

## HALL RENDER'S THIS WEEK IN WASHINGTON - JULY 20, 2018

### WAYS AND MEANS SUBCOMMITTEE EXPLORES MODERNIZING STARK LAW

On July 17, the House Ways and Means Committee Subcommittee on Health held a hearing on modernizing the Stark Law. Government and industry witnesses shared concerns about the inhibiting effect of the Stark Law on innovative payment models and value-based care. Subcommittee Chairman Peter Roskam (R-IL) stated the Stark Law must be revisited to alleviate burdens on providers and allow CMS more flexibility to support value-based care arrangements. The Hall Render Stark Law Correction Coalition's legislation was mentioned in the hearing by sponsors Reps. Ron Kind (D-WI) and Kenny Marchant (R-TX), who noted that its provisions codifying the regulations CMS adopted in the 2016 Physician Fee Schedule Final Rule were included in the 2018 budget legislation.

Deputy Secretary of Health and Human Services ("HHS") Eric Hargan testified on behalf of the department and is also leading its Regulatory Spring to Coordinated Care, a program to remove regulatory inhibitors to coordinated care and decrease regulatory burdens for providers. Hargan said modernizing the Stark Law would drive coordinated care models, lower costs and improve quality. He added that with more than 40 exceptions, the law has become "Swiss cheese" and left patients "on their own" to navigate the system. He also blamed it for incentivizing provider consolidation that some experts have pinpointed as a reason for the high cost of care.

Hargan made clear in his testimony that HHS plans to do a lot to reform Stark and the Anti-Kickback Statute ("AKS") from a regulatory perspective, but there are limitations on what can be done without congressional action. Hargan stated that HHS is considering changes to the AKS starting with plans to release a request for information to the public. Dealing with the burdens caused by the physician self-referral law is one of CMS's top priorities, according to Administrator Seema Verma.

Hours before the House Subcommittee hearing, former HHS secretaries Kathleen Sebelius and Tommy Thompson wrote in an [op-ed](#) for The Hill that the laws need to be reformed to ease the shift to value-based care. Sebelius and Thompson write, "Stark and anti-kickback laws are a remnant of the fee-for-service world and harm the very patients they are supposed to protect by deterring more comprehensive patient-centered, coordinated care."

### HOUSE AND SENATE HOLD HEARINGS ON HIGH HEALTH CARE COSTS

On July 17, the Senate Health, Education, Labor and Pensions ("HELP") Committee held a hearing titled "Reducing Health Care Costs: Eliminating Excess Health Care Spending and Improving Quality and Value for Patients." Chairman Lamar Alexander (R-TN) indicated that legislation would be introduced this year to address rising medical costs. In response to expert testimony that up to half of all money spent on health care is wasted, Chairman Alexander said he wanted to come up with practical steps Congress could take to help curb costs.

On the House side, the Energy and Commerce Subcommittee on Oversight and Investigations also wrestled with the problem of high health care costs. Its July 17 hearing focused on price transparency in health care so patients have more information to make decisions. The hearing also addressed surprise medical bills from doctors or other providers that patients did not know were out of their insurance networks. For example, Harvard Medical School professor Michael Chernew testified that Congress should look at how legislation could fix the problem some patients encounter when faced with unexpectedly high emergency room bills caused by out-of-network services.

The cost of health care is a hot topic in Washington, where lawmakers and other experts consider it to be one of the biggest contributors to rising federal debt. According to the 10-year budget outlook of the Congressional Budget Office, spending on major federal health care programs, including Medicare and Medicaid, are projected to nearly double in the coming decade, growing from \$1.2 trillion this fiscal year to \$2.3 trillion in fiscal year 2028. Spending on health care is projected to grow at a rate of about six percent a year, outpacing the growth of the overall economy.

### HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Susan Brooks (R-IN) introduced [H.R. 6378](#), the Pandemic and All-Hazards and Advancing Innovation Act of 2018.

Rep. Tom Rice (R-SC) introduced [H.R. 6458](#) to amend the Public Health Service Act to revise and extend the national organ transplantation procurement program.

Rep. Sander Levin (D-MI) introduced [H.R. 6431](#) to amend Title XVIII of the Social Security Act to provide for certain reforms with respect to Medicare supplemental health insurance policies.

Rep. Chris Collins (R-NY) introduced [H.R. 6372](#) to require the Secretary of Health and Human Services issue regulations to ensure due process rights for physicians furnishing emergency medical services.

## NEXT WEEK IN WASHINGTON

Congress is back for a full legislative week. The House will try to pass several pieces of legislation before heading off for the August district work period. On July 25, the Senate HELP Committee will vote on [S.2554](#), the Patient Right to Know Drug Prices Act, by Sen. Susan Collins (R-ME) to eliminate so-called pharmacy gag rules. Also on the agenda for the HELP Committee is [H.R. 1222](#), the Congenital Heart Futures Reauthorization Act of 2017; [S.2465](#), Sickle Cell Disease Research, Surveillance, Prevention, and Treatment Act of 2018; and [S.3016](#), Action for Dental Health Act of 2018.

On July 26, the House Energy and Commerce Health Subcommittee will hold a hearing, "[MACRA and MIPS: An Update on the Merit-based Incentive Payment System](#)." The hearing will be the fourth bipartisan oversight hearing on the implementation of the Medicare Access and CHIP Reauthorization Act of 2015. In the hearing announcement, the committee noted it plans to hear from witnesses "on the importance of fee for service as an option for certain physicians" and how MIPS has streamlined legacy programs (meaningful use, Physician Quality Reporting System and the Value Based Payment Modifier) and provided financial opportunities for providers to transition to new care models.

## THIS WEEK IN WASHINGTON IN HISTORY

**1984: 34 years ago this week**, Congress passes the National Minimum Drinking Age Act, prohibiting under 21's from buying or possessing alcohol as a condition of receiving state highway funds. The act was expressly upheld as constitutional in 1987 by the United States Supreme Court in *South Dakota v. Dole*.

**1790: 228 years ago this week**, Congress declares the city of Washington in the District of Columbia the permanent capital of the United States.

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