



A Washington Legislative/Regulatory/Healthcare Reform Update

Region 9 Healthcare Financial Management Association

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Agenda

- **Health Care Reform**
 - **House action**
 - **Senate status**
 - **President's Stated Priorities**
 - **Committees involved & actions**
 - **Medicare potential changes**

- **PPS Updates**
 - **IPPS**
 - **OPPS**
 - **HHA**
 - **SNF**
 - **ESRD**

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Health Care Reform Some Personal Thoughts

- Central theme of health care reform in Washington should be termed “health insurance reform”
- The issues are:
 - Covering the uninsured – through Medicaid and health exchanges
 - Offsetting such costs – by reducing Medicare provider and payor rates of increase
 - Taxing
 - But none is truly revamping how health care is delivered

Health Care Reform Some Personal Thoughts

- Mandating health insurance – but not all individuals will be covered
 - Creating exemptions for health care costs in excess of percentage of income
 - This is now a major concern to the insurance industry
- Taxing
 - Benefits
 - Income brackets
 - Limiting health care deductions
- Reducing Medicare Advantage payments
- Significantly modifying Medicare & Medicaid provider payments
- A public option or CO-OP for low cost/ “competition”

Health Care Reform Some Personal Thoughts

- House Bill HR 3962 melded 3 versions of HR 3200 released last July
 - House vote -- ???
- Senate “melding” – nothing yet
 - Senate may delay till January

President's Goals – February 2009

- **Financing Health Care Reform**
 - Create a \$630 billion reserve fund
 - Financed by a combination of
 - “Rebalancing the tax code”
 - » Wealthiest (earning \$250k or more) pay more
 - Specific health care savings in three areas:
 - » Promoting efficiency and accountability
 - » Aligning incentives toward quality
 - » Encouraging shared responsibility

President's Goals – February 2009

➤ **Reducing Medicare Overpayments to Private Insurers through Competitive Payments**

- “Eliminate/reduce Medicare Advantage plans
 - MA outlays are **14 percent** more on average than what Medicare spends for beneficiaries enrolled in the traditional fee-for-service program
- Would save more than **\$175 billion** over 10 years, as well as reduce Part B premiums

President's Goals – February 2009

➤ **Reducing Drug Prices**

- **Accelerate access** to make affordable **generic** biologic drugs
- Would **increase Medicaid drug rebate** for brand-name drugs from 15.1 percent to 22.1 percent of the Average Manufacturer Price

President's Goals – February 2009

➤ *Improving Medicare and Medicaid Payment Accuracy*

President's Goals – February 2009

➤ *Improving Care after Hospitalizations and Reduce Hospital Readmission Rates*

- **Bundle payments** that cover not just the hospitalization, but care from certain post-acute providers for 30 days after the hospitalization, and hospitals with high rates of readmission would be paid less if patients are re-admitted to the hospital within the same 30-day period
- Would save roughly **\$26 billion**

President's Goals – February 2009

- ***Expanding the Hospital Quality Improvement Program***
 - Link a portion of Medicare payments for acute in-patient hospital services to hospitals' performance on specific quality measures
 - Would save over **\$12 billion** over 10 years

President's Goals – February 2009

- ***Reducing Itemized Deduction Rate for Families with Incomes over \$250,000***
 - Limit the tax rate at which high-income taxpayers can take itemized deductions to 28 percent—and the initial reserve fund would be funded in part through this provision
 - Would **raise \$318 billion** over 10 years

President's Goals – June Additions

- **New June document would add another \$313 billion**

President's Goals – June Additions

- ***Incorporate productivity adjustments into Medicare payment updates***
 - Permanently adjust most annual Medicare payment updates by half of the economy-wide productivity factor estimated by the Bureau of Labor Statistics
 - Updates would not be less than “zero”

President's Goals – June Additions

- ***Reduce subsidies to hospitals for treating the uninsured as coverage increases***
 - Beginning in FY 2013, payments would be gradually phased down so that by 2019, funding would equal 25 percent of Medicare/Medicaid Disproportionate Share Hospitals (DSH) funding in 2013, and updated by inflation

President's Goals – June Additions

- ***Pay better prices for Medicare Part D drugs***
 - For example, drug reimbursement could be reduced for beneficiaries dually eligible for Medicare and Medicaid

President's Goals – June Additions

- ***Adjust payment rates for physician imaging services to better reflect actual usage***
 - Increase the equipment utilization factor for advanced imaging (such as magnetic resonance imaging (MRI) and computed tomography (CT) machines) from 50 percent to 95 percent
- CY 2010 MPFS update has change MRI & CT scans to 90 percent for equip over \$1 million

President's Goals – June Additions

- ***Adopt MedPAC's recommendations for 2010 payments to skilled nursing facilities, inpatient rehabilitation facilities, and long-term care hospitals***
- ***Cut waste, fraud, and abuse***

