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Trading in Medicare SGR for MIPS: House, Senate committees agree on compromise bill

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From international law firm Arnold & Porter LLP comes timely views on current regulatory and legislative topics that weigh on the minds of today's physicians and health care executives.

On Feb. 6, the House Ways and Means, the Energy and Commerce, and the Senate Finance committees released the bipartisan, bicameral SGR Repeal and Medicare Payment Modernization Act of 2014. The negotiated bill would repeal the current SGR formula, which was adopted in 1997 to keep Medicare spending from growing faster than the economy as a whole, but over the last decade has resulted in Congress scrambling each year to avoid massive cuts in physician reimbursements. It also would implement a new Merit-Based Incentive Payments System (MIPS) that would move Medicare physician payment toward a system that increasingly rewards quality and value. Finally, the bill heavily incentivizes physicians to participate in alternative payment models (APM) that require providers to bear financial risk.

Leaving SGR behind

The bill would avert a 23.7% SGR-induced cut scheduled for April and instead provide physicians and other eligible professionals (EPs) with an 0.5% update to their payments under the physician fee schedule each year for the next five years. The 2018 rates would be held constant through 2023, and in subsequent years, professionals participating in approved APMs would receive annual updates of 1%, while all other EPs would receive annual updates of 0.5%.

The Merit-Based Incentive Payment System

Starting in 2018, a streamlined MIPS would consolidate the Physician Quality Reporting System (PQRS), the Value-Based Payment Modifier (VBPM), and Electronic Health Record (EHR) Incentive program (Meaningful Use) into one incentive program that would provide both positive and negative payment adjustments based on an EP's overall performance in four categories: quality, resource use, EHR meaningful use, and clinical practice improvement activities. In assessing performance, CMS would be able to take into account both improvement and how an EP performs compared with others. In 2018, EPs could earn a positive payment adjustment as high as 12% and a negative adjustment as low as 4%. By 2021, the positive payment adjustment could be as high as 27% and the negative adjustment as low as 9%. EPs performing in the highest percentile could earn an additional incentive.

Incentivizing alternative payment models

Through generous incentives, the bill encourages the use of certain APMs. Starting in 2018, providers who receive a high percentage of revenue through an APM that involves a risk for financial loss, quality reporting mechanisms, and use of certified EHR technology would be eligible to opt out of the MIPS program. In 2018 through 2023, eligible APM participants would automatically receive a 5% lump sum bonus over their otherwise applicable payments from the previous year. Additionally, in 2024 and each subsequent year, qualifying APM participants would receive a 1% update per year rather than the 0.5% update for all other physicians.

What's next?
While the agreement marks significant progress in physician payment reform, the bill's outlook remains uncertain. Medicare "extenders," or supplemental payments that primarily impact rural hospitals, are still being negotiated. In addition, the bill fails to address payment offsets for the scheduled payment cuts under the existing SGR formula. If lawmakers cannot agree on how to pay for the bill, permanent reform might be put off until 2015.

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