

# Policy Focus

## The Independent Payment Advisory Board

RECIPES FOR RATIONAL GOVERNMENT FROM THE INDEPENDENT WOMEN'S FORUM

Hadley Heath, Senior Policy Analyst, Independent Women's Forum

July 2011

Volume 1, Number 7

---

### IN THIS ISSUE

What You Need to Know	1
Why You Should Care	2
More Information	
<i>The Root of the Problem</i>	2
<i>The IPAB Solution?</i>	3
<i>Who Will Be Most Affected and How?</i>	3
<i>Better Ways to Reform and Save Medicare</i>	4
<i>Opposition to IPAB Is the IPAB Even Constitutional?</i>	5
What You Can Do	6



### WHAT YOU NEED TO KNOW

Medicare spending increased quickly during recent decades and will soar as 78 million baby boomers retire. Even though the Patient Protection and Affordable Care Act (ObamaCare) cut about \$491 billion from Medicare, spending on the program is still expected to [double by 2050](#).

To combat Medicare's rising costs, ObamaCare created a new government entity called the IPAB: The Independent Payment Advisory Board. This 15-member board of presidential appointees is charged with reducing federal spending on Medicare so Medicare's growth rate matches a lower, target rate each year.

To carry out this duty, IPAB will make decisions about Medicare payment policy that will impact access to health care for millions of seniors. Since end-of-life care is typically the most expensive kind of health care, these restrictions will weigh most heavily on the oldest and sickest.

Government shouldn't determine how much money an extra month or year of life is worth for any person. Yet that's exactly what the IPAB will do, and their judgments will affect the entire health care system and shape what treatments are available to all Americans.

Controls to the cost of taxpayer-funded health care program are sorely needed. However, reforms to our Medicare and Medicaid systems should focus on returning control over resources to individuals, so that people can choose policies that represent their own preferences for care. By consolidating incredible power in a small group of bureaucrats who will make sweeping decisions that will affect many Americans and their families, Obamacare and IPAB take us in the wrong direction.

## WHY YOU SHOULD CARE

The IPAB is the government board that Sarah Palin and others have referred to as a “death panel.” This may be a harsh term, but there are many reasons for concern about IPAB:

- **IPAB Will Cut Services:** IPAB will have few policy options for cutting spending. According to the Congressional Research Service, IPAB cannot “raise premiums, increase cost sharing, or otherwise restrict benefits or modify eligibility” for Medicare. That leaves reducing services.
- **Rationing By Any Name:** While the law prohibits the IPAB from “rationing,” the Board’s payment policy decisions will restrict access to care for some individuals. Politicians may not like the term, but that’s de facto rationing.
- **Unprecedented Power for Unelected Officials:** IPAB members are appointed, not elected, and will have unprecedented authority over Medicare. When they submit a proposal to Congress, Congress must act to stop their proposal; if Congress doesn’t, the IPAB proposal is automatically approved. This is bad news for citizens, who will have little ability to challenge IPAB policies.

There are better ways to bring down the costs of government health care programs!

## MORE INFORMATION

### The Root of the Problem

Medicare already has significant problems. The average couple will pay \$140,000 into Medicare during their working years, but will get nearly three times that amount back in health care services through Medicare. It’s no wonder, then, that the program faces a budget crisis.

Medicare, like Social Security, takes money from workers and uses it to pay for retirees. This is an unsustainable financing system, especially given American demographics today.

Baby Boomers are retiring, swelling Medicare’s enrollment. High unemployment means fewer workers are paying into the system to support the growing retiree population. End-of-life health care is also the most expensive health care. So, without enough money going into the program, and too much flowing out, how will we be able to sustain it?

It is this question – and the failure to find an answer to it – that creates our current dire situation. Medicare has a \$79.4 trillion “unfunded liability” or budget hole, and that figure grows each year.

Furthermore, Medicare beneficiaries already face problems with access to health care today. Medicare and Medicaid – the two giant government health insurance programs – demonstrate the difference between access to health *insurance* and access

to health care. While millions have access to the insurance, they are often declined by doctor's offices because of the too-low reimbursement rates offered to medical providers.

## The IPAB Solution?

Lawmakers created the Independent Payment Advisory Board in the Affordable Care Act to help solve Medicare's financial problems.

IPAB will consist of 15 members and take control of Medicare cost containment in 2014. Three nonvoting members of the Board are already determined: the Secretary of Health and Human Services, the Administrator of CMS, and the Administrator of the Health Resources and Services Administration. The other 12 appointees will be selected by the President and confirmed by the Senate. The appointees can serve up to two consecutive six-year terms, and will be paid \$165,300 a year. There is no requirement that Board members be physicians, only that they have a strong background [in health finance](#).

Each year, the CMS director will submit to IPAB the per-capita growth rate in Medicare and the target per-capita growth rate. Undoubtedly, as health care costs continue on their upward spiral (encouraged by government regulations), the growth rate will be higher than the target rate. IPAB will be to make the two rates match.

According to the law, the IPAB will make recommendations that focus on:

- Reductions in payments to Part C (Medicare Advantage) and Part D (prescription drug) plans;
- Changes to payment rates for Medicare services furnished in the fee-for-service sector; and
- Changes that reduce costs by improving the health care delivery system and health outcomes.

The law strictly prohibits the IPAB from "rationing," but it is hard to see how rationing won't be the end result.

## Who Will Be Most Affected and How?

Currently, our leaders attempt to control Medicare's costs using price controls and by keeping reimbursement rates to medical care providers low. The IPAB will continue along this same path. As Grace Marie Turner of the [Galen Institute](#) has written, "The government approach to holding down Medicare spending traditionally defaults to making deeper and deeper reductions in payment rates to providers for medical goods and services rather than implementing reforms which reward innovation and which could lead to more efficient, more effective, and better-coordinated care delivery. The legislation is true to form."

