

Liability, Medicare Top Health Policy Issues in 2005

BY THE PRACTICE
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While medical liability and health care reform remain the top issues for many physicians this year, of particular urgency is a fix to Medicare's flawed payment formula, which threatens cuts of up to 5% in 2006 and cumulative cuts of 30% through 2012.

"It's certainly one of our top priorities for the coming legislative year," Paul Speidell, government affairs representative for the Medical Group Management Association (MGMA), told this newspaper. Health information technology and other capital investments "are all thrown into question for the physician practice community when you're looking at cuts that major," he said.

The issue should generate widespread interest, as "every member of Congress has physicians and Medicare beneficiaries in their district," Mr. Speidell said. All of the physician groups who spoke with this newspaper detailed grassroots and other efforts to get Congress to avert the cuts.

The Medicare physician fee schedule "is a likely subject for our committees and it's possible we'll do hearings" on the issue this year, although no specific agenda has been discussed, Jon Tripp, deputy communications director with the Energy and Commerce Committee, said in an interview.

An ideal scenario would be to scrap the sustainable growth rate (SGR), a component in the physician pay formula that determines each year's update, and to "look toward a vision of paying for performance and rewarding quality," a Senate aide told this newspaper.

That approach comes with a high price tag: The Congressional Budget Office estimates it would cost \$95 billion to replace the SGR. Exploring that option "really all depends on what the budget outlook is for this year," the aide said.

No matter what the cost, the fix needs to be done, Robert Doherty, senior vice president for governmental affairs and public policy with the American College of Physicians, said in an interview. "The cost of fixing this may be high, but the reason it's high is because the hole is so deep—and we didn't dig that hole. All we're asking is to fill in that hole so we're breaking even."

The budget situation is clearly the biggest obstacle, Mr. Doherty said. "If the deficit wasn't bad as it is, it wouldn't be that difficult."

While no one can predict whether Congress will pursue a permanent fix or a temporary reprieve as they've done in the past, physicians would gain more credibility if Congress didn't focus solely on fixing the SGR, Mr. Doherty said. "We need to engage in other reforms to the physician payments system to make it more functional for the physician, payer, and patient," he said. For example, medical organizations could talk to Congress about integrating a pay-for-performance component into Medicare, he said.

Malpractice reform is on the top of President Bush's health care agenda and will likely take precedence over the public health safety net and other health care reforms in 2005. Several physician groups and the administration have long advocated a \$250,000 cap on noneconomic damages as part of a reform package.

The hurdle ahead is getting the Senate to approve such a bill, Matt Salo, director of the health and human services committee with the National Governors Association, told this newspaper. "Ultimately, you need 60 votes in the Senate to get a bill through. While the Republican margin is a little larger after the elections, it's not 60," Mr. Salo said.

Passage of the bill is possible, provided that all 55 Republicans in the Senate vote for it, Mr. Doherty said. "We'd also need to win over five Democrats to override a filibuster." Achieving liability reform "would be a real test of the president's political capital. This is an uphill battle, but these battles have been won before."

Physicians will have to decide which is more important: their desire for a Medicare payment increase or their desire for medical liability reform, a Republican House staff member said at a meeting sponsored by the American Bar Association.

"They've got two competing interests," he said. And while some physician groups may pursue liability reform on the assumption that Congress is probably going to pass the payment increase anyway, that isn't necessarily the case, the aide told this newspaper.

Physicians are also holding their breath on the expected transition from the International Classification of Diseases, 9th Revision (ICD-9)—the current diagnosis and inpatient procedure classification system—to the 10th revision (ICD-10).

An upgrade had been recommended on the premise that the ICD-9 was too antiquated to address the need for accurate health care billing in today's technology-driven environment. But physician groups remain concerned that ICD-10 has the potential to drive up costs and add new hassles to physician practice.

The Department of Health and Human Services may issue a proposed rule in 2005, although it's questionable that regulators are looking for more feedback at this point, Robert M. Tennant, MGMA's senior policy advisor for health informatics, said in an interview. Such a notice would more likely be designed "to give us a heads-up, rather than ask questions" that could lead to changes in the rule, he said.

Physicians would prefer a staggered implementation date, Mr. Tennant said. In addition, "we would like health plans to be compliant first, so physician practices could have time to get their systems upgraded and complete their testing and staff training," he said. The goal is to make sure the transition is cost effective and causes as little disruption to the industry as possible, he said.

