CAPITOL STREET

November 14, 2023

Gov't Funding to Mid-Jan Likely Avoids Shutdown Now

Goodies: One-Year Clinical Lab Relief & Hospital DSH Cut Delay Included

Relevant Companies

This evening, the House is expected to vote on a two-step funding bill that would avoid a government shutdown after November 17 (bill text here; CBO score here) with the Senate likely to follow suit. The stopgap funding would extend current funding levels for 4 agencies: Agriculture (FDA), Energy and Water, VA, and Transportation-HUD until January 19. The other agencies including Commerce, Justice; Defense; Financial Services and General Government; Homeland Security; Interior, Environment; Labor, Health and Human Services, Education; Legislative Branch; and State would be funded until February 2.

Our Take & Next Up

We believe a clean "laddered" short-term funding bill – likely to pass House & Senate this week with bipartisan support – will not include healthcare priorities such as PBM & Hospital Site-Neutral reforms. Healthcare priorities may come back in the new year during negotiations for the FY 2024 budget in January but are more likely in the lame duck session of Congress. Policies that save the government money are more likely to be considered including anti-PBM, and generic reform. Physician payment is also likely to be addressed in January – not in this bill – given the '24 final pay reductions via the physician fee schedule. As a reminder, the House E&C (Chair McMorris Rodgers) Health subcommittee is scheduled to vote on physician payment reforms and several other PBM & drug policies Wednesday, November 15. Many of those policies line up with the Senate Finance Committee mark up last week, and we see a path forward in 2024.

Key Points

CLINICAL LAB PAY RELIEF (ONE-YEAR)

Clinical lab one-year delay is included in the CR and is good news for clinical labs ($589 M in savings / 10 years). We predicted that a 1-year extension to be the most likely outcome. This is a win for clinical labs in the near term (MYGN, ABT, EXAS, DGX, RHHBY, LH).

We said (here) in September that SALSA Act passage is unlikely due to costs ($3-4 B) despite bipartisan support. SALSA Act (clin lab reform bill) is expected to cost the government $3-4 B, which is better than previously scored $6 B in costs but still too expensive in the current environment. As a reminder, SALSA would require limitations on annual payment reductions starting January 1, 2024, establish a pool of samples for all widely available tests, increase the length between data collection from every 3 years to every 4 years, and exclude Medicaid managed care rates as a reimbursement reference.

CLINIC FUNDING & HOSPITAL DSH CUTS AVERTED

Community health centers and Medicaid DSH cuts averted and helps both clinics and hospitals but only through mid-January (HCA, UHS, THC)**.** Medicaid disproportionate-share hospital pay cuts would be delayed until January 19. Under the ACA, Congress would have reduced federal DSH allotment beginning in 2014 to account for the decrease in uncompensated care anticipated under health insurance coverage expansion. Several pieces of legislation have been enacted since then to delay the reduction schedule.

NEXT UP: 2024 BIPARTISAN HEALTHCARE PRIORITIES

Physician administered drug site neutral ($2-3 B over 10) is likely dead for now, but don't count out that out as a pay-for PLUS incremental hospital site-neutral action in 2024. We still believe physician administered drugs are the poster child of "site neutral" and will be addressed after this funding bill. There is ongoing frustration and angst against hospitals buying up physician groups and surgery centers and continuing to bill at a higher rate for service administered in an outpatient setting. Hospital site neutral policies will not include a shutdown of the entire practice ($180 B/10), as that would decimate academic medical centers.

We have said (here) that PBM and other health provisions (e.g., hospital site-neutral) are unlikely till 2024, and we may not see action till 4Q24, or the lame duck session of Congress. Both chambers have been working on anti-PBM, generic reform, hospital reform, and physician payment with the goal of passage at the end of this year, but a clean CR punts these priorities to 2024. Policies that are expected to return include provisions on increasing transparency in generic drug applications ($968 M in savings), PBM contracting and transparency reform ($1 B in savings for the House E&C version), tying Part D co-pay to net prices, or a modified point-of-sale (POS) rebate ($1.16 B in costs), de-linking and transparency (saves approx $200 M in Medicare/Medicaid and $650 M in commercial per Senate HELP bill) and banning Medicaid spread pricing ($313 M in savings per the Senate Finance version).

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