HALL RENDER'S THIS WEEK IN WASHINGTON – MAY 6, 2016

BRADY WORKING ON BILL TO REVERSE SOME SITE-NEUTRAL PAY CUTS

On May 2, House Ways and Means Chairman Kevin Brady (R-TX) announced his intention to introduce bipartisan legislation that exempts some off-campus hospital outpatient departments from the site-neutral payment cuts that were part of the Bipartisan Budget Act of 2015. According to Brady, the exemption would apply to those facilities that were "mid-build," but he did not give any additional details on how that term would be defined in the bill. The budget legislation prohibits all off-campus hospital outpatient departments not billing Medicare before November 2, 2015 from being reimbursed under the Outpatient Prospective Payment System.

Hall Render has learned that Brady's bill may move the effective date of the site-neutral provision from November 2, 2015 to March 31, 2016. However, that delay alone is believed to cost about $500 million, and Brady hasn't said what provider cuts would be made to cover that amount. To further complicate matters, the House Energy and Commerce Committee has made clear that it claims jurisdiction over this issue and staff on both sides have said they are not inclined to do anything to help hospitals at this time. In addition, Marc Hartstein, director of the Hospital and Ambulatory Policy Group at CMS, and the person in charge of drafting the proposed rule that will implement the site-neutral policy, announced this week that he is retiring from the agency on July 1. If Congress decides to address the issue at all this year, it will most likely be as part of a large spending bill that moves after the November election.

HOUSE COMMITTEE MEMBERS URGE CMS TO WITHDRAW PART B DRUG PAYMENT MODEL PROPOSAL

On May 2, House Budget Committee Chairman Tom Price (R-GA), along with 239 other members of the House of Representatives, sent a letter to CMS urging the agency to withdraw its proposal for a Medicare Part B drug payment model. CMS issued a proposed rule changing reimbursement rates for Part B medications on March 8.

Under the proposal, the Part B payment model would be implemented as a mandatory demonstration project in most Primary Care Service Areas throughout the country. Under the proposed model, providers could face acquisition costs that surpass the Medicare reimbursement amount for certain drugs. Currently, Medicare pays for Part B drugs by reimbursing providers the Average Sales Price ("ASP") of the drug plus an additional six percent. The new policy would pay providers the ASP, plus an additional two percent and a flat fee of $16.80 per drug per day. CMS's proposal could result in some drugs only being reimbursed at ASP plus the $16.80 flat fee due to sequestration and prompt pay discounts.

NEW LEGISLATION WOULD REMOVE DIRECT SUPERVISION REQUIREMENT FOR RURAL HOSPITALS

On May 3, Rep. Lynn Jenkins (R-KS) introduced the Rural Hospital Regulatory Relief Act (H.R. 5164) to permanently prohibit the enforcement of direct supervision requirements for outpatient therapy services provided in critical access and rural hospitals with 100 or fewer beds. CMS currently requires hospitals to perform most outpatient therapeutic services under the direct supervision of a physician or other qualified health care provider. The Jenkins bill would extend the enforcement moratorium of CMS's direct supervision policy and adopt a general supervision standard for critical access and small rural hospitals to account for the shortage of health care providers in such facilities.

BIPARTISAN BILL INTRODUCED TO STRENGTHEN RURAL HEALTH CARE NETWORKS

On April 29, Reps. Cresent Hardy (R-NV) and Terri Sewell (D-AL) introduced a bill (H.R. 5133) to improve rural health services by providing support to existing rural hospitals, incentivizing the construction of new rural facilities and directing HHS to monitor health disparities in rural areas.

The Rural Health Enhancement and Long Term Health ("HEALTH") Act of 2016 would also reauthorize the State Offices of Rural Health ("SORH") grant program, which has not happened since the program was created in 1992. If the bill is passed into law, the SORH grant program would be authorized to receive $15 million in increased funding for five years to improve state rural health delivery systems. The legislation would also establish a provision within the SORH program that allows matching grants up to $100,000 for updating existing hospitals and building new facilities in rural areas.

The Rural HEALTH Act requires HHS to submit a report to Congress annually on the state of the country's rural health care system and all 50 SORHs. The agency must review each special hospital designation and include in its report the number and cause of rural hospital closures

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within the last year. HHS has not issued a report on rural health to Congress and the SORHs since 2003.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Larry Bucshon (R-IN) introduced legislation (H.R. 5122) to prohibit action on the proposed Medicare Part B payment model. The bill would prevent CMS from testing the new model, which includes significant cuts to Part B drug reimbursement.

Rep. Gus Bilirakis (R-FL) introduced a bill (H.R. 5145) to exclude abuse-deterrent formulations of prescription drugs from the Medicaid additional rebate requirement for new formulations of prescription drugs.

NEXT WEEK IN CONGRESS

The Senate and House return next week after a one-week recess. On Wednesday, May 11, CMS Acting Administrator Andy Slavitt will testify before the House Ways and Means Health Subcommittee regarding the agency's proposed rule implementing MACRA. Also on Wednesday, the House Energy and Commerce Health Subcommittee will hold a hearing examining health plans under the ACA.

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