

Health Policy Update – November 19, 2019

Medicare Part B Premiums to Increase in 2020

On November 8, the Centers for Medicare & Medicaid Services (CMS) released 2020 premiums, deductibles, and coinsurance amounts for the Medicare Part A and Part B programs. The standard monthly premium for Medicare Part B enrollees will be \$144.60 for 2020, an increase of \$9.10 from \$135.50 in 2019, and the annual deductible will increase by \$13 to \$198 in 2020. According to CMS, the increase in Part B premiums and deductible is related to the rising spending on physician-administered drugs.

To read CMS' news release on the Part B premium increase, [CLICK HERE](#).

CMMI Extends Oncology Care First Model Comment Deadline to December 13

The Center for Medicare and Medicaid Innovation (CMMI) has extended the deadline for stakeholders to provide feedback on the proposed Oncology Care First (OCF) model to Friday, December 13. As the successor plan to the Oncology Care Model (OCM), which expires in 2021, the OCF is a voluntary, five-year episode-of-care payment model for medical oncology to be tested in practices throughout the country between 2021 and 2025.

CMS announced the proposed model earlier in November when it released a Request For Information (RFI) asking stakeholders to weigh in on the proposal. The model will build upon both the OCM and oncology-related proposals submitted to the Physician-Focused Payment Model Technical Advisory Committee (PTAC).

To read CMS' announcement of the deadline change, [CLICK HERE](#).

To read the RFI, [CLICK HERE](#).

HHS Defends 340B Payment Cuts in Court

On November 8, the Department of Health and Human Services (HHS) asked the U.S. Court of Appeals for the District of Columbia Circuit to uphold its reimbursement cuts to providers under the 340B drug discount program, arguing Congress gave it the authority to make the changes.

After a federal district court ruled that HHS' payment changes were unlawful in May, the Department appealed, claiming that it has the authority to adjust 340B drug reimbursements just like it can change any other payment under the Outpatient Prospective Payment System (OPPS). However, the appellate court judges seemed skeptical, noting that HHS did not change 340B reimbursement rates according to the methods Congress wrote into legislation, but rather using a different formula. The government also argued that HHS should not be compelled to overpay the 340B hospitals for drugs.

The American Hospital Association, which is one of the plaintiffs who brought suit against CMS, asked the court to decide the case before the end of the year in order to ensure 340B payments in 2020 can fall in line with the ruling.

MedPAC Highlights Hospital Consolidation In New Analysis

At its November public meeting, the Medicare Payment Advisory Commission (MedPAC) held a session to discuss hospital consolidation and its implications for the Medicare program. The Commission noted that one factor affecting provider consolidation is the disparity between the rates Medicare pays for care provided in a physician office compared with a hospital outpatient department. This provides an incentive for hospitals to acquire smaller practices and convert them into outpatient facilities in order to bill Medicare at the higher rate. The report also noted that the service shift from offices to higher-priced hospital-outpatient departments has increased beneficiary cost sharing.

MedPAC's findings will be included in its March 2020 report to Congress, as requested by the House Energy and Commerce Committee in 2017. The commission's report will also examine the 340B drug discount program's impact on provider consolidation.

While policies to address these disparities by implementing payment neutrality among sites of service for certain physician services were included in this year's Hospital Outpatient Prospective Payment System final rule for CY2020, a federal court struck down similar policies earlier this year. However, the government is currently appealing the district court's decision, and White House Domestic Policy Council Director Joe Grogan told reporters at an event last week that he is confident the Administration will prevail. Grogan also said, "At the very least it highlights a legal change that should be made and we can go to Congress and say, 'Hey listen the courts are sticking it to us here or there and you need to clarify the law because we're on the right track here.'"

To view MedPAC's presentation on hospital consolidation, [CLICK HERE](#).

HHS Releases Price Transparency Rules

On Friday, November 15, the Trump Administration issued two rules aimed at increasing price transparency to empower patients and increase competition in the healthcare marketplace. The rules are pursuant to President Trump's Executive Order on Improving Price and Quality Transparency in American Healthcare issued in June. The first would finalize an earlier proposal to require hospitals to make their standard charges public. The second is a proposed rule to require health plans to provide consumers out-of-pocket cost estimates prior to receiving care. The proposed rule would also require health plans to publicly post in-network negotiated rates and historical payments of allowed amounts to out-of-network providers.

Shortly after the final rule's release, four major hospital organizations said they would challenge it in court. "This rule will introduce widespread confusion, accelerate anticompetitive behavior among health insurers and stymie innovations," according a joint statement from the group.

Insurers also pushed back against the proposed rule. "The publication of negotiated rates for medical services may have negative, unintended consequences – including price increases – as clinicians and medical facilities could see in the negotiated payments a roadmap to bidding up prices rather than lowering rates," said Scott Serota, president and CEO of the Blue Cross Blue Shield Association.

To read the CMS fact sheet on the Hospital Transparency Final Rule, [CLICK HERE](#).

To read the CMS fact sheet on the Insurer Transparency Proposed Rule, [CLICK HERE](#).

Op-ed: Reforming CMMI is Not a Partisan Issue

On November 6, former Senator Joe Donnelly (D-IN) published an op-ed in Morning Consult urging greater Congressional oversight for the Center for Medicare and Medicaid Innovation (CMMI). Noting the CMMI has sometimes tried to enact policies that stretch beyond its authority and that its director has never testified before the Senate, Senator Donnelly wrote, “CMMI should be a transparent, reviewable and accountable agency focused on improving the quality of health care at the most affordable costs.”

While he believes CMMI is a powerful tool to measure health care outcomes and effectively use data to update federal policy, he believes CMMI has often exceeded its authority. Specifically, he cited a letter sent by him and 13 of his Senate colleagues to CMS Administrator Seema Verma about how CMMI was attempting to change the Medicare rules for out-of-pocket costs without an act of Congress, something far beyond its authority. Moreover, Senator Donnelly expressed concern about the lack of sufficient notice or ability to opt out of CMMI demonstrations, as well as concerns about the potential for older patients and Americans with disabilities to be adversely affected by experimental programs.

Senator Donnelly calls on Congress to exercise stringent oversight of CMMI to ensure it is protecting patients, maintaining transparency and accountability, and is not delegating its authority to the executive branch.

To read Senator Donnelly’s op-ed, [CLICK HERE](#).

Stephen Hahn Nominated to FDA Commissioner

On November 5, the Trump Administration formally nominated Dr. Stephen Hahn to be the next commissioner of the U.S. Food and Drug Administration by sending his nomination to the U.S. Senate for consideration. Hahn currently serves as the chief medical executive of The University of Texas MD Anderson Cancer Center in Houston. The Senate Health, Education, Labor and Pensions (HELP) Committee is set to hold its confirmation hearing on Hahn’s nomination on November 20.

Ned Sharpless, who has served as acting commissioner of the FDA since Scott Gottlieb’s departure earlier this year, will return to his role as the director of the National Cancer Institute. By law, Dr. Sharpless could only serve as acting commissioner for a total of 210 days. Dr. Brett Giroir, the assistant secretary for health at the US Department of Health and Human Services, will take over as acting commissioner.