President's overall cost to pay

FY 2010 Budget	\$635
<ul style="list-style-type: none"> • Medicare and Medicaid Savings • Revenues 	<ul style="list-style-type: none"> \$309 \$326
Additional Medicare and Medicaid Savings	\$313
<ul style="list-style-type: none"> • Incorporate productivity adjustments into Medicare payment updates • Reduce hospital subsidies for treating the uninsured as coverage increases • Pay better prices for Medicare Part D drugs • Other 	<ul style="list-style-type: none"> \$110 \$106 \$75 \$22
Total	\$948

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President's Goals – September 9th Speech

- **What did the President say or not say**
 - *He did not present a legislative document*
 - *Said a plan must be based three principles*
 - *Making the system more secure and stable for those with health insurance*
 - *Providing coverage for the uninsured*
 - *Slowing health care cost growth*
 - *Cost of reform also must not add to the federal deficit*
 - *Best to use a public option for competitive results*
 - *“My plan” would not cost more than \$900 billion*

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Congress – Committees Involved

- **House floor bill HR 3962**
- **Tri-committee**
 - Ways & Means (HR 3200)
 - Energy & Commerce (HR 3200, amended)
 - Education and Labor
- **Senate**
 - Finance Committee
 - HELP

Congress – Coverage

- **Projected number of uninsured by 2019**
 - **Current estimate is 47 million**

- **House Bill (HR 3962) 18 million**
- **Senate HELP 36 million**
- **Senate Finance 25 million**

- **53 million if nothing happens**

Congress – Overall Approach

Bill	Status
House Bill (HR 3962)	<ul style="list-style-type: none"> ➤ Require all individuals to have health insurance ➤ Create a Health Insurance Exchange (Public Option) ➤ Require employers to provide health care coverage or pay into a Health Insurance Exchange – with exceptions for small employers ➤ Expand Medicaid to 133 percent of poverty level ➤ Eliminate existing conditions
Senate HELP	<ul style="list-style-type: none"> ➤ Require all individuals to have health insurance ➤ Create State based American Health Benefit Gateways ➤ Require employers to provide health care coverage or pay an annual fee – with exceptions for small employers ➤ Expand Medicaid to 150 percent of poverty level ➤ Eliminate existing conditions
Senate Finance	<ul style="list-style-type: none"> ➤ Would require all to have health insurance ➤ Would NOT create a public option plan, but would create so-called CO-OPs ➤ Would expand Medicaid to 133 percent of poverty level ➤ Eliminate existing conditions

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Medicare Comments

- Irrespective of health care reform legislation being enacted – Medicare outlays are and will continue to be under pressure
- Reductions in rates-of-increases are a certainty
- Bundling of service payments seem certain – but when?
- Bundling of post-acute seems certain – but how?
- Quality will become a factor, but how is it measured ?
- Will Congress create/ enact an independent Medicare commission to set rates, etc ?
 - May be best answered – will/ can Congress give up its oversight

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Medicare Provisions – Productivity Adjustments to Market Basket

- House HR 3962:
 - Will be an offset
 - Based on economy-wide productivity
 - **Floor set at zero** for overall increase
 - Appears to apply to all hospitals
 - Also applies to outpatient services
 - Would be **effective for FY'10**

- Senate Finance
 - Somewhat more complicated with respect to effective dates
 - Full productivity adjustment for inpatient and outpatient hospital services, inpatient psychiatric facilities, inpatient rehabilitation, long term care hospital services and nursing homes beginning in 2012
 - Full productivity adjustment for hospice providers beginning in 2013
 - Full productivity adjustment for home health providers beginning in 2015.

Medicare Provisions – Market Basket Updates

- House HR 3962
 - SNF & IRF freeze from 1/1 -9/30/2010
 - HHA freeze during CY 2010

- Senate Finance
 - Hospitals (inpatient & outpatient) reduced 0.25 percent effective January 1, 2010 and in 2011; and 0.2 percent 2012-2019
 - Psychiatric, rehabilitation, & LTC reduced 0.25 percent in 2011; and reduced 0.2 percent 2012-2019
 - HHA reduced 1.0 percent in 2011 & 2012 – rebase beginning 2013
 - Hospice reduced 0.5 percent 2013-2019

Medicare Provisions Other

➤ **Rehab hospitals**

- Productivity offset (Both)
- Payment freeze for last nine months of FY'10 (HR 3200)

➤ **LTCHs**

- Productivity offset (Both)
- Readmission adjustment (HR 3200)

Medicare Provisions Other

➤ **Psych**

- Productivity offset (Both)
- Eliminate 190-day lifetime limit as of 1-1-10 (HR 3200)

➤ **Hospice**

- Productivity offset (Both)

