

CONGRESS PASSES BILL TO ADDRESS “FISCAL CLIFF”: HOSPITALS SUFFER SIGNIFICANT PAYMENT REDUCTIONS

Late last night, Congress approved a bill to avoid the widespread tax increases and 2% across-the-board spending cuts known as the “fiscal cliff.” While the legislation permanently raises taxes on individuals with incomes over \$400,000 and couples making over \$450,000, it only delays the 2% across-the-board spending cuts (including Medicare reimbursements) for two months and includes significant reductions in hospital payments. President Obama and congressional leaders say they will continue to negotiate a deficit reduction and entitlement reform package before the 2% spending cuts take effect on March 1, 2013.

Meanwhile, the law delays a 27% cut to the Sustainable Growth Rate (“SGR”) formula that funds Medicare physician payments for another year; however, that measure is paid for with \$30 billion in health care funding cuts. It is also worth noting that Congress allowed the moratorium on long-term care hospitals to expire and did not lift the ban on new physician-owned hospitals.

The following are some of the provisions in the new law that will result in health care spending reductions or provider cuts.

DSH Payments. Extends the reduction in Medicaid Disproportionate Share Hospital (“DSH”) payments contained in the Affordable Care Act (“ACA”) for another year.

Increased Statute of Limitations for Recovering Overpayments. Increases the statute of limitations to recover hospital overpayments from three to five years.

Documentation and Coding Adjustment. Recoups past overpayments to hospitals made as a result of the transition to Medicare Severity Diagnosis Related Groups.

Therapy Multiple Procedure Payment Reduction. Reduces payment for subsequent therapies when therapies are provided on the same day.

Adjustment of Equipment Utilization Rate for Advanced Imaging Services. Increases the utilization factor used in the setting of payment for imaging services in Medicare from 75% to 90%.

Payment Adjustment for Non-Emergency Ambulance Transports for ESRD Beneficiaries. Reduces the payment rates for ambulance services by 10% for individuals with End Stage Renal Disease (“ESRD”) obtaining non-emergency basic life support services involving transport.

Repeal of CLASS Program. The Community Living Assistance Services and Supports (“CLASS”) program established by the ACA has been repealed.

Coding Intensity Adjustment. Lowers the statutory coding intensity cut between Medicare fee-for-service and Medicare Advantage by another 0.2% resulting in an additional 1.5% cut to Medicare Advantage payments in 2014.

In addition to funding the current SGR formula for another year, the new law also extends the following Medicare provisions.

Work Geographic Adjustment. Extends the existing 1.0 floor on the “physician work” index through December 31, 2013.

Payment for Outpatient Therapy Services. Extends the “medically necessary” exception to the annual per beneficiary payment limit of \$1,880 for all outpatient therapy services provided by non-hospital providers and the cap to services received in hospital outpatient departments through December 31, 2013.

Ambulance Add-On Payments. Extends the add-on payment for ground ambulance transports in super rural areas through December 31, 2013, and the air ambulance add-on until June 30, 2013.

Extension of Medicare Inpatient Hospital Payment Adjustment for Low-Volume Hospitals. Extends the add-on payment for qualifying low-volume hospitals until December 31, 2013.

Extension of the MDH Program. Extends the Medicare-Dependent Hospital ("MDH") program until October 1, 2013.

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