The Medicare Trigger Bill – Its Time Has Come

By Anne S. Kimbol, J.D., LL.M.

The pulling of the Medicare trigger has been in the news this past month as health policy wonks discuss whether the trigger is sensible and whether President Bush’s proposed legislation responding to the trigger will save Medicare from its financial woes.

The Medicare trigger was contained in the Medicare Modernization Act of 2003, most famous for its inclusion of the Part D Medicare drug benefit. The trigger provision is pulled when two consecutive annual reports from the Medicare trustees estimate that more than 45 percent of Medicare financing for any of the following six years will come from general revenues as opposed to the Medicare trust fund. Once that has happened, a Medicare Funding Warning is issued. The provision then requires the President to provide, and Congress to debate a bill to avoid reaching the 45 percent mark.¹

The President’s trigger bill must be introduced in Congress and referred to the Senate Finance Committee and to the Ways and Means Committee and Energy and Commerce Committee in the House. The House and Senate committees are required to report out Medicare legislation – they may report out a bill other than the President’s – by June 30 and, if they have not done so by June 30 in the Senate or July 30 in the House, a member of the relevant chamber may move to have a full chamber vote on the bill.²

In the House, the chair of the House Budget Committee will estimate whether the bill reported out by the committees reduces general revenue financing below the 45 percent line. The chair generally relies on the Congressional Budget Office’s estimates, which may be different than those of the Medicare trustees whose report triggered the bill. The Senate Finance Committee does not have a similar requirement to check the reported-out bill to see if it meets the mark.³

Medicare financing relies on general revenue, including beneficiary premiums, to fund Part B – the physician and outpatient services portion of Medicare – and Part D – the prescription drug benefit. The payroll taxes that feed the Medicare trust fund are used to finance Part A, the hospital insurance portion of Medicare.⁴

The trigger bill is separate from the President’s proposed budget, which included proposed Medicare savings of $12.8 billion in Fiscal Year 2009 and $182.7 billion over six years. The savings would be achieved through reduced reimbursement for Medicare providers and the institution of a no-pay policy for certain preventable medical events, including pressure ulcers, certain hospital-acquired infections, and blood incompatibility.⁵

² Id.
³ Id.
⁴ Id.
⁵ Johnson Wilson, Highlights FY 2009 Administration Budget Request, Selected Health Programs – In Brief, NATIONAL COUNCIL OF STATE LEGISLATURES, Feb. 5, 2008; Kevin B. O’Reilly, Medicare plans to
The Bush trigger bill proposes increased premiums for higher-income beneficiaries of Medicare Part D, including reduced subsidies for single individuals with incomes greater than $82,000 and couples with incomes greater than $164,000. It also includes medical malpractice liability reform language, calls for implementing electronic medical records, providing more cost and quality information to beneficiaries, and contains pay-for-performance provisions. The receipt by Congress of the bill and its filing by House Majority Leader Steny Hoyer (D-Md.) and Minority Leader John Boehner (R-Ohio) and Senate Finance Committee Chair Max Baucus (D-Mont.) and Sen. Judd Gregg (R-N.H.) answered questions about the White House response to the trigger. During a signing statement for the Medicare Modernization Act, the President expressed reservations about the trigger provision’s mandate for the president to submit a bill to Congress, which led to questions about whether he would submit a trigger bill.

To no one’s surprise, response to the trigger bill has been mixed and has largely varied along party lines. Republican leaders have come out in support of the bill, stating that the trigger being pulled and the bill being filed will require Congress to address Medicare reform in a far-reaching manner. Democrats and health experts at a Kaiser Family Foundation forum questioned the trigger, particularly its focus on the funding mix used in Medicare. The argument is that the issue for Medicare is not whether it is being funded by general revenue or by the Medicare trust fund but whether growing health-care costs and the overall federal budget issues are going to be addressed. The trigger does little to push Congress towards more comprehensive reforms.

As in most cases where party determines position, both sides are wrong on this issue. The trigger serves a valid purpose, but it is not enough to fix the problem. While the issue is overall Medicare funding and not just whether funding is tied to the trust fund or not, without the trigger Congress could continually delay examining Medicare funding and financing in general.

---


8 Jeffrey Young, supra note 6.

9 See, e.g., John Boehner, Congressional Malpractice, NATIONAL REVIEW ONLINE, March 4, 2008, available at: http://article.nationalreview.com/print/?q=OYQxMGE0MDc1ZGQ3NWE0MzJmY2MxZGZMYZU4ZjA4YmM= (last accessed March 10, 2008).

People on both sides of the aisle agree that entitlement program funding, including Medicare, is rising faster than the economy and is requiring higher percentages of the overall budget. Other needs such as public education, defense, and other key federal programs could be undermined if Medicare spending is not reduced. The most efficient way to reduce Medicare costs is unclear, but there are strong arguments that the President’s focus on provider reimbursement rates in his proposed budget is misplaced. This is particularly true when the impact of reduced reimbursements on the cost of private insurance and the impact of reduced provider pools are considered.

If we are going to revive Medicare and ensure that it is available to future generations, proposals such as those contained in the President’s trigger bill that call for additional income-based cost-sharing in Medicare must be examined. Given that any Medicare reform is likely to lead to reduced benefits for the elderly and disabled – or at least a subset of them – a trigger is an absolute necessity. No Congress is going to willing talk about reducing services in Medicare unless there is a proverbial gun to its head, which is what the trigger provision provides. While there is no requirement that Congress pass a bill in response to the trigger, it does require serious debate and analysis of the issue and provides some political protection for those who do propose cutting services or increasing cost-sharing.

If the trigger serves its purpose and Congress seriously considers wide-ranging Medicare reform, it will have been a success. If it is, perhaps we need triggers for Social Security and Medicaid as well.