The Independent Payment Advisory Board: A Potential Game Changer in Health Care Reform

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Practice Points

- Proponents of the Independent Payment Advisory Board (IPAB) believe it is a necessary ingredient to reign in unsustainable Medicare costs, helping Medicare provide better care at lower costs. They also believe it will take the hard decisions out of the hands of Congress, insuring that specific action will be accomplished, and insist that IPAB is specifically prohibited by law from recommending any policies that ration health care.
- Opponents of the IPAB believe that practicing physicians' interests will not be fully represented on the 15-member panel, and it has been given unprecedented and dangerous power to cut Medicare rates and curb access to health care. They argue that IPAB will worsen the quality of health care by reducing pay to physicians when targeted growth rates are exceeded and insist that IPAB will ration care by restricting access to seniors through payment policy.

A controversial provision of the Patient Protection and Affordable Care Act (PPACA) is the creation of the Independent Payment Advisory Board (IPAB).[1] The IPAB has been lauded by some as instrumental in separating the control of health care costs from political pressures. On the other hand, it has been deplored by others as a unilateral authority with far-reaching power whose decisions are exempt from judicial and administrative review. The IPAB essentially was created to absolve Congress of having to make tough decisions that would help control Medicare costs but would impact quality of care and access to health care for senior citizens.[1] In this article, I will discuss how the IPAB will influence a physician's ability to render timely and quality health care for Medicare patients if the IPAB is fully implemented.

How the IPAB Operates

The IPAB is composed of a 15-member panel of health care experts appointed by the president of the United States with the advice and consent of the Senate.[1] The panel can include but is not confined to allopathic and osteopathic physicians. Members must be individuals who have received national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, and health facilities reimbursement. It is important to note that individuals directly involved in providing Medicare services may not constitute a majority of the IPAB, thereby limiting the participation of practicing Medicare physicians.[1]

The IPAB is charged with making recommendations to reduce growth in Medicare spending while enhancing quality of care. Specifically, the IPAB must develop proposals that will improve the health care delivery system and health outcomes, protect and improve Medicare beneficiaries' access to necessary and evidence-based items and services, and target reductions in Medicare spending to sources of excess cost growth.[2] These proposals will be in response to specific spending growth targets that will be measured annually by the chief actuary at the Centers for Medicare & Medicaid Services. The actuary will calculate a Medicare per capita growth rate and a target

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rate defined by the statute. Starting in 2019, growth targets will be pegged to gross domestic product plus 1 percentage point.[1]

If Medicare spending exceeds the established growth target, the IPAB is required to act by submitting a cost-savings proposal to Congress using a specially formulated fast-track process described in the statute. The proposal would become law unless Congress passes an alternative with the same level of savings or overrides the proposal with a three-fifths vote in the Senate.[3] Interestingly, the IPAB cannot recommend rationing health care services, raising patient premiums or fees, or restricting benefits or altering eligibility criteria.[1] The IPAB's options are reduced to decreasing fee-for-service pay rates, cutting subsidies to Medicare private insurers and drug plans, and implementing health care delivery reforms.[3]

Proponents Speak Highly of IPAB

Proponents of the IPAB truly believe it is necessary in making the PPACA affordable and reigning in unsustainable Medicare costs. Experts in many circles of government generally have applauded the IPAB as essential to helping Medicare provide better care at lower costs. Health economist Uwe Reinhardt has commented that given the "dubious style of campaign financing of which we all are victims now," an independent Medicare commission is the country's only hope for restraining Medicare spending.[4] Nancy-Ann Min DeParle, the White House deputy chief of staff for policy from 2011 to 2013, made note that experts from The Commonwealth Fund as well as a coalition of economists including 3 Nobel laureates claim that inclusion of the IPAB in the PPACA has the greatest promise of slowing the growth of the government's health care budget outlays and underlying health care cost trends.[5] Jessica Santillo, a spokesperson for the US Department of Health and Human Services, has stated that the Congressional Budget Office has estimated that the IPAB will save $15.5 billion by 2019.[2]

Supporters of the IPAB argue that taking the hard decisions out of the hands of Congress will insure that specific action will be accomplished. They point to the fact that Congress has repeatedly failed to hold Medicare spending in check, which has resulted in an expected Medicare insolvency within the next 10 years. They maintain that Congress still has the power to accept or reject the IPAB's recommendations, though congressional debate is severely limited because of the fast-track process.[1] Proponents insist that the IPAB is specifically prohibited by law from recommending any policies that ration care. They also attempt to placate opponents by pointing to the projections of the Congressional Budget Office that spending targets will not be eclipsed for some time if expected trends in Medicare costs hold, and the IPAB would not be responsible for drafting a savings plan until at least 2021.[6]

