

POTENTIAL CHANGES IN REIMBURSEMENT MAY JEOPARDIZE LEASING ARRANGEMENTS WITH DIALYSIS PROVIDERS

During a speech on March 4, 2019, Secretary of Health and Human Services Alex Azar announced that the Trump administration plans to overhaul the Medicare payment system for certain dialysis services provided to patients with end-stage renal disease. The overhaul, as envisioned, would incentivize moving the place of treatment from outpatient clinics to home care. In his speech, Secretary Azar pointed out that approximately 88 percent of dialysis patients seek treatment in outpatient clinics, while only 12 percent receive treatment at home. In certain other nations, a majority of patients receive renal care at home, according to Secretary Azar. Medicare currently covers inpatient dialysis treatments under Part A for those over age 65, and it covers certain outpatient and home dialysis under Part B. Medicare also provides coverage for people of any age with end-stage renal disease, so long as certain qualifications are met. The goal, according to Secretary Azar, is to increase reimbursement for home-based and preventive renal care while decreasing reimbursement in the outpatient setting.

Changes in how dialysis providers are reimbursed by Medicare could unintentionally affect the thousands of leasing arrangements across the country that involve dialysis providers. Those leases often grant the dialysis provider the right to renegotiate the lease and in some cases, terminate the lease in the event that a change in law affects the dialysis provider's ability to operate in the space, including if a change in law or regulation affects Medicare reimbursement for dialysis care.

Accordingly, health care entities leasing to dialysis providers should take this opportunity to:

1. Carefully monitor and analyze the proposed Medicare reimbursement changes affecting dialysis providers;
2. Evaluate existing lease agreements with dialysis providers to determine if the provider has a right to renegotiate or terminate the lease as a result of changes to the Medicare reimbursement system; and
3. Use caution when entering into new lease arrangements with dialysis providers to ensure the lease language sufficiently protects the landlord against potential future reimbursement changes.

More information about Secretary Azar's speech can be found [here](#).

If you have any questions or would like additional information about health care real estate matters, please contact:

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