

Health Policy Update – February 8, 2019

Healthcare, Drug Prices Featured in State of the Union Address

In his second annual State of the Union Address to Congress, President Donald Trump addressed several healthcare issues. Specifically, the President vowed to continue his Administration's efforts to bring down prescription drug costs and urged Congress to pass legislation requiring insurers, hospitals, and drug companies to disclose their prices to consumers. He also pledged to end the HIV epidemic and launch a new plan to increase funding for childhood cancer research.

On drug prices, President Trump touted ongoing efforts meant to bring down costs for consumers, such as his proposals to address global freeloading and to eliminate Medicare prescription drug rebates.

The President also set a goal to reduce new HIV transmissions by 90 percent by 2030, outlining a ten-year plan to target 48 high-transmission "hot spots" around the country with extra resources and funding. This pledge will likely be accompanied by a restoration of funds that were shifted away from HIV prevention in 2017 and 2018.

Noting that "many childhood cancers have not seen new therapies in decades," President Trump urged Congress to dedicate \$500 million in new funding for childhood cancer research over a 10-year period through agencies such as the National Institutes of Health (NIH). The agency is on track to spend an estimated \$462 million on childhood cancer in 2019.

To view a recording of the State of the Union address, [CLICK HERE](#).

HHS Moves to Address Drug Rebates in Medicare Part D

Last week, the Department of Health and Human Services (HHS) released a proposed rule to encourage drug manufacturers to pass negotiated discounts directly on to patients instead of through rebates to Pharmacy Benefit Managers (PBM). The rule would no longer shield PBMs from federal anti-kickback laws and seeks to create new safe harbors to protect price reductions provided to patients at the pharmacy counter and fixed service fees in PBM arrangements. Because only three PBMs control 70 percent of the prescription drug benefits market, the rule could effectively eliminate the complex system of rebates and price concessions that currently exist in most Medicare Part D plans.

The rule would likely also affect drug rebates in private plans since it requires drug manufacturers to offer the same rebates to private plans as it does to Medicare.

In a statement announcing the rule's introduction, HHS Secretary Alex Azar urged Congress to enact legislation to accompany this rule which would strengthen and clarify its intent. It would also fend off legal challenges likely to be brought by PBM stakeholders who argue HHS doesn't have the statutory authority to change the rebate system without an act of Congress.

Comments on the proposed rule are open until April 8, 2019.

To view the proposed rule, [CLICK HERE](#).

To read a fact sheet on the proposed rule, [CLICK HERE](#).

House, Senate Committees Hold Hearings on Drug Prices

On January 29, the House and Senate both held separate hearings to examine ways to address the rising costs of drugs. During the hearings, which featured patient advocates and academics, the Senate Finance and the House Oversight and Reform Committees both highlighted the high cost of insulin and ways to use Medicare and Medicaid to discourage pharmaceutical companies from setting high drug prices.

Across the board, there was bipartisan consensus that drugs in the United States are becoming increasingly unaffordable for many Americans and that Congress needs to implement reforms to provide relief. Throughout the hearings, members of Congress and experts discussed reforming the patent system and exclusivity rules that give pharmaceutical companies monopoly rights; disrupting the current rebate system; reforming physician reimbursement under Medicare Part B; and, allowing Medicare Part D to negotiate drug prices.

Congress has vowed to continue investigating rising drug prices. The Senate Finance Committee scheduled another hearing on the issue on February 26. Finance Committee Chairman Charles Grassley (R-IA) has invited executives from seven drug companies to testify. Meanwhile, the House Ways & Means Committee will convene on February 12 to discuss drug costs.

Hospital Groups Sue HHS Over Site Neutral Payment Policy

On January 18, a group of 38 hospitals initiated a lawsuit against the Department of Health and Human Services (HHS), arguing that the agency overstepped its authority in finalizing new site neutral payments as part of the 2019 outpatient prospective payment system (OPPS) rule.

CMS cited its authority under the law to control unnecessary increases in the volume of covered hospital outpatient department services to expand site neutral payments for all clinic visit services provided at an off-campus provider-based department. The payment policy will be phased-in over a 2-year period. In CY2019, CMS will reimburse clinic visits at excepted off-campus provider-based departments (PBDs) at 70 percent of the OPPS rate or \$81. In CY 2020 and subsequent years, CMS will reimburse all clinic visits at off-campus PBDs at 40 percent of the OPPS rate or \$46.

In the court filing, the hospitals argue Congress specifically intended to pay excepted and non-excepted facilities different rates. The hospitals also argue the new policy is not implemented in a budget neutral manner and will deprive them of \$380 million in 2019 and \$760 million in 2020.

To view the court filing for the case, [CLICK HERE](#).

Study: Hospital Price Growth is Major Driver of U.S. Healthcare Spending

On February 4, *Health Affairs* published a new study suggesting hospital prices are the most significant driver of healthcare spending inflation in the United States. Between 2007 and 2014, physician prices for inpatient care grew by 18 percent and by 6 percent for outpatient hospital-based care. In comparison, hospital prices for inpatient care ballooned 42 percent and 25 percent for outpatient hospital-based care.

The researchers found that healthcare spending grew 3.9 percent to \$3.5 trillion in 2017, consuming nearly one-fifth (18%) of U.S. gross domestic product. Hospital costs, driven in part by consolidation, accounted for 33 percent of total healthcare spending or roughly 6 percent of total GDP. According to the Centers for Medicare & Medicaid Services (CMS), these trends will continue. Healthcare inflation in the U.S. is projected to grow by an average of 5.5 percent annually from 2017 to 2026, ultimately reaching \$5.7 trillion by 2026.

"What is most worrying to me is that there has been fairly profound consolidation among hospitals and when they gain market power they have the ability to raise prices," said Zack Cooper, a study co-author and an associate professor of health policy at Yale University. "They have the ability to gain more favorable contractual terms, which allows them to raise prices and resist the new, more sensible payment reforms."

To read the study in *Health Affairs*, [CLICK HERE](#).