HALL RENDER'S THIS WEEK IN WASHINGTON – SEPTEMBER 11, 2015

HRSA ISSUES OMNIBUS 340B GUIDANCE

On August 27, the Health Resources and Services Administration ("HRSA") issued omnibus guidance on the 340B Drug Discount Program via the Federal Register. The proposed guidance would clarify the definition of a 340B patient, contract pharmacy arrangements, audit procedures and other related provisions. Earlier this year, the House Energy and Commerce Committee floated changes to the 340B Program as part of their draft 21st Century Cures legislation. Although that language was never adopted, Hall Render has learned that it could reappear in other legislation this fall. Hall Render recently published a detailed summary of the proposed guidance, which has an open comment period of 60 days. Interested 340B Program stakeholders can submit comments to HRSA OPA on or before October 27, 2015.

HOSPITAL PAYMENT LEGISLATION LIKELY TO SEE COMMITTEE ACTION

Over the August break, the House Ways and Means Committee discussed its fall agenda for health care-related issues. One area that is likely to see action deals with Medicare's hospital reimbursement system. Four bills have been introduced and markups are expected this fall. One of those bills, introduced by Rep. Kevin Brady (R-TX), would change how Medicare pays teaching hospitals by moving to a lump sum payment system.

Another bill, drafted by Ways and Means Chairman Paul Ryan (R-WI), would investigate disparity in payments for the same type of surgery depending on whether it is conducted under the inpatient or outpatient systems. Rep. Kenny Marchant (R-TX) has a bill that would increase funding for disproportionate share hospitals ("DSHs") in states that have refused to expand Medicaid. Instead of paying DSHs per discharge, hospitals would be reimbursed with a lump sum payment. A fourth bill, also introduced by Rep. Brady, seeks to implement a value-based payment system for post-acute care services. While action on the bills is expected in the coming months, the response from hospital industry stakeholders in Washington has not been enthusiastic.

SHUTDOWN LOOMS AS CONGRESS CONSIDERS SPENDING BILL

Although Congress was focused this week on legislation showing its disapproval of the President's deal with Iran, lawmakers will quickly pivot to debate passage of a spending bill to keep the federal government open beyond September 30. A major potential roadblock is the $528 million in funding for Planned Parenthood, which many Republicans want to cut in the wake of the release of controversial videos showing interviews with Planned Parenthood executives.

Some in Congress have urged leaders to decouple the Planned Parenthood issue from the funding debate and pursue other avenues, such as budget reconciliation, to cut funding for the organization and repeal excise taxes on medical devices. The more likely option to keep the government open appears to be either a short- or long-term continuing resolution.

BILLS INTRODUCED THIS WEEK

Energy and Commerce Health Subcommittee Chairman Joe Pitts (R-PA) introduced a bill (H.R. 3444) targeting Medicaid fraud prevention. Pitts held a Health Subcommittee hearing this week focusing on Medicaid program integrity and closing loopholes in the current system. The hearing focused on this bill and five other Medicaid-related bills, including a bill from Rep. Brett Guthrie (R-KY) that would require the programs to adopt electronic visit verification systems. Another from Rep. Larry Bucshon, M.D., (R-IN) would make it easier for states to report terminated Medicaid providers to CMS.

Congresswoman Renee Ellmers (R-NC) introduced a bill (H.R. 3443) that would prohibit funding of Planned Parenthood under Title X of the Public Health Service Act during a period of review by the Government Accountability Office and Congress.

NEXT WEEK IN CONGRESS

Both chambers return on Tuesday, September 15. The Senate Health Committee will hold a hearing on health information technology and improving health care through patient access to their medical records. Electronic health record reforms will likely be included in the Senate's version of the House 21st Century Cures bill that is expected to be released later this year.

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