HEALTHCARE LEADERSHIP COUNCIL

Independent Payment Advisory Board (IPAB)

To rein in excessive growth in Medicare spending, the Independent Payment Advisory Board (IPAB) was established and given unprecedented executive power. Specifically, if the Centers for Medicare and Medicaid Services (CMS) Actuary projects that Medicare spending will exceed an arbitrary, formula-based target, then the IPAB is charged with proposing policies to achieve a certain amount of savings in Medicare. IPAB's proposals will take effect unless Congress acts to achieve at least the same amount of cuts to Medicare spending as is required by the savings target. Only a simple majority of its 15 members - who are appointed by the President and subject to Senate confirmation - are needed to approve a proposal before it is submitted to the Secretary of Health and Human Services (HHS) and Congress. In addition, if the IPAB fails to submit a proposal to Congress (or if IPAB members have not been appointed or confirmed, as is currently the case), then the HHS Secretary must submit a proposal for meeting the savings target in lieu of IPAB. In other words, the support of just eight IPAB members or one HHS Secretary is sufficient to make cuts to Medicare unless Congress, including a supermajority in the Senate, can agree on an alternative. Proposals under IPAB, whether submitted by the Board itself or by the Secretary, may not be challenged in court or by administrative review. Medicare's trustees project that IPAB's responsibilities will be triggered for the first time in 2017.

Despite legislative intent to protect the interests of patients, IPAB's structure and functions will ultimately have adverse effects on healthcare quality and accessibility. The Healthcare Leadership Council (HLC) joins other advocates for patient-centered healthcare in believing IPAB is at odds with the ultimate goal of achieving a Medicare program that is cost-effective and that offers high value, high quality care to all beneficiaries. We are joined by a broad cross-section of health care stakeholders including patient advocates like the Easter Seals and the National Alliance on Mental Illness and providers like the American Medical Association and the American College of Emergency Physicians. Please see the attached letter to Congress of November 29, 2016 for the complete list of over 660 employers, trade associations, and national, state, and local organizations supporting the repeal of IPAB.

Protecting Quality of Care for Medicare Beneficiaries

The Affordable Care Act (ACA) calls upon IPAB to implement changes that will improve quality of care, to the extent feasible. In practical terms, though, quality care improvements are highly unlikely. IPAB cuts must be achieved in a single year in order to meet the arbitrary savings target. Few quality improvements are scored by the Congressional Budget Office or the Office of Management and Budget as saving money in such a short timeframe. In its structure, IPAB realistically has a narrow focus on cutting spending. It is not designed as an instrument to encourage the kind of delivery reform that is now recognized as the way to slow the growth Medicare spending.

Transparency and Accountability
IPAB divests Congress of its authority for Medicare payment policy and places it in the hands of an unelected executive branch entity. In essence, IPAB takes away Congress's ability to shape Medicare to provide the most effective programs and policies for the beneficiaries they represent. Placing this authority in the executive branch eliminates state and community input into Medicare decision-making, diminishing the ability to develop policies that best meet the needs of diverse patient populations.

Because IPAB members are not directly answerable to voters and the Board's recommendations cannot be challenged in court, this concept is highly unusual in its lack of checks and balances. Without congressional oversight or judicial review, IPAB replaces the transparency of the legislative process with opaque decision-making. Without an open and transparent legislative process, Medicare beneficiaries and the providers who deliver their care will be limited in their ability to advocate new approaches to improve the quality and cost-effectiveness of healthcare.

Furthermore, according to a March 2011 report by the Congressional Research Service, the President can use the recess appointment process to place members on the IPAB Board, bypassing the Senate confirmation process. If this occurs, it would further isolate IPAB from any sort of public input.

Limited Scope and Cost Shifting
IPAB is barred from examining changes to Medicare that would result in fundamentally changing the current system for beneficiaries. That places matters like premiums, cost-sharing and benefit design off limits. Because of these restrictions, IPAB's efforts to control spending will inevitably focus on reducing payments to providers, thus limiting patient access to quality healthcare and innovative therapies. Also, IPAB cuts to provider payments under Medicare will likely result in additional cost shifting onto private payers, increasing healthcare costs for millions of working Americans and exacerbating a problem that already exists.

Projected IPAB Implementation
Since its enactment as part of ACA, IPAB has not been triggered into action because Medicare's per-beneficiary spending fell below the target rates of growth that would have activated the Board's authority. However, in its June 2016 report, Medicare's trustees projected that they expect IPAB to be triggered in 2017. Should that occur as anticipated, spending reduction recommendations will be made by the Board (or the HHS Secretary) in 2018 with implementation to begin in 2019.

Cost Containment Provisions in the Affordable Care Act
The ACA includes a number of provisions intended to contain increases in healthcare costs, while also improving quality of care. HLC is committed to ensuring access to high quality, affordable healthcare and is encouraged by ACA provisions that will enable patients and communities to benefit from promising new healthcare delivery models. HLC urges members of Congress and the Administration to allow these provisions to take effect and study the results before resorting to an approach such as the IPAB that would make arbitrary cuts in Medicare spending and, in so doing, reduce healthcare access and undermine medical innovation. These promising ACA provisions include: Patient Centered Medical Homes, Accountable Care Organizations, Value-Based Purchasing, and Payment Bundling.