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The Impact of the American Taxpayer Relief Act of 2012

In an effort to prevent the U.S. economy from going over the "*Fiscal Cliff*," Congress passed the *American Taxpayer Relief Act of 2012* (ATRA) on January 1, 2013, which was signed into law by President Obama on January 2, 2013.[1] While the Act extends current income tax rates for all individuals earning up to $400,000, and $450,000 for married couples,[2] the ATRA also has several significant implications for healthcare providers, including reducing the mandated cut to Medicare physician payments under the sustainable growth rate (SGR) from 27.4 percent to zero.

The *Fiscal Cliff* is the term utilized to describe the sharp decline in the U.S. budget deficit that was set to take effect on January 1, 2013 in the form of increased taxes and reduced spending, as mandated under a variety of previously enacted laws. While the Congressional Budget Office (CBO) projected that the cliff would have resulted in initial declines in economic growth and employment, the agency also expected that the labor market would ultimately be strengthened and the national Gross Domestic Product (GDP) would decrease by .5 percent by the end of 2013.[3]

One of the main provisions of the ATRA for healthcare providers was the reduction of the SGR update to zero percent for services provided through December 31, 2013.[4] Since 2003, Congress has annually intervened at the last moment, and overridden the mandated decreases to the *Medicare Physician Fee Schedule* (MPFS) set forth in the *Balanced Budget Act of 1997*,[5] typically replacing scheduled cuts with slight increases in payment. However, as with previous Congressional actions, the freeze on the current SGR payment rate is not a long-term solution and will only last until the end of the year, at which time the next scheduled Medicare payment cut is expected to be set at 32 percent.[6] The SGR formula has been severely criticized by the Medicare Payment Advisory Commission (MedPAC), who in a October 14, 2011 letter to the Senate, called the formula "*fundamentally flawed*," and said it has "*failed to restrain volume growth and, in fact, may have exacerbated it*."[7]

Significantly, each time Congress provides legislative relief from pending SGR reimbursement cuts for Medicare providers, i.e., the "*doc-fix*", there is a resulting several billion dollar requirement in federal budget offsets.[8] Under the ATRA, preserving the current Medicare physician payment rate through 2013 comes at an anticipated cost of approximately $25 billion dollars.[9] For more information on the continuing SGR saga see HC Topics articles: **The Sustainable Growth Rate Saga Continues** and **Congress Approves "Doc-Fix" to Maintain Medicare Payment Amounts**.

In addition to freezing SGR rates, the ATRA includes several other provisions which significantly impact the Medicare and Medicaid programs. Under the ATRA, sequestrations, i.e., cuts to Federal programs made to address the growing U.S. deficit,[10] were delayed for two months, including the anticipated two percent reduction in Medicare funding. Additionally, several Medicare programs set to expire on December 31, 2012 were extended under the ATRA, including: (1) the Medicare physician work geographic adjustment floor [§602]; (2) payments for Medicare outpatient therapy services [§603]; (3) ambulance add-on payments for ambulance services provided in rural areas [§604]; (4) Medicare inpatient hospital payment adjustment for low-volume hospitals [§605]; and, (5) the Medicare-Dependent Hospital (MDH) Program [§606]. Several of these payment adjustments will lower provider payments in order to offset the anticipated costs associated with the *doc-fix*.[11] The ATRA also extended the Medicaid disproportionate share hospital (DSH) payment reduction enacted under the ACA from 2021 to 2022, which is expected to save the Medicaid program approximately $4.2 billion over ten years.[12]

Overall, it is anticipated that the passage of the ATRA may add over $4 trillion to the U.S. national deficit over the next ten years. Further, many of the highly debated topics in healthcare, e.g., the repeal of the SGR and the impending two percent cut to Medicare spending, were merely delayed and still require a final resolution.[13] Unless more permanent action is taken, the U.S. will continue to face future uncertainty regarding financial stability of the U.S. economy, and may yet plummet over the *fiscal cliff*.

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2 The White House Office of the Press Secretary, January 3, 2013.

3 "Economic Effects of Policies Contributing to Fiscal Tightening in 2013" Congressional Budget Office, November 2012, p. 1-2.

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12 CMS Medicare FFS Provider e-News, January 3, 2013.

13 Rubinstein, January 10, 2013.

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