Medicare Provisions in HR 3962 HHA

- **Productivity offset**
- **Accelerate case mix adjustment**
 - Do 2011 at same time as 2010
 - Can be even bigger if data justifies
- **Rebase the rates in 2011**
 - Minimum 5% cut mandated
- **Services can only be ordered by participating physician**
- **No coverage unless certified by physician after a face-to-face encounter**

Medicare Provisions in Senate Finance HHA

- **Productivity offset**
- **Rebase beginning in 2013**
- **Phase-in over 4 years**
- **Reduce MB 1.0 percent in 2011 & 2012**

Medicare Provisions – Disproportionate Share Hospitals

- House HR 3962
 - No cuts to Disproportionate Share payments
 - Report only
 - Due 7-1-16

- Senate Finance
 - Starting no later than 2015 and continuing on an annual basis, the Secretary would make disproportionate share payments equal to 25 percent of the disproportionate share payments that would otherwise be made

Medicare Provisions – Readmission

- House
 - Applies to IPPS hospitals and CAHs
 - Will be at least:
 - 1% cut in 2011
 - 2% cut in 2012
 - 3% cut in 2013
 - 5% cut thereafter
 - Will apply only to basic DRG payment
 - Effective FY 2011

Medicare Provisions – Readmission

➤ Senate Finance

- Starting in FY 2013, hospitals with readmission rates above a certain threshold would have payments for the original hospitalization
- reduced by 20 percent if a patient with a selected condition is re-hospitalized with a preventable readmission within seven days, and by
- ten percent if a patient with a selected condition is re-hospitalized with a preventable readmission within 15 days

Medicare Provisions – Post Acute Care Bundling

➤ House

- Post Acute Care Bundling
 - A Presidential goal
 - Secretary directed to develop a plan
 - Demo is also authorized
 - Report due in 3 years

➤ Senate Finance

- National pilot program on payment bundling
- Start 2013
- Submit plan to Congress

Medicare Provisions – Physician Owned Hospitals

- House
 - Prohibited after 1-1-09
 - Existing ones grandfathered if:
 - Provider agreement as of 1-1-09
 - No increase in physicians
 - No expansion of facility
 - Mandatory reporting of all ownership interests in all entities
- Senate Finance
 - Beginning no later than 18 months after the date of enactment, only hospitals meeting certain requirements would be exempt from the prohibition on self-referral
 - Hospitals that have physician ownership and a provider agreement in operation on November 1, 2009 and that met other specified requirements would be exempt from this self-referral ban

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Medicare Provisions

- **Extend Section 508 reclassifications to 9-30-11(Both)**

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Medicare Provisions in HR 3962 Physicians

- **Cost here is the issue!!**
- **Separate bill??**

- **SGR “Fix”** – removed – was in HR 3200
 - MEI to be used for 2010
 - Separate rates for E&M codes
 - Starting in 2011
 - 2009 will be new base year

Medicare Provisions in Senate Finance Physicians

- **Does not Fix SGR**
 - Provides 0.5 percent increase for 2010
 - Reason cost of Mark is so low
 - Forces Congress back to the table for 2011

Medicare Provisions in HR 3962 Medicare Advantage

- **Phase-in reduction to FFS amount**
 - Three years
 - Starting in 2011
 - PACE plans exempted
 - Can get a small bonus for being a “high quality plan”
- Publicly disclose loss ratios
 - 85% minimum

Medicare Provisions in Senate Finance Medicare Advantage

- In 2011, the national MA per capita growth percentage would be reduced by 3.0 percentage points
- Transition over 3 years
 - Starting in 2012, local MA benchmarks would be blended with plan bids
- Compute MA benchmarks based on weighted average of plan bids beginning in 2014
- Would save \$150 billion over 10 years (CBO says \$124 billion)

Medicare Provisions in Senate Finance Other

- **Requires value-based purchasing for**
 - Hospitals
 - Physicians
 - HHA
 - SNF
- **Quality Reporting for**
 - LTCH
 - IRF
 - Hospice
 - Cancer

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Medicare Provisions in Senate Finance Other

- **Creates Accountable Care Organization (ACOs)**
- **Extends**
 - Therapy caps
 - Certain pathology services
 - OPPS hold harmless
- **Requires CMS to reform area wage index**
- **Establishes Medicare Commission**
 - Leaves MedPAC in place?