The new year also brings new leadership to the federal health bureaucracy. At press time, President Bush named Michael O. Leavitt as his pick to lead HHS. Mr. Leavitt served as the administrator of the Environmental Protection Agency in the president's first administration and was previously governor of Utah. Mr. Leavitt must be confirmed by the Senate before assuming his new duties.

At the Centers for Medicare and Medicaid Services, much effort will be focused

ACOG Focuses On Liability Reform

Liability reform continues to top the agenda for the American College of Obstetricians and Gynecologists, said President Vivian M. Dickerson, M.D. "We've got probably a better chance of seeing something happen [this year]," she said.

But despite the shifts in the makeup of the Senate this year, ACOG does not believe that the physician community has enough votes to stop a filibuster, she said.

Tort reform that includes a \$250,000 cap on noneconomic damages remains the group's first choice for reform, Dr. Dickerson said, but it is willing to consider the range of policy options, including insurance reforms and a medical court.

A cap on noneconomic damages is still a proven solution, she said, but ACOG is willing to consider other options that could decrease insurance premiums.

In addition, ACOG officials plan to work this year on addressing the lack of insurance coverage and access to care, which is especially severe among women. They will also be monitoring coverage of contraception. And the group remains committed to seeing the Food and Drug Administration approve over-the-counter use for emergency contraception across the board, Dr. Dickerson said.

—Mary Ellen Schneider

More Doctors in the House—and Senate

Physicians are heading to Capitol Hill this month and not just to lobby. Below are the results of last year's House and Senate races in which a physician ran for office.

House of Representatives

Arkansas, 2nd District: *Vic Snyder, M.D. (D), defeated Marvin Parks (R)

Florida, 15th District: *David Weldon, M.D. (R), defeated Simon Pristoop (D)

Georgia, 6th District: Tom Price, M.D. (R), was unopposed

Georgia, 11th District: *Phil Gingrey, M.D. (R), defeated Rick Crawford (D)

Illinois, 15th District: David Gill, M.D. (D), lost to

*Timothy V. Johnson (R)

Louisiana, 3rd District: Kevin Chiasson, M.D. (R), lost to Charles Melancon (D)

Louisiana, 7th District: Charles Boustany, Jr., M.D. (R), defeated Willie Mount (D)

Michigan, 7th District: Joseph Schwarz, M.D. (R), defeated Sharon Renier (D)

New Jersey, 3rd District: Herb Conaway, M.D. (D), lost to

*James Saxton (R)

New York, 24th District: David Walrath, M.D. (Conservative Party), lost to *Sherwood Boehlert (R)

North Carolina, 12th District: Ada M. Fisher, M.D. (R), lost to

*Melvin Watt (D)

Pennsylvania, 13th District: Melissa Brown, M.D. (R), lost to Allyson Schwartz (D)

Pennsylvania, 18th District: Mark Boles, M.D. (D), lost to

*Timothy Murphy (R)

Texas, 14th District: *Ron Paul, M.D. (R), was unopposed

Texas, 26th District: *Michael Burgess, M.D. (R),

defeated Lico Reyes (D)

Washington, 7th District:

*Jim McDermott, M.D. (D), defeated Carol Cassidy (R)

Senate

Kentucky: Dan Mongiardo, M.D. (D), lost to *Jim Bunning (R)

New York: Marilyn O'Grady, M.D.

(Conservative Party), lost to

*Charles Schumer (D)

Oklahoma: Tom Coburn, M.D. (R), defeated Brad Carson (D)

*denotes incumbent

this year on getting ready to launch the new Medicare prescription drug benefit just 1 year from now.

This year will be the final year for the drug discount cards that were instituted as a bridge to Medicare drug coverage. The lessons of the drug card should prompt Congress to simplify the Part D drug benefit, said Robert M. Hayes, president of the Medicare Rights Center. But conventional wisdom is that Congress won't do anything to address it this year, and will wait until next year to address problems.

Congress should act to ensure that there is one clear Medicare-run drug plan in every region of the country and that Medicare automatically enrolls low-income seniors. Also, Congress should standardize the benefit packages, he said.

A lot of beneficiary education will be needed this year, said John Rother, director of policy and strategy at AARP (formerly the American Association of Retired Persons), especially since the choices will be different across the country.

Medicare officials need to simplify the sign-up process and make sure that there aren't too many choices for beneficiaries, which was one of the major problems with the drug cards, Mr. Rother said. ■

Joyce Frieden, Jennifer Silverman, and Mary Ellen Schneider contributed to this report.