

HALL RENDER'S THIS WEEK IN WASHINGTON - FEBRUARY 15, 2019

GOVERNMENT FUNDED AFTER CONGRESS BORDERS ON ANOTHER SHUTDOWN

Congressional negotiators have reached an agreement on a funding deal that avoids another partial government shutdown that would have occurred at midnight tonight. The measure would fund nine out of fifteen federal departments through September 30, 2019. President Trump is expected to sign the legislation into law today. While funding for most health care-related agencies, like CMS, occurred last year, the legislation includes: \$3.08 billion in discretionary funding for the FDA, making the overall funding for FDA \$5.67 billion; \$5.8 billion for the Indian Health Service; \$5.7 billion in funding for the President's Emergency Plan for AIDS Relief; and \$3.1 billion for global health programs.

ADMINISTRATION RELEASES HEALTH INFORMATION TECHNOLOGY PROPOSED RULES

As part of a broader administration effort to modernize health care IT, HHS released a [proposed interoperability rule](#) designed to increase the exchange of electronic health data. The rule includes provisions requiring providers to give patients free electronic access to their medical records and publicly reporting those who do not do so. The rule comes from the 21st Century Cures Act, which required HHS to outline and prohibit anticompetitive practices designed to lock patients into a single health system.

In addition, the Office of the National Coordinator for Health Information Technology ("ONC") issued a [proposed rule](#) to allow "information blocking," or impeding the free exchange of patient data, under seven types of situations. The situations include protecting a patient's privacy, recovering costs associated with access to the data or license information technology to other organizations or preventing harm to a patient. CMS and ONC also released two requests for information on how CMS can promote interoperability and reduce any health information technology burden on providers.

In a separate [proposed rule](#), CMS seeks to require Medicare Advantage, Medicaid and exchange plans to allow patients to see their records electronically, in an API format, by 2020. The goal is to give patients a real-time summary of their medical appointments, allowing them to use apps that might aggregate prescriptions and vaccine history, set appointment reminders or summarize previous appointments. If finalized, the CMS rule would also allow the agency to publicly report providers who block data transfers. CMS Administrator Seema Verma said the agency aims to use the rule to "expose the bad actors who are purposely trying to keep patients from their own data." Verma explained that CMS is focused on giving patients more data so they can better understand their care and the associated costs.

MEDICARE BUY-IN BILL INTRODUCED; PROGRESSIVES PUSH MEDICARE FOR ALL

Democratic members of the House and Senate [introduced legislation](#) this week to enable people between ages 50 and 65 to buy a private Medicare plan and obtain the same tax credits and cost-sharing subsidies available on the Affordable Care Act exchanges. According to the bill's sponsors, the Medicare at 50 plan will pay for itself with premiums collected from new enrollees. The plan seeks to keep the expansion separate from traditional Medicare, by funneling premiums paid by new enrollees into a "Medicare Buy-In Trust Fund" used to provide cost-sharing assistance for those in need, without tapping Medicare's trust funds.

Supporters of the Medicare buy-in legislation argue this partial expansion of Medicare would be a more politically acceptable and less disruptive way to reach the goal of universal coverage. Rep. Pramila Jayapal (D-WA) said she expects to introduce a single-payer bill during the first week of March. The Medicare for All Act of 2019, which was supposed to be rolled out this week, would create a government-run, single-payer health system even more generous than the current Medicare program. However, Rep. Jayapal delayed its introduction so she could seek more co-sponsors. The Medicare expansion-related bills are unlikely to survive in the GOP-controlled Senate but will be a major source of debate in both political parties in the upcoming 2020 presidential election.

CMS UNVEILS OVERHAUL OF MEDICARE PAYMENT FOR EMERGENCY TREATMENT

On Thursday, CMS launched a [voluntary payment experiment](#), the Emergency Triage, Treat and Transport ("ET3") model, allowing first responders more flexibility to treat patients on the scene, through telehealth or at an urgent care clinic. CMS will pay participating ambulance teams to transport patients to hospital emergency departments, transport patients to other settings like a primary care physician's office, use telehealth or provide care on the scene under supervision of a qualified practitioner. Currently, Medicare reimburses ambulance providers if they transport patients to the hospital, skilled nursing facility or dialysis center. The voluntary demonstration will

likely begin in 2020 and run for five years. CMS will phase in the model across the country and will phase it to 30 percent of emergency room visits.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Ben Ray Lujan (D-NM) introduced [H.R. 1277](#) to establish a state public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan. Sen. Brian Schatz (D-HI) introduced [S.489](#) in the Senate.

Rep. Lloyd Doggett (D-TX) introduced [H.R. 1264](#) to amend Titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information.

Rep. Kathy Castor (D-FL) introduced [H.R. 1226](#) to amend Title XIX of the Social Security Act to provide states with the option of providing coordinated care for children with complex medical conditions through a health home.

Sen. Edward Markey (D-MA) introduced [S. 523](#) to direct the Secretary of HHS to develop a national strategic action plan and program to assist health professionals and systems in preparing for and responding to the public health effects of climate change.

Sen. Amy Klobuchar (D-MN) introduced [S. 516](#) to require the use of prescription drug monitoring programs.

NEXT WEEK IN WASHINGTON

Congress is out of session next week. *This Week in Washington* will return on March 1 after Congress is back to work but will publish should health care developments occur.

THIS WEEK IN WASHINGTON IN HISTORY

1936, 83 years ago this week: The first Social Security checks are put in the mail. Social Security numbers were generated to create a system to keep track of the earnings histories of U.S. workers so they could benefit from the program.

1953, 66 years ago this week: The Pope asks the United States to grant clemency to convicted spies Ethel and Julius Rosenberg. Both were arrested in the summer of 1950 on the charge of conspiracy to commit espionage. Specifically, they were accused of heading a spy ring that passed top-secret information concerning the atomic bomb to the Soviet Union.

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.