Independent Payment Advisory Board

The Patient Protection and Affordable Care Act (ACA) establishes an Independent Payment Advisory Board (IPAB), which must submit recommendations to Congress, beginning in 2014, to reduce the growth of Medicare expenditures while maintaining or improving the quality of care delivered. The Secretary of Health and Human Services (HHS) would be required to implement these recommendations unless Congress passed an alternative proposal that provided an equivalent amount of budgetary savings.

Why was the IPAB included within the healthcare reform legislation?

Medicare expenditures continue to grow much faster than the growth of the general economy. If these expenditures continued to grow at this accelerated rate, Medicare healthcare costs would comprise an excessive amount of the federal budget and the federal trust fund supporting the Medicare Hospital coverage program (Medicare Part A) could become insolvent sometime during the next decade. Congress created IPAB because it believed that making difficult Medicare payment and budgetary decisions is very difficult within a political process with substantial lobbying pressures, and that an independent board serving this role would have some protection from this undue influence.

Who are the members of the IPAB?

The IPAB will consist of 15 members appointed by the President for a 6 year term with the advice and consent of the Senate. Initial appointments will be made on a staggered basis of 1, 3 and 6 years. Appointees are to include physicians and others with national recognition for their expertise in healthcare finance and delivery. Individuals directly involved in the delivery or management of health care services cannot constitute a majority of the Board. Sitting members of the IPAB cannot have any outside employment. As of October 2013, the IPAB members had not yet been appointed.

When is the IPAB required to submit a recommendation to Congress?

Beginning in 2014, proposals for Medicare cost reductions from the Board would be required from IPAB for each year when Medicare costs are projected to increase faster than the 5-year average of the consumer price index (CPI) as determined by the Centers for Medicare and Medicaid Services Chief Actuary. The targeted level of cost reduction would be the lesser of the level of anticipated excess spending or a defined level starting at .5 percent and increasing each year to 1.5 percent through 2018 and beyond. The Secretary of HHS would be required to implement the provisions included in the IPAB proposal, unless Congress passes an alternative proposal with an equivalent amount of budgetary savings. The Board can make recommendations in other years, but these would be advisory in nature. Beginning in 2019, the Board will be required to submit recommendations in those years in which per capita Medicare costs are projected to be greater than the Gross Domestic Product (GDP) plus 1 percent. The Congressional Budget Office has projected that it is unlikely that IPAB-triggered cost reductions will be triggered before the next decade.

What are the types of recommendations that are excluded from IPAB consideration?

The IPAB proposals cannot include any recommendations to ration health care, raise revenues or Medicare beneficiary premiums, increase Medicare beneficiary cost sharing, or otherwise restrict benefits or modify eligibility criteria. In addition, recommendations for reductions in payments to several provider groups (e.g. hospitals, hospice) are excluded through 2019 from IPAB implementation since the ACA already includes reductions in their annual updates during those years.

What legislative process is followed once the IPAB makes a required recommendation?

The ACA outlines a “fast track” legislative procedure once the IPAB makes a required recommendation. The IPAB is required to provide the recommendation to Congress by January 15 of the given year. Congress has until April 1 of the given year to review the recommendation within their relevant Committees and until August 15 of the given year to decide not to take any action—in which case the IPAB recommendation would be implemented—or enact alternative legislation that meets the required budgetary savings. The provision also provides the Senate with an opportunity to over-ride the IPAB regulations through a super majority (three-fifth) vote. If alternative legislation is passed, it can still be vetoed by the President. As a result, the IPAB recommendation will take place unless Congress over-rules the veto by a two-thirds majority in both Houses.

Is there any way Congress can remove the authority granted to this Board?

Yes. Congress can introduce a Joint Resolution to discontinue the Board. It must be introduced by January 31, 2017, with passage by August 15, 2017. Adoption of this Joint Resolution would require a three-fifths majority. If adopted, the board would not be able to submit proposals after January 16, 2018 and would terminate on August 16, 2018. Some legal experts believe, though, that a Congress cannot enact legislation that binds a future Congress from amending or repealing, by a simple majority vote, legislation adopted by the earlier Congress.