



Health Policy Briefing

April 6, 2015

Federal Health Agency Update

CMS Provides Update on the Status of Provisions Expiring on April 1

The Centers for Medicare and Medicaid Services (CMS) has reconfirmed that while the negative 21 percent physician payment rate cut was scheduled to take effect on April 1, 2015, when the current sustainable growth rate (SGR) patch expired, the agency will limit the impact on Medicare providers by holding claims for a short period of time. This will allow CMS to implement subsequent legislative action while minimizing disruption of provider cash flow. Under current law, electronic claims are paid no sooner than 14 days after the date of receipt. Paper claims are paid no sooner than 29 days after the date of receipt. Claims for services furnished on or before March 31 are not affected by the payment cut and will be processed as normal. However, providers and beneficiaries may be affected by other provisions expiring on April 1, including exceptions for the Medicare Part B outpatient therapy cap, add-on payments for ambulance services, and payments for low-volume hospitals and Medicare dependent hospitals. In regard to the SGR, CMS will provide more information about next steps by April 11.

NIH Announces Precision Medicine Team

The group of experts that will develop the President’s Precision Medicine Initiative were announced by the National Institutes of Health (NIH) last week. The Precision Medicine Initiative includes plans to gather a cohort of 1 million people to share information about their health and lifestyle in order to further the development of individualized treatments and preventive measures. The external working group on building a research cohort for precision medicine will be co-chaired by Dr. Richard Lifton, Chair of the Department of Genetics at Yale University School of Medicine, Bray Patrick-Lake, Director
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of Stakeholder Engagement for the Clinical Trial Transformation Initiative at Duke University, and Dr. Kathy Hudson, Deputy Director of Science, Outreach, and Policy at the NIH. The working group will be accepting public comments and is scheduled to deliver a preliminary report on their findings in September. The full membership of the working group can be found [here](#).

CDC Releases New Data on Office-Based Physicians Acceptance of New Patients

In 2013, 95.3 percent of office-based physicians were accepting new patients, according to data released by the Centers for Disease Control and Prevention's (CDC) National Center for Health Statistics (NCHS). The National Electronic Health Records Survey (NEHRS) also revealed that the percentage of physicians accepting new Medicaid patients (68.9 percent) was significantly lower than the percentage accepting new Medicare patients (83.7 percent) or new privately insured patients (84.7 percent). Acceptance rates varied across the country, with New Jersey, California, Florida, and New York physicians being least likely to accept to Medicaid patients. The acceptance rate of new Medicaid patients ranged from 38.7 percent in New Jersey to 96.5 percent in Nebraska. The full NCHS Data Brief can be found [here](#).

Affordable Care Act Update

Supreme Court Declines to Review IPAB Challenge

The Supreme Court has declined to weigh in on a challenge to constitutionality of the Independent Payment Advisory Board (IPAB). IPAB was authorized by the Affordable Care Act (ACA) and is charged with cutting costs in the Medicare program should spending exceed a target growth rate. The Court denied the Goldwater Institute's petition for a review of an appeals court dismissal of a challenge to the constitutionality of IPAB. Twenty-four House Republicans filed a brief in December asking the justices to take up the case. Rep. Phil Roe (R-Tenn.), one of the authors of the brief, has pledged to continue his leadership in seeking repeal of IPAB through the legislative process. Earlier this year, he and Rep. Linda T. Sánchez (D-Calif.) introduced H.R. 1190, which would repeal IPAB. The bill currently has 210 bipartisan cosponsors.

House Freshman Urge Speaker Boehner to Repeal Medical Device Tax

In a [letter](#) sent to Speaker of the House John Boehner (R-Ohio) last week, freshman members of the House of Representatives urged fast-track consideration of H.R. 160, the Protect Medical Innovation Act, which would repeal the excise tax on medical device manufacturers and importers. The ACA put in place a 2.3 percent tax on medical device industry revenue. "As freshmen members, we made a promise to our constituents to usher in a new era of cooperation in order to restore faith in our government institutions," the letter says. "Repealing the tax will not have a meaningful impact on the budget, but will be significant for these small businesses and their ability to continue to grow." H.R. 160 was introduced by Rep. Eric Paulsen (R-Minn.) and currently has 277 bipartisan cosponsors. The Senate companion bill, S.149, was introduced by Senate Finance Committee chairman Orrin Hatch (R-Utah) and currently has 34 bipartisan cosponsors.

Supreme Court Ruling in Idaho Medicaid Reimbursement Case

The Supreme Court has determined that health care providers do not have a right to sue a state to raise their Medicaid reimbursement rates. The case began in Idaho, when a group of private health care providers filed a lawsuit against the state for freezing Medicaid reimbursement rates at 2006 levels. Providers argued that federal law preempts state law and allows them to sue for higher rates in order for Medicaid beneficiaries to receive equal access to care as mandated by the federal government. Justices considered the question of whether private companies had legal recourse to enforce federal laws, and ultimately decided that it is up to federal agencies to define whether states are in compliance with federal Medicaid statutes. Chief Justice John G. Roberts was joined by Stephen G. Breyer, Samuel Anthony Alito Jr., Clarence Thomas, and Antonin Scalia in the 5-4 ruling. Justices Sonia Sotomayor, Anthony M. Kennedy, Ruth Bader Ginsburg, and Elena Kagan dissented.

Upcoming Congressional Meetings and Hearings

Senate Caucus on International Narcotics Control: hearing on the quota system used to manage controlled substances; time and place TBD; April 14

House Veterans' Affairs Committee: hearing titled "Examining Access and Quality of Care and Services for Women Veterans;" 10:30 a.m., 334 Cannon Bldg.; April 30

House Veterans' Affairs Committee: hearing titled "Assessing the Promise and Progress of the Choice Program;" 10:30 a.m., 334 Cannon Bldg.; May 13