

## HALL RENDER'S THIS WEEK IN WASHINGTON - JULY 27, 2018

### CMS RELEASES PROPOSED OUTPATIENT PAY RULE

On July 25, the Centers for Medicare & Medicaid Services ("CMS") issued the Medicare **hospital Outpatient Prospective Payment System ("OPPS") and Ambulatory Surgical Center ("ASC") proposed rule** for Calendar Year 2019, which contains an annual payment rate increase of 1.25 percent. Most significantly, the proposed rule would expand the "site-neutral" payments policy to include new clinic visits, which the agency described as "essentially check-ups." CMS proposes applying a Physician Fee Schedule-equivalent payment rate for the clinic visit service when provided at an off-campus provider-based department that is paid under the OPPS. As clinic visits are the most commonly billed under OPPS, the agency said that change would save the Medicare program and Medicare recipients a combined \$760 million next year.

CMS also targeted the 340B program by proposing to extend Medicare reimbursement cuts to non-excepted off-campus departments of hospitals that are paid under the Physician Fee Schedule. Last year's OPPS payment rule cut hospitals' discount for 340B drugs by almost 30 percent, but several pharmacy stakeholders argued that hospital off-campus facilities paid under the Medicare physician fee schedule were exempted. Thus, CMS now proposes to apply the cuts to these off-campus sites.

The proposed rule also contains number of significant changes affecting ASCs. For 2019, CMS is proposing to expand the number of procedures payable at ASCs and stabilize the differential between ASC payment rates and hospital outpatient department payment rates.

Lastly, the proposed rule includes a Request for Information ("RFI") asking whether providers and suppliers can and should be required to inform patients about charge and payment information for health care services and out-of-pocket costs, what data elements would be most useful to promote price shopping and what other changes are needed to empower health care consumers. The proposed rule also includes another RFI to solicit continued feedback on the Medicare electronic health records program and interoperability.

Fact sheet on the proposed rule can be found [here](#). Comments to the proposed rule are due to CMS no later than September 24, 2018.

### HOUSE AND SENATE PASS HEALTH-RELATED BILLS

The Senate passed legislation ([S. 2278](#)) to reauthorize State Offices of Rural Health after a significant lobbying effort led by the National Organization of State Offices of Rural Health and Hall Render. The measure extends the program through fiscal year 2022 and revises the grant program for state offices of rural health to make it mandatory for the Department of Health and Human Services ("HHS") to issue the grants instead of discretionary.

On July 23, the House of Representatives passed four bipartisan bills to further public health initiatives, including measures to authorize critical health workforce programs. [H.R. 5385](#) was passed to reauthorize the Children's Graduate Medical Education program for five years. Also, the Educating Medical Professionals and Optimizing Workforce Efficiency Readiness ("EMPOWER") Act, authored by Reps. Michael Burgess (R-TX), Larry Bucshon (R-IN) and Jan Schakowsky (D-IL), passed the House. The **EMPOWER Act** will reauthorize health professions workforce programs that support loan repayment and provider training experiences in primary care, dentistry, rural or underserved areas and in community-based settings. Other adopted measures will expand research and provide grants for palliative and hospice care ([H.R. 1676](#)), reauthorize nursing workforce development programs ([H.R. 959](#)) and repeal the excise tax on medical devices.

### ENERGY AND COMMERCE SUBCOMMITTEE HOLDS HEARING ON MIPS IMPLEMENTATION

On July 26, the House Energy and Commerce Health Subcommittee held a hearing continuing its review of the Medicare Access and CHIP Reauthorization Act ("MACRA") of 2015. The Merit-based Incentive Payment System ("MIPS") is part of Medicare's two-track Quality Payment Program, which requires a hefty amount of data reporting but limits the risk of financial losses. The program replaced the deeply unpopular sustainable growth rate formula. Some experts, including the Medicare Payment Advisory Commission, have called for a complete replacement of MIPS.

All of the physicians who testified at the hearing agreed that MIPS is better than the previous system. However, the physicians also told the subcommittee that with only 42 percent of US physicians participating in MIPS, doctor groups that invested heavily in health IT and care

managers to raise their scores are seeing little upside. In 2019, Medicare will give high performers a boost of no more than 2 percent, although MACRA called for rewards of up to 7 percent. Other witnesses testified that some measures doctors are required to report to CMS are meaningless and sometimes irrelevant to their practices.

Chairman Michael Burgess (R-TX) said he would consider holding a hearing with HHS officials and industry stakeholders on the issue.

## HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. John Lewis (D-GA) introduced **H.R. 6601** to amend Title XI of the Social Security Act to improve access to care for all Medicare and Medicaid beneficiaries through models tested under the Center for Medicare and Medicaid Innovation.

Rep. Jackie Walorski (R-IN) introduced **H.R. 6561** to direct the Secretary of Health and Human Services to finalize certain proposed provisions relating to the Programs of All-Inclusive Care for the Elderly under the Medicare and Medicaid programs.

Rep. John Katko (R-NY) introduced **H.R. 6597** to amend the Public Health Service Act to authorize a loan repayment program for mental health professionals to relieve workforce shortages

Rep. Jan Schakowsky (D-IL) introduced **H.R. 6575** to amend Part D of Title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare Program.

Rep. Frank Pallone (D-NJ) introduced **H.R. 6563** to amend Title XVIII of the Social Security Act to prevent growth rate cliff for out-of-pocket threshold under Medicare Part D.

## NEXT WEEK IN WASHINGTON

On Thursday, the House recessed for its August district work period. When House members return, Congress will have less than two weeks' worth of working days to pass spending bills to avoid another government shutdown on October 1. The Senate will be in recess next week but will return the following to continue working through fiscal 2019 spending packages and passing federal judge appointments. On Tuesday, the Senate Health, Education, Labor, and Pensions Committee will hold a **hearing** on "Reducing Health Care Costs: Decreasing Administrative Spending."

*This Week in Washington* will join the House on its August break but will publish should health care developments occur.

## THIS WEEK IN WASHINGTON IN HISTORY

**1775, 243 years ago this week:** Congress establishes the United States Post Office and names Benjamin Franklin the first United States postmaster general.

**1947, 71 years ago this week:** President Truman signs the National Security Act, a major restructuring of the United States government's military and intelligence agencies following World War II. In addition to military reorganization, the act established the National Security Council, a central place of coordination for national security policy in the executive branch, and the Central Intelligence Agency, the US's first peacetime intelligence agency.

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