CBO's "Extremely Uncertain" Score of IPAB Shouldn't Impede Repeal

By Demian Brady
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Last week, the House voted 307 to 111 to pass H.R. 849, the "Protecting Seniors' Access to Medicare Act." The legislation would repeal the Independent Payment Advisory Board (IPAB), a flawed entity that's a poor substitute for real, substantive reforms to Medicare. In opposing the measure, several Representatives cited a Congressional Budget Office (CBO) report that said eliminating IPAB would add $17.5 billion to the deficit. However, this figure is highly uncertain and should be treated with skepticism.

IPAB was established through the Affordable Care Act (ACA) as a mechanism to enforce cuts to Medicare. Its authority would be triggered if the Chief Actuary of the Centers for Medicare and Medicaid Services projected that annual spending per beneficiary would grow faster than the economy. The President would then need to appoint 15 members to the Board with the Senate's approval. By September 1st, the Board would be required – without any obligation for public comment – to submit recommendations that cut Medicare spending to the Secretary of Health and Human Services. The cuts would represent short-term patches: the savings would have to be achieved within the following year. If there is no Board, the Secretary would be responsible for drafting the recommendations. A final proposal would have to be submitted to Congress by January 15th.

The IPAB's proposals would be considered under special rules. Congress could replace the recommendations with alternative legislation that generate the same level of savings. Amending the proposal to either override or instead achieve lower cost reductions is possible but would be difficult, requiring approval in both chambers, including a three-fifths supermajority in the Senate. If Congress takes no action, IPAB's cuts would be automatically implemented.

CBO estimated that repealing IPAB and its authority to enforce Medicare cuts would increase spending by $800 million in 2022 and a total of $17.49 billion through 2027. This "cost" was brought up by several Members during the House Ways and Means Committee's markup of the repeal bill and during the floor debate on passage. Representative Lloyd Doggett, D-TX, complained that the bill would result in "expending $17.5 billion on something that will offer absolutely no benefit of any kind to anyone, in the next three or four years, provider or consumer." Representative Sandy Levin, D-MI, asked, "Why in the world are we passing a bill that would increase the deficit by $17.6 billion?"

What these Members failed to mention was the disclaimer that CBO has repeatedly issued with its cost analyses of IPAB. As far back as 2012, CBO warned that the $3.1 billion cost of a bill at the time to repeal IPAB was "extremely uncertain because it is not clear whether the mechanism for spending reductions under the IPAB authority will be triggered under current law over the next 10 years." A similar caveat is included on the front page of the newest estimate.

While the ACA worked its way through Congress, IPAB helped reduce its cost on paper. A CBO analysis from December 2009 estimated that IPAB would lead to savings of $28.2 billion from 2015 through 2019. However, underscoring the uncertainty of the budgetary impacts of IPAB, its authority has never been triggered.

There are additional reasons to be skeptical of the "cost" of repealing IPAB. It still remains uncertain when or if its authority will be triggered. In the event it does kick in, it is possible that lawmakers would override the Board's recommendations, especially given Congress's history of weakening or circumventing statutory constraints on spending. Moreover, the savings estimates assume that IPAB's recommendations, which would be implemented as yearly patches, would be effective in slowing growth in Medicare spending.

Several Members stated in opposing the bill that there was no "pay for" to offset the $17.5 billion cost estimate. But it remains uncertain when IPAB would be triggered or whether the budgetary savings it proposes would be effectively implemented as policy. Despite CBO's warning that IPAB's savings are "extremely uncertain," they remain baked into its flawed current law spending baseline.

This is reflective of a broader problem with Congress' relation to CBO. The agency is supposed to provide estimates of the fiscal impact of legislation, but they are, of course, just estimates. That's not in and of itself a knock on CBO, since, as the famous Mark Twain quote goes, "It's difficult to make predictions, especially about the future." Rather, the problem arises when Congress takes estimates, and particularly those with high uncertainty like IPAB, as gospel truth.

The bill now goes to the Senate. A previous version of the bill was passed by the House in 2015, but the Senate took no action on it. Senators shouldn't waste this latest opportunity to scrap IPAB. Since it was first proposed, IPAB has raised concerns on both sides of the aisle that its ultimate impact would be to reduce provider payments, thereby limiting health choices for consumers. Its illusory savings ultimately assisted with the passage of the ACA years ago. The "extremely uncertain" deficit estimate starting six years from now should not be an obstacle to repealing a flawed mechanism. Rather than outsourcing to an unaccountable Board the task of formulating temporary cuts to Medicare, lawmakers should work together to enact lasting reforms to entitlement programs.