HALL RENDER'S THIS WEEK IN WASHINGTON – JANUARY 13, 2017

CONGRESS COMPLETES FIRST STEP IN ACA REPEAL PROCESS

After a week of debate and over 100 proposed amendments in the Senate, the fiscal year 2017 budget resolution (S. Con. Res. 3) advanced to the House of Representatives on January 13, where it passed along party lines by a vote of 227 to 198. The budget blueprint, which the Senate approved by a vote of 51 to 48 following an amendment "vote-a-rama" early Thursday morning, will allow Congress to repeal large portions of the Affordable Care Act ("ACA") as early as next month without needing 60 votes to overcome a Democratic filibuster in the Senate.

Now that this procedural step is complete, members of the House Ways and Means and Energy and Commerce committees will begin the task of assembling the ACA repeal legislation. While S. Con. Res. 3 instructs these lawmakers to draft and submit the legislation to the House Budget Committee by January 27, that date is nonbinding. Moreover, since reports this week indicate that Republican leadership in the Senate may choose to amend any House-passed measure on the floor without sending it through the committee process, the date on which Congress will complete its work to repeal the ACA remains largely unknown.

All of this comes as disagreements within the Republican Party over what will replace the ACA continue to grow. A number of very conservative Republicans have argued for repeal and replacement to take place concurrently, while others prefer a transition period of several years before replacement is complete. House Speaker Paul Ryan (R-WI) said this week that he would prefer to simultaneously repeal and replace as many ACA provisions as possible using the budget reconciliation bill. Once that process is complete, the Speaker said he plans to use "regular order" (the process where committee hearings and markups are held, followed by debate and votes on the House and Senate floor) to pursue any additional changes. However, this effort will be more difficult than budget reconciliation because any legislation moving under regular order will need 60 votes to overcome a Democratic filibuster in the Senate.

CMS ISSUES FINAL RULE ON HOME HEALTH CARE CONDITIONS OF PARTICIPATION

On January 9, CMS issued a final rule outlining Medicare and Medicaid Conditions of Participation ("CoPs") for home health agencies. The conditions are minimum standards that approximately 12,600 home health agencies must meet to maintain participation in the Medicare and Medicaid programs. The CoP rule will be effective July 13, 2017.

The final rule requires that patients and caregivers be given written information about upcoming visits, medication instructions and treatments administered. Among other changes, it also requires home health agencies to have quality assessment and performance improvement programs and enhanced infection prevention and control practices. The new CoPs are estimated to cost $293.3 million to implement in the first year and $290 million in subsequent years.

HOUSE PASSES EMERGENCY MEDICAL SERVICES BILL

On January 9, the House advanced the Protecting Patient Access to Emergency Medications Act (H.R. 304). The bill clarifies that medications governed by the Controlled Substances Act may be administered by EMS practitioners under a standing order issued by the EMS agency's physician medical director. The legislation allows hospital-based EMS agencies to use their hospital's Drug Enforcement Administration registration so that no new administrative burdens are placed on hospital-based EMS agencies. In the last session of Congress, nearly identical legislation passed the House but was unable to advance in the Senate.

MEDPAC FINALIZES ANNUAL PAYMENT RECOMMENDATIONS FOR HOSPITALS

On January 11, the Medicare Payment Advisory Commission ("MedPAC") voted on a package of Medicare payment recommendations for 2018. The commissioners unanimously approved recommendations that Medicare boost payments for hospital inpatient and outpatient services in 2018 as outlined under current law, which is estimated at 1.85 percent.

The recommendations will appear in MedPAC's annual report to Congress in March. While the advisory panel has no direct authority over how much the Medicare program spends, Congress and CMS generally follow the panel's hospital payment recommendations.

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HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Steve King (R-IA) introduced a bill (H.R. 409) that would amend Title XVIII of the Social Security Act to sunset penalties relating to meaningful use for electronic health records used by hospitals. Rep. King introduced a nearly identical bill last Congress.

Sen. Charles Grassley (R-IA) introduced a bill (S. 109) that would amend Title XVIII of the Social Security Act to provide Medicare coverage for certain pharmacist services. The bill encourages pharmacists to offer health care services such as wellness screenings by authorizing Medicare payments for those services where pharmacists are already licensed under state law to provide them.

NEXT WEEK IN WASHINGTON

While the Senate is in session next week, the House is only in session on Inauguration Day, January 20. On January 18, the Senate HELP Committee is scheduled to hold a hearing on the nomination of Rep. Tom Price, M.D., (R-GA) as the next HHS Secretary. Senate Finance Committee Chairman Orin Hatch (R-UT), whose committee is responsible for approving Dr. Price's nomination before it moves to the floor for a vote, said this week that he also hopes to hold a hearing on Dr. Price next week. However, Democratic staff on the committee have indicated in press reports that any confirmation hearing will take place after the inauguration.

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