

NEWSSTAND

Healthcare Update - Healthcare News from Capital Hill and the Department of Health and Human Services

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In advance of a June 18 deadline for comments, top hospital groups expressed strong opposition to proposed payment cuts issued by the Centers for Medicare and Medicaid Services (CMS). The following week, President Obama announced a set of regulations that will implement various provisions of the recently-enacted healthcare reform law (Public Law 111-148) relating to pre-existing conditions, lifetime coverage limits and other patient protections.

HOSPITALS OPPOSE CMS PAYMENT CUT PROPOSAL:

In its inpatient prospective payment system (IPPS) proposed rule for Fiscal Year (FY) 2011, CMS set forth a proposed 2.9 percent cut to adjust for payments that the agency estimates were made due to coding and documentation changes related to alterations in the Medicare-Severity Diagnosis-Related Groups (MS-DRGs) used in determining IPPS reimbursement amounts. This section of the proposed rule – released in May – would amount to a \$3.7 billion cut across the hospital industry in order to recoup a portion of the payments that CMS asserted were made in FY 2008 and FY 2009 due to coding and documentation changes that did not accurately reflect increases in illness severity.

In response to this portion of the IPPS proposed rule, leading hospital groups submitted written comments that reflect strong opposition to the cuts, stating that the methodology used to determine the amount to be recovered was “erroneous.” The groups – including the American Hospital Association, the Federation of American Hospitals, and Premier Inc. – cited an evaluation that found areas of concern in CMS’ methodology, such as the short time period of patient claims data that was used in determining coding adjustments.

The official deadline to comment on the FY 2011 IPPS proposed rule has passed, and CMS is expected to issue a final rule later this summer.

PRESIDENT UNVEILS “PATIENTS’ BILL OF RIGHTS”:

Following a closed-door meeting with state insurance commissioners and leading insurance companies, President Obama and top Administration officials unveiled a set of insurance-related regulations on June 22. The rules – dubbed the Patients’ Bill of Rights – were issued by the Internal Revenue Service, the Department of Health and Human Services’ Office of Consumer

Information and Insurance Oversight, and the Department of Labor's Employee Benefits Security Administration.

The Obama Administration timed the rollout of the regulations to coincide with the 90-day anniversary of the enactment of the healthcare reform measure, and is the latest in a series of recent events designed to emphasize beneficial provisions of the new law.

The rules provide that insurers offering group health insurance and group health plans may not impose coverage exclusions based on pre-existing conditions, and will begin to take effect on September 23, 2010. In addition, the rules will prevent the same insurers and group health plans from establishing lifetime coverage limits on essential benefits, will prohibit recessions in coverage to those individuals, families and groups that are already covered, and would provide further patient protections relating to practices such as premium increases.

NEXT STEPS:

We will continue to monitor Congress, CMS and other relevant federal agencies as the implementation of healthcare reform moves forward and other related matters are considered, and will continue to provide timely updates as new developments occur.

Edwards Angell Palmer & Dodge LLP is pleased to provide regular updates on issues affecting the Healthcare Industry. Our lawyers not only provide sophisticated legal services to a broad array of clients in the healthcare industry, we also monitor and analyze federal and state legislative and regulatory processes to ensure that our clients are informed of government actions and initiatives.

Should you have any questions on the content of this advisory, or wish to discuss any other healthcare related issue, please contact those listed below or call the Edwards Angell Palmer & Dodge LLP attorney responsible for your affairs.

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