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The Washington Times

Money slated for health law gets detoured

Lawmakers tap fund three times within a year

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In cash-strapped Washington, President Obama's \$1 trillion health care law is presenting a tempting target for lawmakers seeking funds for other projects, as Congress last week raided the health care piggy bank for the third time in less than a year.

Congress last week axed a part of Democrats' signature domestic achievement to find \$11 billion to cover the cost of repealing a withholding tax that otherwise would have hit government contractors in 2013. Mr. Obama signed that bill into law on Monday.

The withholding bill follows two other efforts — one in December and another in April — that reworked the health care law to squeeze savings for other priorities. The December bill funded higher payments for doctors who treat Medicare patients, and the April legislation repealed a paperwork provision in the original health care law that businesses said would be onerous.

All told, Congress and the president have tapped some \$50 billion earmarked to pay for benefits and programs in the health care overhaul in future years to fund more-immediate spending needs.

Both earlier efforts dealt with health care issues, but the bill Mr. Obama signed Monday marks the first time that the massive 2010 law has been tapped to fund something completely unrelated.

"They don't want to open it up. They're getting forced to open it up now and then, but to open it up for budgetary reasons, I think the pressures are pretty real," said former Congressional Budget Office Director Doug Holtz-Eakin, who said it's easier to cut future benefits than it is to cut programs that are already paying out.

Most of the health care law's benefits won't begin paying out for several years, and Mr. Holtz-Eakin said he expects legislators to revisit the law again before then.

The failure of the bipartisan supercommittee this week to come up with a plan to shrink the federal deficit and find spending cuts and revenues is likely to increase the pressure to raid the health care program for funds.

Rising cap

In December and April, lawmakers adjusted the formula that calculated how much of a subsidy would be given initially to buy health insurance through the new exchanges. Under the original law, many Americans would receive a subsidy larger than their income reflected, but Congress capped the amount that they would have to repay.

In December, Congress raised the repayment cap — effectively lowering the government's payout tab — and used the savings to cover higher payments to Medicare doctors. In April, Congress raised the cap again, this time retargeting the money to cover the costs of repealing the so-called 1099 reporting requirement that small businesses said was far too burdensome.

Dipping into the Affordable Care Act to fund other projects angers some supporters of the law, including Igor Volsky, with the Center for American Progress, though Mr. Volsky said the raids have been relatively small in the scope of the whole law.

"I don't think lawmakers should be taking money out of the law, particularly since the law hasn't been implemented," he said. "We don't know how things are going to shake out. Give it a chance to work; maybe then you can go back in and make some changes."

New formula

The rare bipartisan agreement last week to repeal the plan to withhold 3 percent of payments from government contractors would cost the government \$11 billion — money that had to come from somewhere.

Mr. Obama and House Republicans eyed a formula in the health care law known as modified adjusted gross income, saying it was out of kilter with how eligibility is calculated in other federal programs for low-income earners, such as food stamps and housing assistance.

Under the old formula for modified adjusted gross income, a couple with an annual income of \$64,000 would be able to qualify for Medicaid because not all Social Security benefits were counted as income. That will change under the revised formula, meaning that fewer people will qualify for Medicaid, exchange subsidies and the program for the states subsidizing health insurance for children.

Changing the formula doesn't affect anyone now because it does not kick in until 2014.

But the modification means that, in time, 500,000 to 1 million fewer Americans will be able to join Medicaid each year beginning in 2014. Most of those no longer eligible instead could qualify for subsidies on the exchanges, according to the Congressional Budget Office. In turn, some people would lose their eligibility for subsidies and be bumped off the exchanges.

Political magnet

In floor debates, Democrats argued that middle-class Americans also need help paying for insurance, while Republicans said the government should focus its resources on the poor. Rep. Diane Black, Tennessee Republican and sponsor of modified adjusted gross income, called the formula an "unintended consequence" of the Affordable Care Act.

"This is unacceptable, and I very strongly believe that it is our duty to ensure that the very scarce Medicaid resources will be there for the most in need," Mrs. Black said.

Rep. Joseph Crowley, New York Democrat, countered that the original income rule was not a glitch.

"It was written into the law deliberately, and anyone who actually read the bill would have known that," he said. "This language was deliberately put into the health care law to expand affordable health insurance and will particularly help early retirees between the ages of 62 and 64, as well as Americans on disability."

He led Democrats in opposing the revision, though the bill passed by a vote of 262-157. While 27 Democrats joined Republicans in voting for the change, all 157 "no" votes came from Democrats.

The formula change eventually was rolled into a broader bill that included the withholding tax repeal and new tax credits for businesses to hire veterans. The broader bill passed unanimously, 95-0 in the Senate and 422-0 in the House.

Democrats who opposed the alteration were reluctant to talk about why their opposition softened.

"I don't have any comment on that," said Rep. Henry A. Waxman of California, the ranking Democrat on the Energy and Commerce Committee, when asked by The Washington Times about his votes.

Rep. Daniel Lipinski, an Illinois Democrat who voted for the revision both times, cited the administration's support and said changing the formula wasn't likely to affect many Americans.

"That was the pay-for that was offered on the floor," he said. "I supported it because I think things should be paid for. Some people, it may limit what they get in subsidy, but I think most people agree and the president can agree that it's not going to have that large of an impact."

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