Congress Floats Medicare Payment Formula Fixes

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Any legislative approach to fixing Medicare's sustainable growth rate system "would be prohibitively expensive," according to House Ways and Means Chair Bill Thomas (R-Calif.).

Attaining a permanent fix is possible, however, provided that Congress and the Bush administration work on efforts to combine administrative and legislative actions, Rep. Thomas and Rep. Nancy L. Johnson (R-Conn.), health subcommittee chair, wrote in a letter to Mark McClellan, M.D., administrator of the Centers for Medicare and Medicaid Services (CMS).

The proposal is one of several ideas floating in Congress that seek to fix the Medicare physician fee schedule, as physicians face a looming 4.3% cut to their reimbursement in 2006.

CMS actuaries project negative payment updates of minus 5% annually for 7 years, beginning in 2006, if the flawed sustainable growth rate (SGR) is not corrected.

CMS could do its part by removing prescription drug expenditures from the baseline of the SGR, something it should have the authority to do, the letter suggested. Because drugs aren't reimbursed under the fee schedule, it's illogical to include them in the expenditure total when calculating the schedule's update.

The agency should also account for the costs of new and expanded Medicare benefits, which are included in the SGR calculation, the letter stated.

On a legislative fix, Rep. Thomas wrote that "the time is ripe" to tie physician payments to quality performance. CMS demonstration projects on performance-based payments in Medicare "will provide us with the experience we need to design appropriate rewards for delivering quality care," he wrote.

At press time, Rep. Johnson was prepping to introduce a pay for performance bill that would repeal the SGR and base future updates for physician payments on the Medicare Economic Index (MEI).

At a recent hearing, Dr. McClellan informed Rep. Johnson that such a measure could come at a high cost: specifically, that MEI-based increases would be $183 billion over 10 years.

CMS in the meantime is working hard to remove Part B drugs from the formula, although the procedure "presents difficult legal issues that we haven't yet been able to solve," Dr. McClellan said. It also would not solve the entire problem, as positive updates would not take place for several years, regardless of whether CMS removed drugs prospectively or retrospectively, his testimony indicated.

In addition, he cautioned Rep. Johnson's subcommittee that removal of drugs would increase beneficiary premiums.

Physician groups offered support for this legislative approach at the hearing. "We're committed to improving quality of care, but to make further quality improvements physicians must be adequately reimbursed for treating Medicare patients," John H. Armstrong, trustee to the American Medical Association, testified.

Leaders on the Senate Finance Committee have since introduced a pay-for-performance bill, although it may not get the same kind of support from physician groups as the forthcoming Johnson bill.

Applying the notion that Medicare should attain better "value" for its money, the legislation from Sen. Chuck Grassley (R-Iowa) and Sen. Max Baucus (D-Mont.) proposes to link a small portion of physician Medicare payments to reporting of quality data and demonstrated progress against quality and efficiency measures.

The measures would focus on health care processes, structures, outcomes, patient experience of care, efficiency, and use of health information technology.

Participation in the program would be voluntary. However, those choosing not to report quality data would receive a reduced payment update.

Unlike the Johnson proposal, however, the Senate bill has no fix for the SGR, Mary Frank, M.D., president of the American Academy of Family Physicians, said in a statement.

Instead, the legislation "attempts to improve the payment system to physicians without attempting to stem the declining Medicare reimbursement rate."

Physicians could face lower Medicare payments and additional costs under such requirements, Dr. Frank said. While it might increase doctors' costs in order to meet and report specific care standards, the bill "doesn't help them obtain the technology to do so," she said. Without the technology to participate in the bill's proposed reporting system, physicians' reimbursement will be cut even further, hindering their ability to afford the technology. "Sound like a vicious cycle? It is," she said.

The outcome is family physicians, for example, might be forced to close their doors to Medicare beneficiaries, Dr. Frank said.

In addition, "tons of implementation questions" aren't broached in this bill, Michele Johnson, senior governmental relations representative of the Medical Group Management Association, told this newspaper.

"Right now, there are no evidence-based, valid scientific measures of efficiency, unless you're talking about clinical measures," Ms. Johnson said. It's unclear how such measures would be developed under the legislation, and how people would physically report these quality measures.

If any language from Grassley-Baucus is approved, "it will probably be inserted into 'end of the year must pass legislation,' along with an SGR fix," Ms. Johnson stated. Standing alone, the bill is too risky on the Senate floor because it would provide Democrats with the opportunity to reopen the Medicare Modernization Act.