Medicare beneficiaries know that when doctors cannot afford to treat them, they stop accepting Medicare patients. That means it's harder for seniors to find the doctors they need. Typically, in a market, prices would help balance supply and demand. Medicare's

price controls prevent this process from working. The IPAB will multiply the problems Medicare recipients already face today with access to care.

Medicare Advantage, Medicare Part D (prescription drugs), and skilled nursing facility services will be the first to hit the IPAB chopping block.

The IPAB will scrutinize drugs and treatments – not just based on their effectiveness – but based on their cost. Americans should ask if this is really an appropriate role for the government to take.

Not just Medicare patients, but all Americans will ultimately be affected by IPAB’s rulings.

Sadly, many private insurance plans use Medicare as a guide for what treatments to cover. Therefore, IPAB’s decisions will affect the private market. When the Affordable Care Act issues “minimum essential” coverage mandates, insurers in the private market will have an incentive to shrink their services based in part on IPAB.

We’ve already seen this dynamic work in England, for example, where Dr. Donald Berwick (currently the director of the U.S. Centers for Medicare and Medicaid Services) created a no-apologies rationing board called the National Institute for Clinical Excellence (NICE). This unpopular government body has been the source of numerous horror stories resulting from denied access to care, and government’s micromanaging of personal health care choices.

Just last year, England has changed their public policy relating to NICE and has revoked the body’s decision-making power over new drugs. It would be better for the United States to learn from England’s experience in this foray, rather than putting our citizens through our own experiment with government rationing.

## Better Ways to Reform and Save Medicare

The U.S. needs to reform Medicare using a different approach. In fact – the opposite approach would be best.

What is the opposite of rationing? A free-market system, built from the ground up that allows individuals to make their own decisions with their health care resources.

We should focus on policy ideas that give greater decision-making power, and responsibility, to patients and use market competition to maintain high quality and contain costs.

For example, through a “premium-support” model, the government would continue to help seniors seek health insurance coverage by paying them directly and then encouraging them to seek health insurance in the private market. In a more progressive premium-support model, like the one proposed by [Rep. Paul Ryan](#), poor seniors and sick seniors would receive more government support

because of their greater needs. This would give seniors the power to make choices that make sense given their circumstances.

Policymakers could also promote more cost-sharing among beneficiaries would create an incentive to maintain good health and seek treatment of only when it's truly needed.

Proposals like these would empower individuals by putting them in the driver's seat of health care. They would be far superior than our current path, toward IPAB-control, that will take choices away from Medicare patients and ultimately ration care.

## Opposition to IPAB

ObamaCare went through several drafts before it was signed into law. In fact, the original version of the bill in the House of Representatives didn't include the IPAB.

It's not just Republicans who opposed IPAB. [Seventy-two Democrats](#) signed a letter in January 2010 to then-Speaker Nancy Pelosi, asking the IPAB be excluded from the legislation. Even today, many House Democrats who voted for the Affordable Care Act oppose the IPAB.

Even if liberal policymakers favor the idea of rationing, many of them oppose IPAB on the grounds that it takes power away from Congress. The IPAB's decisions will have the force of law unless a three-fifths majority in both houses of Congress votes to stop the Board's proposals by a certain

deadline. This is bad news for American health care, but also bad news for American liberty. The IPAB goes against the American values of government transparency and accountability.

A bipartisan group of Congressmen and women are working to repeal the IPAB, and a vote to repeal IPAB could happen this summer or this fall

are working to repeal the IPAB, and a vote to repeal IPAB could happen this summer or this fall.

### Is the IPAB Even Constitutional?

The power given to IPAB is so broad that some have questioned its Constitutionality. The [Goldwater Institute](#) filed a suit in the Federal District Court of Arizona alleging that Congress is denied any meaningful oversight in IPAB policy decisions, and that, "IPAB is not reform – it is Congress's way of abdicating its duties to a centralized, unelected, unaccountable board."

[HealthCareLawsuits.org](#) reports that:

"ObamaCare violates... the First Amendment rights of legislators who will soon be burdened with the law-making of the Independent Payment Advisory Board, which will oversee changes to Medicare." This also "erodes the Separation of Powers by establishment of the IPAB."

Simply put, the Constitution designates Congress as the law-making body of the federal government – not IPAB.

The creation of the IPAB is not just a health care policy concern. Of course it will have a major impact on the way our health system works, but IPAB is also a concern to all Americans who love liberty. The executive branch of the federal government should not be able to establish new bureaucracies with this kind of power.



## WHAT YOU CAN DO

You can help fight intrusive government regulations:

- **Get Informed:** Get the facts about the Independent Payment Advisory Board. Visit:
  - [SavingOurHealthCare.org](http://SavingOurHealthCare.org)
  - The Galen Institute ([www.shrm.org](http://www.shrm.org))
  - [Healthcarelawsuits.org](http://Healthcarelawsuits.org)
- **Talk to Your Friends:** Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.
- **Become a Leader in the Community:** Get a group together each month to talk about

a political/policy issue (it will be fun!).

Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

- **Remain Engaged:** Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your local government officials and national representatives know your opinions!

## ABOUT THE INDEPENDENT WOMEN'S FORUM

The Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility.

IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.

We rely on the support of people like you! Please visit us on our website [www.iwf.org](http://www.iwf.org) to get more information and consider making a donation to IWF.

## OUR PARTNERS

*Contact us if you would like to become a partner!*

**CONNECT WITH IWF!  
FOLLOW US ON:**