Health Policy Update – April 8, 2020

Congress Begins Discussions on Next COVID-19 Relief Bill

Bipartisan leaders in Congress are working to finalize another relief bill to help individuals, businesses, healthcare providers, and state and local governments weather the COVID-19 pandemic.

Republican leaders would like to move quickly to provide an additional funding to the recently-launched Paycheck Protection Program, which provides loans to small businesses impacted by the outbreak to cover payroll and expenses. Democrat leaders would like to see a portion of the small business loans be directed towards community-based financial institutions and for the bill to include additional funding for healthcare workers, state and local governments, and nutrition assistance. Congress could act as soon as this week on this next package.

Administration Rejects ACA Special Enrollment Period as Some States Re-Open Their Own Exchanges

The Trump administration has decided not to re-open the ACA health insurance exchanges for a special enrollment period for uninsured Americans during the coronavirus pandemic. Several states that operate their own exchanges have already moved forward or have stated their intentions to move forward with a special enrollment period, citing the importance of beneficiaries having health coverage during the COVID-19 pandemic.

The decision to not move forward with the special enrollment will not prevent individuals who lose their job-based health insurance coverage from signing up on the marketplace. Under the ACA, job loss is a qualifying life event, making individuals eligible to obtain coverage from the exchanges as long as they can show proof of prior coverage. A special enrollment period would not require documentation of prior coverage.

COVID-19 Puts Strain on Independent Medical Practices

Recent press reports have highlighted the strain COVID-19 is placing on independent physician groups. Independent practices that have resisted selling to hospitals despite years of increasing provider consolidation, have already weathered various reimbursement cuts, disadvantageous Medicare facility fees, costly EHR implementations and more, often leaving them with razor-thin margins.

These practices now face new challenges, as they experience a drastic decrease in patient volumes as visits are cancelled or postponed to reduce the risk of exposure to COVID-19. Some groups have seen in-person visits drop 60 percent. Practices have also seen sharp drop-offs in surgical procedures in response to state and federal guidance urging hospitals to stop elective procedures.

While the Centers for Medicare and Medicaid Services (CMS) has relaxed prior regulations on telehealth, not all visits can be done remotely, and smaller practices may not have the capability for telehealth at all.

To read more in Modern Healthcare and Healthcare Dive, **CLICK HERE** and **HERE**.

To read more from CNBC, **CLICK HERE**.

Drug Pricing Legislation Not Included in Latest COVID-19 Relief Bill, Next Opportunity Likely Post-Election

On March 27, President Trump signed into law the third COVID-19 relief bill, which totaled more than $2.2 trillion. The package included some of the must-pass “extenders” that were scheduled to be debated and passed in May. The May deadline was previously seen by many as the best opportunity to pass bipartisan drug pricing and surprise billing legislation, but they will now have to wait until November for another opportunity to pass significant legislation to reduce the burden many Americans face in paying for healthcare—a top concern for voters. Because the new deadline to pass the extenders package is November 30—amid a lame duck session of Congress—Beltway insiders are skeptical that surprise billing and drug pricing measures could pass.

According to Congressional sources, maintaining the political status quo (i.e. the President is reelected and Republicans keep control of the Senate) would create the best circumstance for passing drug pricing legislation because Senator Chuck Grassley (R-IA), Chairman of the Finance Committee, will give up the gavel at the end of this session. Grassley wrote the Senate’s leading drug pricing bill and has urged GOP Senators to support it to help shore up their reelection campaigns, yet his successor on the Finance Committee is not expected to continue the effort.

To read more about the status of the drug pricing and surprise billing legislation, **CLICK HERE**.

Study Finds Oncology Clinical Pathways Decrease Costs in Oncology-Specific APMs

On March 24, *JCO Oncology Practice* (JCO OP) published a new study that found using clinical pathways in an oncology-specific alternative payment model (APM) can help decrease the cost of cancer care. In examining whether or not voluntary use of clinical pathways by a practice can maximize Oncology Care Model (OCM) episodic cost savings, the researchers found that the median drug spend for the community oncology practice they studied (Cancer Care Specialists of Illinois, or CSSI) increased more slowly (18.6%) for CSSI than all of OCM participating practices (34.4%) between 2017 and 2019.

Moreover, the percent difference in drug spend for CCSI relative to OCM decreased from 13.5 percent to 0.1 percent, while there was approximately a 1.7 percent decrease in drug spending per quarter compared to other practices participating in the OCM. During the period between October 2017 and December 2019, CCSI achieved an increase in pathway adherence from 69 percent to 81 percent. The study authors note that since the launch of the OCM, oncology practices have concentrated on the use of care coordination to reduce preventable emergency department visits, inpatient hospitalizations, and inpatient post-acute care, but less attention has been devoted to reducing drug spend due to a perception that drug prices are outside the control of the oncologist. The results suggest that reduction in drug spending is possible within a value-based care model, using evidence-based clinical pathways

To read the study, **CLICK HERE**.

To read a press release about the study, **CLICK HERE**.

CMS Defends Price Transparency Rule in Federal Court

On March 24, attorneys representing the Centers for Medicare & Medicaid Services (CMS) and the Department of Health and Human Services (HHS) filed a legal brief that argued the agencies’ final rule requiring hospitals to disclose their prices in the interests of transparency and lowering healthcare prices does not infringe on their First Amendment rights, nor does compliance to the rule generate undue administrative costs.

In dismissing hospitals' arguments that the rule imposes major administrative burdens, the government brief notes, "The rule shifts to hospitals some of the burden that patients currently have to bear. That is not the problem. That is the point." The government further noted, "Requiring a business to disclose the prices it charges raises no difficult First Amendment issues under established precedent. Indeed, this case is a particularly poor fit for searching forms of First Amendment scrutiny because the burden on plaintiffs' speech is negligible."

The case, *American Hospital Association v. Azar*, No. 1:19-cv-3619, represents an appeal following a district court decision that the rule exceeded CMS' statutory authority. A hearing on the legality of the rule is scheduled for April 22 the U.S. District Court for the District of Columbia.

To read the government's brief, **CLICK HERE**.