonly known as the “Super Committee.” The choice is seemingly between the devil you know or the devil you don't know.

The Budget Control Act (BCA) created the Super Committee to make recommendations for an additional \$1.2 – \$1.5 trillion in deficit reductions. There are strict calendar targets which must be met. If the Super Committee reaches an agreement by November 23, Congress must vote on its recommendations by December 23. If Congress fails to act on the proposed recommendations, or send a balanced budget amendment to the states before the end of the year, the BCA would automatically trigger cuts totaling \$1.2 trillion in mandatory and discretionary spending beginning in 2013, including cuts to healthcare providers. A balanced budget amendment to the U.S. Constitution will almost certainly fail to garner the support of two-thirds of the Senate mandated for passage of amendments to the Constitution. Many believe the possibility of passage in the House is also up-hill.

Estimated impact

When Congress returned from its August recess, everyone was laser-focused on the activities of the Super Committee. Prior to mid-September the panel held its organizational

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meeting as well as its first public hearing. Although many of the Super Committee members have expressed a strong desire to reach agreement, deep ideological divides exist. Democrats want to produce a mix of spending cuts and revenue increases. Republicans have insisted they would oppose tax increases, though some have indicated they might accept the closing of some tax loopholes. All this could ultimately doom the effort to a crash-and-burn finish. If this happens then automatic sequestration will occur for

military and social programs, including Medicare.

What is the potential impact if the Super Committee's efforts fail? On September 12, the Congressional Budget Office (CBO) released an estimate of the automatic sequestrations mandated by the deficit reduction deal in the event that the Super Committee effort does not result in passage of savings of at least \$1.2 trillion over 10 years or if Congress rejects the committee's legislation and/or fails to submit a balanced budget amendment to the states before the end of the year. CBO's estimates for sequestration are not pretty. Highlights include:

- Reductions in non-defense appropriations (including the health and agriculture budget functions) ranging from 5.5 to 7.8 percent between 2013 and 2021. This translates to approximately \$33 to \$39 billion less per year, divided among all non-defense budget functions.
- Reductions in defense appropriations ranging from 8.5 to 10 percent between 2013 and 2021. This translates to approximately \$55 billion less per year in the defense budget. It is important to understand that CBO assumes these sequestrations would apply to the yearly budget caps established by the BCA (so, to the extent the BCA's yearly budget caps already represent reductions in spending, the sequestrations would be in addition to these reductions).
- The 2 percent “cap” on Medicare cuts saves the program from an additional \$133 billion in cuts from 2013 to 2021 (instead, those cuts will be divided proportionally among all other non-exempt non-defense spending; \$116 billion of these cuts would fall on discretionary spending programs).

- The 2 percent Medicare “cap” represents \$11 to \$17 billion in reduced spending each year. CBO's wording when discussing Medicare implies they believe Medicare cuts would be made across-the-board (rather than singling out certain programs). For various reasons, CBO estimates that sequestrations would save only \$1.1 trillion (rather than the targeted \$1.2 trillion).

On September 19, President Obama released his much anticipated proposed deficit reduction package, designed to generate \$3.2 trillion in savings over 10 years (in addition to the \$1.2 trillion in savings already enacted through the Budget Control Act). The plan includes \$320 billion in savings from Medicare and Medicaid, but does not increase

the Medicare eligibility age as many groups are calling for. The proposal would primarily affect the payments of a wide variety of healthcare providers. The plan also calls for stepped up efforts to prevent healthcare fraud and abuse as well as increasing the costs for new beneficiaries by imposing higher Part B deductibles and introducing cost-sharing for home health services.

To complicate political pressures even further, a bipartisan group of 36 senators wrote to the Super Committee urging them to “go big” with their recommendations to reduce the national deficit. In a letter to the Super Committee, the Senators urged members to “include enough deficit reduction to stabilize the debt as a share of the economy, and put the debt on a downward

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path, and provide fiscal certainty.” The number this bipartisan group has in mind as a “reasonable” target – at least \$4 trillion in deficit reductions, including previously enacted deficit measures.

Mark your calendars

Now, let's get back to those important target dates coming up for the Super Committee. The big ones are:

Nov. 23, 2011 – Produce detailed legislation that would achieve at least \$1.5 trillion in additional deficit reduction over the period of Fiscal Years 2012 to 2021.

By Dec. 2, 2011 – Legislative language and CBO score must be transmitted to the Administration and to Congress.

By Dec. 9, 2011 – All Congressional Committees to whom the Super Committee’s legislation is referred must report the legislation to the full House and Senate with no amendment.

By Dec. 23, 2011 – The House and Senate must vote on the Super Committee’s legislation, which cannot be amended on the floor of either chamber. A simple majority vote will be required in both the House and Senate to pass this legislation; importantly 60 votes in the Senate will not be required.

If a bill does not become law by Jan. 15, 2012, to reduce the deficit by an additional \$1.5 trillion over the next 10 years, the OMB Director must make cuts to defense and non-defense programs sufficient to produce \$1.2 trillion in savings over 10 years. If no additional deficit reduction becomes law, these automatic cuts of \$1.2 trillion over 10 years would represent a cut of approximately 8 percent from projected spending levels.

Social Security payments, Medicare premiums, co-payments and certain low income programs are exempt from these across-the-board cuts. The cuts to Medicare can only come from provider payments and are capped at 2 percent of the annual cost of the Medicare program. Military pay is also likely to be exempted from any automatic cuts to defense programs. The size of these exemptions means that there will have to be substantially larger cuts to remaining programs than 8 percent to achieve the required \$1.2 trillion in savings.

Who gets cut

Returning to consideration of which devil to pick – to boil it down, while many important items are on the table, the big reduction items for the Super Committee are (1) Defense and State departments funding and (2) Medicare. This is how it stacks up so far:

- The Defense and State departments, along with their extremely powerful allies, are warning that steep cuts could endanger national security. They will go all out to get the Super Committee to protect this funding.
- Major interest groups in health care seem to have come to the conclusion that they face less exposure if the Super Committee fails and automatic cuts go into place for Medicare – the 2 percent cap specified by the new debt-limit law.

However, hospitals and doctors may be pitted against each other. As an example, among some of the members

of the Super Committee there is an expectation that they must find a permanent solution to the Medicare physician payments/sustainable growth rate (SGR) problem. One of the most likely funding sources to address this problem appears to be to reduce payments for graduate medical education (GME) along with phasing-out Medicare bad debt payments. As important as this SGR issue is to the physician community it does set up a likely cross message situation to the Super Committee from

major provider groups. If the Super Committee achieves its goal, payment reductions from hospitals may be used in part to fix the SGR issue for doctors.

There are tough decisions ahead for providers. Generally national healthcare groups and others are hoping the Super Committee effort fails so overall Medicare provider cuts will be limited to 2 percent. However, various other groups are likely to want a deal including a permanent SGR fix. Some of these may decide to throw some other health providers under the bus to achieve special provisions. To those that are successful, support of the Super Committee’s ultimate efforts may seem reasonable. **JHC**

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