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Medicare Provisions in Senate Finance Other

- **Requires reporting of Hospital Charges in 2011 by DRG**
- **Require not-for-profit hospitals to report “community needs assessment beginning in 2010**

CBO Estimates House

➤ SNF	\$ -23.9
➤ Rehab	-5.3
➤ Productivity Part A	-102.0
➤ DSH	-10.3
➤ Productivity Part B	-41.6
➤ Imaging	-3.0
➤ HHA	-56.7
➤ Medicare Advantage	<u>-154.3</u>
	\$397.1

CBO Estimates Senate Finance

➤ Market Basket Cuts

▪ Skilled Nursing Facilities	-14.6
▪ Long-Term Care Hospitals	-3.4
▪ Inpatient Rehabilitation Facilities	-4.0
▪ Hospitals Paid Under the Inpatient Prospective Payment System	-75.8
▪ Inpatient Psychiatric Facilities	-3.1
▪ Hospice	-7.8
▪ Hospital Outpatient Services	-20.0
▪ Durable Medical Equipment	-3.6
▪ All Other Part B Fee Schedules, Except Physicians' Services	-12.4
▪ Home Health, Updates in 2015 and Subsequent Years	-5.7
▪ Home Health (Updates in 2011 and 2012, Rebasing, and Rural Add-on)	-31.2
▪ Temporary Adjust to the Income-Related Premium for Part B of Medicare	-22.8
▪ Medicare Commission	<u>-22.6</u>
	\$227 Billion

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CBO Estimates Senate Finance

➤ Medicare Advantage Payment	
▪ Transition to Competitive Bidding and Private Fee-for-Service Plans	-123.5
➤ Physicians	
▪ Sustainable Growth Rate	10.9
▪ Extension of Floor on Medicare Work Geographic Adjustment	1.1
▪	
➤ Medicare Improvement Fund	-22.3
➤ Other	
▪ Accountable Care Organizations	-4.9
▪ CMS Innovation Center	
▪ Funding for Center (including noncovered benefits)	6.6
▪ National Pilot Program on Payment Bundling	0
▪ Reducing Avoidable Hospital Readmissions	-2.1

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Thoughts

- **Need to negotiate with other providers**
- **Absolute need to understand your costs of producing services and their related charges**
- **Need to be more efficient**
- **Consider the services being provided**
 - **Should you acquire or disaggregate?**
- **Always look out for the OIG**
- **Impact of IT**
 - **Need for timely, accurate data**

PPS Updates

IPPS

- **Posted on 7-31-09**
- **1,618 pages**
- **Published in 8-27-09 FR**
- **Includes LTCH issues**
- **Copy @**
http://www.federalregister.gov/OFRUpload/OFRData/2009-18663_PI.pdf

IPPS – Upcoding

- Reductions to date
 - 0.6 in FY 2008
 - 0.9 in FY 2009
 - (Cumulative reduction to date is 1.5 percent)
 - No specific action specified for FY 2010
- CMS has **“postponed”** its FY 2010 adjustment
- CMS says it has **not “canceled”**
- CMS says it has, by law, to correct in FY 2011 and FY 2012
- Why?
- Much more to come? (4.8 minus 1.5 at a minimum?)

Skilled Nursing

- **Posted on 7-31-09**
- **Published in 8-11-09 FR**
- **Copy @ <http://edocket.access.gpo.gov/2009/pdf/E9-18662.pdf>**

Skilled Nursing – Case Mix

- **Recalibration Adjustment**
 - Original adjustment used to adopt 53 RUG's amounted to 17.9 percent
 - CMS says the adjustment factor should have been 9.68 percent
 - CMS is removing difference which results in a negative 3.3 reduction to rates
 - Amounts to offset of \$1.05 billion
- **Caution – new RUG classification next year**

HHA PPS

HHA PPS

- **Posted on 10-30-09**
- **Published in 11-10-09 FR**
- **Copy @ http://www.federalregister.gov/OFRUpload/OFRData/2009-26503_PI.pdf ***

- *** revised**
 - Display site
 - FR site is @ <http://www.archives.gov/federal-register/public-inspection/>

 - If you know the date a rule is published
 - http://www.access.gpo.gov/su_docs/fedreg/frcont09.html

HHA PPS

- **Market Basket Increase of 2.0 percent**
- **Case-mix adjust of -2.75 percent**
- **Overall payments to decline \$140 million**
- **Adopting New OASIS-C**

- **Look out for more changes via Congress**

OPPS

OPPS

- **Posted on 10-30-09**
- **Published in 11-20-09 FR**
- **Copy @**
- **http://www.federalregister.gov/OFRUpload/OFRData/2009-26499_PI.pdf ****
- ****Subject to change**

- **Market basket at 2.1 (same as IPPS)**
- **Many drugs at ASP + 4 percent**
- **A very long rule**
- **Provides summary of actions at end of each section**

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ESRD

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ESRD

- **Proposed rule to bundle all including drugs**
- **To be effective 1-10-2011**
- **Intent to save outlays**

- **Posted on 10-30-09**
- **Published in 9-29-09 FR**
- **Copy @**
<http://edocket.access.gpo.gov/2009/pdf/E9-22486.pdf>

Questions



Washington Bulletins

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