"They could introduce amendments stating that the government could negotiate prices with the pharmaceutical companies. The Republicans don't want that," she said. ■

POLICY & PRACTICE

Federal Mental Health Focus

Six federal agencies—including the departments of Education, Health and Human Services, Justice, and Labor—have come together to provide resources to mental health patients and families. The agencies' report, called "Transforming Mental Health Care in America. The Federal Action Agenda: First Steps," outlines ways in which the agencies are working to help mental health patients. Measures include reducing suicides by implementing the National Strategy for Suicide Prevention developed by HHS, helping states develop the infrastructures needed for comprehensive state mental health plans, developing plans for a mental health workforce that is better qualified to be culturally sensitive, and expanding a program to develop tool kits on evidence-based mental health care for distribution to providers and consumers.

Meth Crisis Continues

The methamphetamine crisis has meant major problems for law enforcement and child welfare workers, according to two new surveys by the National Association of Counties. The first survey, which included responses from 500 local law enforcement agencies, found that 87% reported an increase in methamphetamine-related arrests beginning 3 years ago. More than half the counties said methamphetamine was their largest drug problem, with an estimated one-fifth of jail inmates incarcerated because of meth-related crimes. In the second survey, which involved child welfare officials in more than 300 counties, 40% of respondents reported increased out-of-home placements because of methamphetamine addiction in the past year, and nearly two-thirds of officials agreed that the nature of the meth-using parent increased the difficulty of family reunification.

Merck Loses First Vioxx Lawsuit

A jury in Texas last month awarded $253 million to the widow of a man who died after taking Vioxx (rofecoxib). The plaintiff charged that the drug maker Merck & Co. failed to warn physicians about the danger posed by Vioxx, that the drug was improperly designed, and that the company's negligence caused the death of the plaintiff's husband, Robert Ernst. Merck executives plan to appeal the verdict on the grounds that the jury was allowed to hear testimony that was both irrelevant and not based on reliable science, the company said. "While we are disappointed with the verdict, this decision should be put in its appropriate context," Kenneth C. Frazier, Merck's senior vice president and general counsel, said in a statement. "This is the first of many trials. Each case has a different set of facts. Regardless of the outcome in this single case, the fact remains that plaintiffs have a significant legal burden in proving causation." The award included $24 million in actual damages and $229 million in punitive damages. But the punitive damages could be reduced to about $2 million, according to Merck, since punitive damages are limited under Texas law.

New Buprenorphine Program

A new program is available to assist physicians who prescribe or dispense buprenorphine to opioid-addicted patients, the Substance Abuse and Mental Health Services Administration has announced. The Physician Clinical Support System, which is cosponsored by SAMHSA and by the American Society of Addiction Medicine, is a national network of 45 trained physician mentors who have expertise in addiction treatment. They are supported by a medical director and five physician experts in buprenorphine use. The network's physicians provide services via telephone, e-mail, and in person. Information about the network, which provides its services for free, is available by e-mailing the network staff at PCSSproject@asam.org or by calling 877-630-8812. The network also has a Web site at http://www.PCSSmentor.org.

Guide to Alcoholism for Clinicians

Physicians have a new tool to help them identify and care for patients with heavy drinking and alcohol use disorders. About 3 in 10 U.S. adults drink at levels that increase their risk for physical, mental health, and social problems. Of those heavy drinkers, about one in four currently has alcohol dependence problems that often go undetected in medical and mental health care settings. The National Institute on Alcohol Abuse and Alcoholism recently released a new guide called "Helping Patients Who Drink Too Much: A Clinician's Guide," which offers guidance for conducting brief interventions and managing patient care. If a patient drinks heavily (five or more drinks in a day for men or four or more for women), the guide shows physicians how to look for symptoms of alcohol abuse or dependence. The guide is at www.niaaa.nih.gov.

High Cost of Smoking Deaths

Smoking deaths cost the country $92 billion in lost productivity on an annual basis, from 1997 to 2001, the Centers for Disease Control and Prevention reported. This reflects an increase of about $10 billion from the annual mortality losses for the years 1995 through 1999. An estimated 438,000 premature deaths occurred each year from 1997 to 2001 as a result of smoking and exposure to secondhand smoke. At its annual meeting, the American Medical Association's House of Delegates took measures to discourage tobacco use. It also voted to support increases in federal, state, and local excise taxes on tobacco. Such increases in the excise taxes should be used to fund the treatment of those with tobacco-related illnesses and to support counteradvertising efforts, the resolution stated.

—Joyce Frieden with staff reports