HALL RENDER'S THIS WEEK IN WASHINGTON – MARCH 20, 2015

LAWMAKERS MOVING CLOSER TO PERMANENT SGR REPEAL AND REPLACEMENT

On Thursday, March 19, House leaders, led by Rep. Michael Burgess, M.D. (R-TX), introduced part of a legislative package to permanently repeal and replace the Medicare physician payment formula known as the Sustainable Growth Rate ("SGR"), which is set to expire on March 31. However, the most controversial part of the package, which includes cuts to providers and means testing of some Medicare beneficiaries, won't be released until this weekend or early next week. The decision to delay a House vote in the measure is part of a coordinated strategy by the House leadership to leave the Senate with little time for more than an up or down vote on the measure before lawmakers leave town for the Easter recess next Friday.

Although the bill's fate in the Senate is uncertain, it is still unclear whether there are enough votes to pass it in the House. With only $70 billion of the roughly $200 billion package paid for, many House conservatives have indicated they may oppose the measure, which means the Democratic leadership may need to deliver a significant number of votes to pass the bill. If the Senate leadership is unable to muster enough votes to pass the bill delivered by the House next week, look for lawmakers to pass a short-term SGR "patch" of three to four weeks so that negotiations over the final details can continue.

While the text of the bill's controversial provisions hasn't been released, reports indicate that pay-fors are split between providers and Medicare beneficiaries, including hospital cuts of about $17 billion. This would include a one-year extension (to 2025) of the two percent Medicare sequester, cuts to DSH payments and cuts to post-acute providers. On the beneficiary side, the bill would include means testing for wealthier Medicare recipients and reforms to Medigap and Medicare Advantage plans.

Reports also indicate that a separate proposal called the Hospital Improvements for Payment Act may also be included in the final SGR package. That measure, introduced by House Ways and Means Committee Chairman Paul Ryan (R-WI), would require a new Medicare payment system for hospital short-term stays to replace the Two-Midnight Rule. The proposal seeks to create a transition program for 2016 through 2019, and then a new system would be put in place for 2020. The new system would also create a payment pool for short-term stays.

HOUSE, SENATE RELEASE FY 2016 BUDGET PROPOSALS

On Wednesday, March 18, House Republicans released their FY 2016 Budget Resolution, which would repeal the ACA and overhaul parts of Medicare and Medicaid. House leaders claim their plan would balance the budget in less than 10 years and reduce federal spending by roughly $5.4 trillion by 2025. While the proposal in total has little chance of becoming law, Republicans will try to advance parts of it throughout the year.

The Republican budget would reform Medicare by offering future recipients "premium support" vouchers to subsidize the purchase of insurance on the private market in lieu of government-provided health care. Private plans and traditional Medicare fee-for-service plans would be available to seniors through a Medicare exchange while premium support could be used to buy insurance that is price adjusted for health status and geographic location.

Also on Wednesday, the Senate Budget Committee members released their FY 2016 budget proposal. Similar to the House proposal, the Senate proposal projects saving $4.3 trillion from 2016 to 2025 from reductions to mandatory programs and by providing the states more flexibility to run Medicaid. Of note, the Senate GOP budget calls on the committees that oversee the ACA to each find at least $1 billion in deficit-reduction savings from the health care law by July 31, 2015.

Congressional budgets are generally partisan documents without the force of law. However, passing a budget resolution allows lawmakers to use a procedural tool known as reconciliation to pass budget-related legislation in the Senate by a simple majority instead of the 60 votes needed to overcome a filibuster. This is important because Republicans plan to use the reconciliation process to repeal parts of the ACA, which ironically is how Democrats passed the ACA in 2010. Despite this parliamentary maneuvering, any bill passed using reconciliation must still be signed by the president, and President Obama has already pledged to veto any legislation that would repeal the ACA.

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MEDPAC RELEASES ANNUAL RECOMMENDATIONS TO CONGRESS

Late last Friday, March 13, the Medicare Payment Advisory Commission ("MedPAC") released its annual recommendations to Congress on Medicare policies. While the recommendations do not carry the force of law, they often impact decision making in Congress in relation to the Medicare program. In its latest report, MedPAC recommends a 3.25 percent update to inpatient and outpatient hospital payment rates for 2016, concurrent with changes to the outpatient payment system and the long-term care hospital payment system. MedPAC also recommended that Congress reduce or eliminate differences in payment rates between outpatient departments and physician offices for selected ambulatory payment classifications. While Congress has largely ignored this recommendation in the past, it could be included as a pay-for in the SGR legislation that will be released over the weekend or early next week.

BILLS INTRODUCED THIS WEEK

Rep. Devin Nunes (R-CA) introduced H.R. 1453, a bill that would amend Title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers ("ASCs") under the Medicare program. The bill fixes the law allowing CMS to use different inflation measures for ASCs and hospital outpatient departments when setting payment rates.

Rep. Tom Price (R-GA) and Jerry McNerney (D-CA) introduced the Bundling and Coordinating Post-Acute Care Act. The bill (H.R. 1485) bundles payments for post-acute care services in a manner designed to strengthen care coordination, improve patient outcomes, ensure patient choice and achieve significant savings.

NEXT WEEK IN WASHINGTON

The House and Senate will attempt to pass their respective budget resolutions before taking up the SGR repeal and replacement bill. The House is aiming to vote on the SGR package later in the week, leaving the Senate with little time to approve the House measure. If the Senate cannot pass the House SGR bill, lawmakers are expected to pass a three to four week patch covering the two-week Easter recess that starts next Friday.

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