

THIS WEEK IN WASHINGTON - JUNE 20, 2014

HALL RENDER COALITION WEIGHS IN ON EXPANSION OF TELEMEDICINE AND TELEHEALTH TECHNOLOGY

On June 16, a coalition, created by Hall Render, of hospitals and health systems sent a letter to the House Energy and Commerce Committee in response to a request for public comment on what Congress can do to expand the use of telemedicine and telehealth technology. The coalition, which includes Lee Memorial Health System, Texas Health Resources, the Carle Foundation, Genesis Health System, Hendricks Regional Health and Munson Medical Center, told the Committee that Congress should consider three changes to existing laws that would provide a better environment for telemedicine and telehealth technology. A copy of the coalition's letter can be viewed [here](#).

Those changes include extending the Electronic Health Records donation Stark and Anti-Kickback law safe harbors to allow hospitals to provide telehealth equipment to physicians, removing any physician shortage or rural requirement on patient location for reimbursement and adding an exclusion under the Civil Monetary Penalties law to allow hospitals to provide patients home health monitoring equipment and services at discharge in an effort to reduce readmissions. Attorneys from Hall Render will meet with Committee staff in the coming weeks to discuss these suggestions and with members of Congress to gauge interest and support. If sufficient interest and support exists, the coalition will be expanded and will seek adoption of legislation to make these changes in the next session of Congress that starts in 2015.

HOUSE VOTE SENDS VA BILL TO CONFERENCE

The House formally voted this week to proceed to conference on a Veterans Affairs ("VA") reform bill. The competing House and Senate bills would allow veterans to obtain care in civilian hospitals, though at different reimbursement rates. The differences are expected to be reconciled and signed into law later this year.

The two bills enable veterans who cannot be seen within a reasonable time of making a VA appointment (14 days in the House bill and an unspecified time in the Senate bill) or who live more than 40 miles from a VA facility to seek care at private hospitals. However, according to the Congressional Budget Office ("CBO"), the average payment rate to private hospitals would be lower under the House bill and would be lower than that under the Senate version.

HRSA DEFENDS 340B ORPHAN DRUG RULE DESPITE COURT DECISION

On June 18, the Health Resources and Services Administration ("HRSA") [announced](#) it will continue to stand by its interpretation of the ACA's orphan drug exclusion, an interpretation that allows certain hospitals to purchase orphan drugs through the 340B Drug Pricing Program when the drugs are not used to treat rare conditions for which the designation was intended.

The statement comes despite a recent federal court decision that vacated the rule on the grounds that HHS and HRSA exceeded their statutory authority. While noting the court's decision, HRSA said the court did not invalidate HRSA's interpretation of the statute.

The orphan drug exclusion policy applies to critical access hospitals, sole community provider, rural referral centers and free-standing cancer hospitals.

SENATORS INTRODUCE BILL AMENDING HOSPITAL READMISSION PENALTIES

A bipartisan group of Senators led by Sen. Joe Manchin (D-WV) introduced a bill this week (S. 2501) that would require CMS to take into account the socioeconomic status of a hospital's patient population when calculating readmissions penalties. According to its sponsors, the measure would improve quality of care, increase accountability and further reduce avoidable hospital readmissions. In 2013, readmissions penalties established by the ACA were capped at 1% of a hospital's inpatient base operating payments. The cap increases to 2% this year and goes to 3% in 2015 and the years following.

NEW HOUSE MAJORITY LEADER, WHIP

On June 19, House Republicans chose Rep. Kevin McCarthy (R-CA) as their new Majority Leader. McCarthy was elected in a closed-door meeting in which the winner was selected by secret ballot. McCarthy replaces Rep. Eric Cantor (R-VA) who was defeated in a June 10 primary. Rep. Cantor will vacate his post as majority leader on July 31. McCarthy's ascent to Majority Leader enabled Rep. Steve Scalise (R-LA) to grab the House Majority Whip position, which is the number three leadership position in the House.

MEDPAC ISSUES JUNE REPORT TO CONGRESS

On June 16, the Medicare Payment Advisory Commission ("MedPAC") issued its **June report** to Congress. The report contained no formal recommendations, but detailed discussions in areas include synchronizing Medicare policy across payment models, improving risk adjustment in Medicare and measuring quality of care in the Medicare program.

BILLS INTRODUCED THIS WEEK

Senator Mark Pryor (D-AR) introduced a bill intended to make it more difficult for a future Congress to change the eligibility requirements for benefits provided by Medicare. The bill (S. 2491) is a symbolic bill but could reach the Senate floor to highlight the differences between the two parties on Medicare. The bill contains a sense of the Senate statement against raising the eligibility age for Medicare.

Rep. Pat Tiberi (R-OH) introduced a bill (H.R. 4920) that would amend Title XVIII of the Social Security Act to require state licensure and performance guarantees for entities submitting bids under the Medicare durable equipment and supplies competitive acquisition program.

NEXT WEEK IN CONGRESS

The House and Senate both return on Monday, June 23. On Wednesday, June 25, the House Energy and Commerce Oversight and Investigations Subcommittee will hold a hearing on Medicare program integrity to look into waste, fraud and abuse in the program. Testifying at the hearing will be CMS's program integrity head Shantanu Agrawal and Gary Cantrell with the HHS Office of Inspector General.

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Please visit the Hall Render Blog at <http://blogs.hallrender.com> for more information on topics related to health care law.