HALL RENDER'S THIS WEEK IN WASHINGTON – MAY 29, 2015

HOUSE SUBCOMMITTEE CIRCULATES PROPOSED 340B LEGISLATION

The House Energy and Commerce Health Subcommittee recently released draft legislation that seeks to reform the 340B Drug Pricing Program, which requires drug manufacturers to offer drug discounts to eligible hospitals and other facilities for outpatient use. The measure proposes a number of material and cosmetic changes, including formally naming the program the Outpatient Drug Discount Program. It would also explicitly state the intended purpose of the 340B Program as "to increase patient access to, and receipt of, health care services…the 340B Program shall not be construed to limit dispensing of 340B drugs to individuals who are uninsured, underinsured, underserved or medically vulnerable."

In addition, the draft refines the definition of patient eligibility to require that individuals receive in-person medical care at the covered facility that results in the ordering or prescribing of a covered outpatient drug to qualify for the 340B program. Also under the legislation, manufacturers would be required to submit data on drug sales to HHS annually.

In March of this year, the subcommittee held a hearing regarding increased federal oversight and transparency in the 340B Federal Drug Pricing Program. The Energy and Commerce committee considered including 340B provisions in the recently passed 21st Century Cures legislation (H.R. 6), but that language was stripped out of the bill prior to last week's committee markup.

Congressional interest in the 340B program comes as the Office of Management and Budget ("OMB") continues to review Health Resources and Services Administration regulations and guidance on 340B.

TRADE BILL CONTAINS MEDICARE SEQUESTRATION OFFSET

On May 22, the Senate passed the Trade Act of 2015. Among the offsets used to pay for the bill are those that would modify the Medicare sequester for fiscal year 2024 and change coverage and payment for renal dialysis services for individuals with acute kidney injury.

With respect to the Medicare sequestration provision, the bill would modify sequestration of Medicare spending for fiscal year 2024. Under current law, the Medicare sequestration for fiscal year 2024 is -4.0 percent for April 2024 through September 2024 and zero percent for October 2024 through March 2025. The bill would change the second half of the fiscal year 2024 sequestration (October 2024 through March 2025) to -0.25 percent. The Congressional Budget Office estimates that this change would reduce direct spending by $700 million in fiscal year 2025.

MEDICAID OFFICIALS RELEASE LONG-AWAITED MANAGED CARE RULE

On May 26, CMS released a 653-page proposed rule that seeks to overhaul the rules for Medicaid managed care plans. The proposed rule would reduce the medical loss ratio, the amount health plans spend on administrative costs, by requiring that plans spend at least 85 percent of their revenues on medical costs for enrollees. In addition, the rule would create a grading system similar to Medicare Advantage star ratings and establish network adequacy standards.

The proposal also recommends that states provide information to consumers about their right to disenroll from a health plan, basic features and service areas of managed care plans, covered benefits, provider directories, cost sharing requirements, care coordination services and quality measurements for each managed care plan.

This is the first time CMS has proposed changes to Medicaid managed care rules since the program was created more than a decade ago. The proposal was cleared for publication by the OMB on May 21. Comments on the rule must be submitted by July 27.

BILLS INTRODUCED THIS WEEK

There were no health-related bills introduced this week as both chambers were out of session.

NEXT WEEK IN CONGRESS

The House and Senate return on June 1 for the first of four consecutive weeks in session. On June 2, the Energy and Commerce Committee will hold a hearing on Medicaid program integrity. On the same day, the House Ways & Means Committee plans to mark up four bipartisan

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Medicare Advantage bills that were introduced earlier in May.

Later in the month, the 21st Century Cures legislation is expected to go before the full house for a vote. The Senate Health, Education, Labor and Pensions Committee is working on a companion effort called the Innovation for Healthy Americans initiative and is hoping to consider the legislation by the end of the summer.

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