

NEWSSTAND

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

July 12, 2010

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In late June, two Members of Congress requested that the Centers for Medicare and Medicaid Services (CMS) expedite the implementation of a Medicare home care demonstration project. In other CMS news, the agency issued a proposed outpatient hospital rule in early July, and during Congress' July 4th recess, President Obama made the decision to officially appoint his CMS Administrator.

LAWMAKERS REQUEST SPEEDY IMPLEMENTATION OF HOME CARE DEMO:

The new healthcare reform law (Public Law 111-148) authorized the Independence at Home demonstration program – a program designed to enable Medicare beneficiaries with multiple chronic conditions to maximize their independence and meet their specific needs by bringing coordinated physician- and nurse practitioner-led primary care teams to their homes. The law will provide a total of \$25 million for the demonstration program and sets a 2012 deadline for implementation.

In late June, however, the program's authors – Senator Ron Wyden (D-OR) and Congressman Edward Markey (D-MA) – wrote to CMS, urging the agency to implement Independence at Home within six months. The two noted that the program should be put in place expeditiously because it has the potential to help chronically-ill Medicare beneficiaries who often receive disjointed and unnecessarily costly care. In addition, the lawmakers noted that the program's funding will be available beginning this year.

CMS has stated that it is committed to implementing this and other provisions of the new healthcare law as soon as possible.

MEDICARE OUTPATIENT HOSPITAL PAYMENTS TO INCREASE:

On July 2, CMS issued a proposed rule relating to outpatient hospital payments, in addition to covering the implementation of various provisions of Public Law 111-148. Specifically, the rule would increase payments to more than 4,000 outpatient hospital facilities by 2.2 percent – paying such facilities an estimated \$40 billion in 2011. CMS also proposed adding six quality measures to those that must currently be reported by outpatient hospitals, bringing the total 17. Such measures include claims-based imaging efficiency measures, an emergency department measure and a measure based on health information technology.

With regard to graduate medical education (GME), the proposed rule would implement the provisions in the new healthcare law that require the redistribution of unused residency slots to certain hospitals with qualified residency programs, in a manner that emphasizes an increase in primary care physicians. Further, the proposed rule also touches on the physician self-referral provisions of the healthcare law – notably by limiting the expansion of current physician-owned hospitals and narrowing other rules relating to such facilities.

Comments on the proposed rule are due by the end of August, and CMS is expected to issue a final rule by November 1.

CMS ADMINISTRATOR NAMED IN RECESS APPOINTMENT:

When Members of Congress left town for the 4th of July holiday, President Obama used the opportunity to make several so-called “recess appointments,” including that of Dr. Donald Berwick to the position of CMS Administrator. Such a step allowed the Administration to sidestep a potential confirmation battle in the Senate, and will allow Dr. Berwick to serve as the head of CMS through 2011, as the agency works to implement healthcare reform.

NEXT STEPS:

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

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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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