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Another year of SGR? Fix increasingly uncertain as Democrats, Republicans debate funding

--By Catherine Brandon, Arnold & Porter LLP

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.

Earlier this month, doctors were hopeful that a permanent fix to the flawed sustainable growth rate formula (SGR) underlying the Medicare Physician Fee Schedule was finally on the horizon. After all, lawmakers on both sides of the aisle and in both houses agreed on a bill that would increasingly base providers' reimbursement on certain performance measures or on a provider's participation in alternative payment models.

The momentum created by the bipartisan, bicameral agreement, however, is quickly unraveling as lawmakers debate how to pay for the $138.4 billion measure. On Friday, the House passed the SGR Repeal and Medicare Provider Payment Moderation Act of 2014 (H.R. 4015), which included an amendment from House Ways and Means Committee Chairman Dave Camp (R-Mich.) that would delay the financial penalties for people who don't buy health insurance from 2014 to 2019.

Both the Congressional Budget Office (CBO) and the nonpartisan Joint Committee on Taxation (JCT) estimate that this change would increase the number of people without health insurance coverage in 2018 by 13 million and increase premiums for policies in the individual market in 2018 by 10% to 20% relative to the current law.

This week, it will be the Senate's turn to pass a version of the bill, which may or may not include offsets to pay for it. The Democratic-controlled Senate, however, is extremely unlikely to include the Camp amendment in its version. If different versions of the bill are passed, as is likely, the two houses will appoint conferees to try to hash out a compromise bill through a bicameral conference committee. If the House and Senate cannot reach a compromise by March 31, Congress will likely pass yet another temporary SGR patch in order to avoid the impending 23.7% cut in physician payments set to take effect April 1.

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