

HALL RENDER'S THIS WEEK IN WASHINGTON - APRIL 13, 2018

CONGRESS BACK TO WORK DELIBERATING OPIOID MEASURES

Congress was jam-packed with opioid hearings this week. The House Energy and Commerce Health Subcommittee held a two-day hearing on more than 30 bills addressing Medicare and Medicaid coverage and payment policies relating to the opioid crisis. Bills considered by the subcommittee covered a range of patient issues such as provisions to remove barriers to treatment, improve data to identify and help at-risk patients and provide incentives for greater care coordination and enhanced care.

Leaders from the House Ways and Means Committee [Chairman Kevin Brady (R-TX), Ranking Member Richard Neal (D-MA), Health Subcommittee Chairman Peter Roskam (R-IL) and Ranking Member Sandy Levin (D-MI)] released a **white paper** containing solutions to combat the opioid epidemic. The white paper contains responses after the committee sent out a request for information asking key stakeholders for recommendations on how to prevent and treat opioid abuse and dependence in the Medicare program. Recommendations in the white paper include increasing access to medication assisted treatment, utilization and access to non-opioid treatments of pain, enhancing screening for opioid use disorders, provider education and communication and limiting prescriptions.

Also, the Senate Health, Education, Labor, and Pensions ("HELP") Committee held a hearing to discuss a draft of bipartisan legislation, the Opioid Crisis Response Act of 2018. This legislative package is a large bipartisan effort aiming to incentivize development of new non-addictive painkillers, help states treat patients with addiction and create programs to reduce the epidemic. Additionally, the Food and Drug Administration would be allowed to require drug makers to package certain opioids for a set duration and provide simple and safe opioid disposal options. The legislation draft considered by HELP is very similar to bills under consideration in the House Energy and Commerce Committee.

During the hearing, Chairman Lamar Alexander said he would work with committee members to add a provision clarifying that hospitals can legally share critical patient information with families and health care providers under the Health Insurance Portability and Accountability Act. Next week, the Senate HELP Committee will mark up this legislation. After this markup, HELP senators will present the legislation to Senate Majority Leader Mitch McConnell (R-KY) after getting feedback from the Judiciary and Finance committees.

MEDPAC RECOMMENDS CUT TO URBAN OFF-CAMPUS HOSPITAL PAY

The Medicare Payment Advisory Commission ("MedPAC") recommended Congress to cut pay by 30 percent for certain off-campus emergency departments in urban areas. Off-campus stand-alone emergency departments that are within six miles of an on-campus hospital emergency department would be subject to the cuts. To support this recommendation, MedPAC claims these off-campus facilities have lower patient severity and standby costs than on-campus emergency departments; therefore, the Medicare payments are askew. In contrast, MedPAC supported the recommendation to allow isolated, rural stand-alone emergency departments or those that are more than 35 miles away from another emergency room to bill standard outpatient prospective payment fees and Congress to provide annual payments to assist with fixed costs.

Additionally, the payment advisers discussed a recommendation to make the four current value-based payment programs into a single initiative. This new initiative would judge hospitals on readmissions, mortality, spending and how patients rate their stay. Depending on performance, two percent of a hospital's Medicare payments would be withheld or earned back. This plan was cited as a good way to simplify hospital reporting programs and move to outcome-based measures. However, the commission also raised several concerns such as questions on how to weigh the categories, if two percent is enough of an incentive, etc. MedPAC will continue discussions on this recommendation in the fall.

HOUSE WAYS AND MEANS PANEL HOLDS FORUM ON REGULATORY RELIEF FOR HOSPITALS

The House Ways and Means Health Subcommittee held a closed-door forum on hospital regulatory relief. Stakeholders testified that reforming Medicare conditions of participation and modernizing the Stark Law are necessary for regulatory relief and the transition to value. Last year, the Subcommittee launched an initiative to reduce legislative and regulatory burdens on Medicare providers. Earlier this Congress, a Hall Render-led coalition worked to help introduce H.R. 3726, the Stark Administration Simplification Act.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Brett Guthrie (R-KY) introduced **H.R. 5492** to amend the Public Health Service Act to address the use of opioids and substance use disorders with respect to pregnant women and babies.

Reps. Eliot Engel (D-NY) and Steve Stivers (R-OH) introduced the Quality Care for Moms and Babies Act (**H.R. 5457**) that will better track Medicaid's and the Children's Health Insurance Program's performances in caring for American mothers and infants.

Rep. Collin Peterson (D-MN) introduced **H.R. 5498** to amend Title XVIII of the Social Security Act to extend the floor on the area wage index under the inpatient prospective payment system to certain sole community hospitals and to amend the Public Health Service Act to provide eligibility for certain sole community hospitals to discounted drug prices under the 340B Drug Pricing Program.

NEXT WEEK IN WASHINGTON

Congress returns for a full legislative week. On April 19, the Senate Finance Committee will hold a **hearing** on "Tackling Opioid and Substance Use Disorders in Medicare, Medicaid, and Human Services Programs." Also on April 19, the Senate Appropriations Labor-HHS-Education Subcommittee holds a hearing on the 2019 HHS budget. The Health IT Advisory Committee will have a **policy briefing** event on April 18. On April 18, CMS will host a webinar on the hybrid hospital-wide 30-day readmission measure allowing hospitals to voluntarily report in calendar year 2018 for the hospital Inpatient Quality Reporting Program.

THIS WEEK IN WASHINGTON IN HISTORY

1945 - 73 years ago this week, President Franklin D. Roosevelt passes away suddenly while vacationing in Warm Springs, Georgia. Within two hours of his death, Vice President Harry Truman is informed of the news by Eleanor Roosevelt.

1939 - 79 years ago this week, on Easter Sunday in 1939, more than 75,000 people come to the Lincoln Memorial in Washington, D.C. to hear famed African American contralto Marian Anderson give an open-air concert. Anderson had been scheduled to sing a few blocks away at Constitution Hall but was denied because of her race. Anderson's performance at the Lincoln Memorial served to raise awareness of racial discrimination.

For more information, please contact:

- **John Williams III** at (202) 370-9585 or jwilliams@hallrender.com;
- **Andrew Coats** at (202) 370-9587 or acoats@hallrender.com;
- **Abby Kaericher** at (202) 780-2989 or akaericher@hallrender.com; or
- Your regular Hall Render attorney.