Serious Opposition Remains

Opponents of the IPAB, including many physicians, argue that it has been given unprecedented and dangerous power to cut Medicare pay rates and curb patients' access to care. The unilateral authority granted to the independent and unelected individuals on the panel means their decisions cannot be challenged in court and require no public notice or review.[7] The IPAB's recommendations are meant to carry the full force of the law, unless two-thirds of Congress vote to override. Members of Congress also are waking up to the fact that their influence on effecting change in Medicare costs and quality of care will be greatly curtailed if the IPAB is fully implemented.

Practicing physicians are worried their interests will not be fairly represented by the IPAB. The statute specifically states that individuals who are directly involved in providing the delivery of Medicare items and services may not constitute a majority of IPAB's membership. Also limiting the ability of physician Medicare providers to sit on the panel is the provision that no IPAB member shall be engaged in any other business, vocation, or employment during their tenure.[1]

Opposition remains strong among physicians; first and foremost, the IPAB is commissioned to reduce Medicare costs when a specific spending target is surpassed. In the event that IPAB action is required, the panel is limited to essentially reducing the payment rates of health care providers because the IPAB cannot ration care, raise patient premiums or fees, or restrict benefits or alter eligibility criteria. Because hospitals are exempt from IPAB recommendations until 2020,[8] physicians and other health professionals are the only ones exposed to pay cuts in the initial years of the IPAB.

Physicians already are burdened with another targeted growth rate recipe. The sustainable growth rate formula (SGR) has been threatening Medicare providers with up to 30% decreases in reimbursement over the last several years, only to be bailed out by Congress at the last minute. With the SGR as an albatross around the neck of the physician community, why would any practicing physician want to experience another spending target system, especially one without due process of congressional oversight? In fact, the IPAB has been referred to as "SGR on steroids."[9]

Although supporters of the IPAB claim the panel will have the authority to not only reduce Medicare costs but also improve the quality of health care, critics argue that reducing pay to physicians will in fact worsen the quality of care and restrict access to

care for seniors. Congressman Phil Roe, MD, insists the IPAB will ration care through payment policy. To save money, for example, IPAB will cut Medicare rates to physicians, hospitals, and other health professionals, forcing them to stop accepting new Medicare patients.[10] Congressman Tom Price, MD, determined that the only way to effectively cut Medicare costs is by limiting innovation or utilization, both of which will penalize our seniors. A decrease in innovation means fewer new and more effective treatments available to Medicare recipients, and a decrease in utilization means reduced access to their physicians' valued care.[9]

Serious Doubts Exist About Timely Implementation

Although the IPAB is set to begin issuing proposals to reduce Medicare expenditures to achieve target savings in 2014,[1] it now appears highly unlikely the panel will be in place by then. Since the PPACA was passed in 2010, there has been legislation introduced in the House of Representatives to repeal the IPAB. Since then, there have been several attempts by the House of Representatives to pass an anti-IPAB bill, only to be turned down by the Senate.[3] Organized opposition is, however, getting stronger every day. Almost all health care professional societies, including the American Academy of Dermatology, have gone on record opposing the IPAB and recommending repeal.[1,2,7]

The most obvious reason IPAB is not yet up and running is the 15-member nomination and appointment process. All 15 members of the panel need to be appointed by the president and confirmed by the Senate. Upon observing the politics in Washington, DC, one can easily surmise how long the process is likely to take to fill the board. Republican leadership in both the House of Representatives and Senate have agreed to withhold their nominations.[6]

According to the Congressional Budget Office, there is no rush for the Obama administration to find and confirm candidates, as it reported in early 2012 that Medicare would remain below the spending targeted threshold,[11] which would insure that the IPAB would not be needed to inaugurate its cost-cutting responsibilities in the near future.[6] Good news if it holds true.

Final Thoughts

As a practicing dermatologist, I am concerned about the ability of the IPAB to effectively reduce Medicare costs and improve quality of care for my Medicare patients. I envision this panel of unelected and largely nonphysician members with overreaching power and independent authority to reduce provider payments[12] as a dangerous precedent for the future of our health care system. Strangling access to quality health care looms as a substantial probability under the watchful eye of this independent advisory board. If implemented as initially planned in the PPACA, the IPAB certainly has the potential to be a game changer in the future of health care reform.

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