HEALTH CAPITAL

News Alert

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Topics

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"*Doc-Fix*" Appears Doomed: SGR Saga Continues

With eleven days remaining until the current payment freeze expires, the outcome of Congress's annual "*doc-fix*" remains uncertain, and the looming 27.4 percent cut to Medicare reimbursement may now be inevitable. With the Senate and House on the cusp of holiday recess, as well as the House's vote to re-open negotiations, effectively rejecting on the Senate version of the "*doc-fix*" bill, Congress may be unable to delay the physician Medicare reimbursement cuts required by the Sustainable Growth Rate (SGR) formula.[1] The current physician Medicare reimbursement rate avoided a similar 25 percent cut in 2011, as a result of the Medicare and Medicaid Extenders Act of 2010. The payment freeze implemented by the act was passed 409-2 in the House and unanimously in the Senate.[2] The solutions against the 2012 cuts suggested by the House and Senate have not experienced such undisputed support.

On December 13, the House approved H.R. 3630 "*The Middle Class Tax Relief and Job Creation Act of 2011*," a spending bill that primarily extends payroll tax cuts and unemployment insurance, and also includes a provision to delay the reduction of the 2012 Medicare Physician Fee Schedule (MPFS) called for by the SGR.[3] The House bill proposed to postpone the 2012 reimbursement cuts for two years, and instead implemented a one percent positive update to Medicare physician payments in 2012 and 2013.[4] The House bill funded this delay in MPFS cuts through changes to other health care policies, including a reduction in spending for the Affordable Care Act Prevention and Public Health Fund, and increasing Medicare premiums for the wealthiest beneficiaries.[5]

During a rare Saturday session, on December 17, the Senate passed H.R. 3630 "*Temporary Payroll Tax Cut Continuation Act of 2011*," significantly changing the House version of the bill by providing a mere two-month reprieve from the mandated SGR cut.[6] Under the Senate amended bill, which passed by a vote of 89-10, the Medicare payment cuts would again be poised to go into effect on March 1, 2012.[7]

The House was scheduled to review the Senate bill on December 19 and 20, but a standoff seems inevitable: House leaders say they intend to defeat the Senate bill, while Senate leaders refuse to call Senate members back from holiday recess.[8] In a "*Meet the Press*" interview on Sunday, December 18, House Majority Leader, John A. Boenher (R-OH), expressed the House's opposition to the Senate two-month proposal, stating the plan was "*just kicking the can down the road.*"[9] House disapproval of the Senate plan has widened the divide between Republicans and Democrats, particularly in light of the tax increase nearly 160 million American will face without the bill. White House Communications Director, Dan Pfeiffer, commented on the turmoil: stating, "*The shenanigans of the last 48 hours from the House GOP leadership are why 43 percent of Americans think this is the worst Congress in history.*"[10]

If Congress does not come to an agreement postponing the SGR formula-based MPFS adjustments before the holiday recess, the negative update will take effect on January 1, 2012, resulting in a 27.4 percent cut in Medicare reimbursement payments to physicians.[11] In anticipation that a compromise will be reached, the Centers for Medicare and Medicaid Services (CMS) announced on December 19, that all claims from 2012 services will be held for the first 10 business days of 2012, from January 1 – 17. CMS further assuaged provider worries, noting that since electronic claims are not paid prior to 14 days after submission; the hold will likely have limited impact of provider cash flow. This is not the first time CMS has used these tactics to aid Congress, and their actions suggest that providers should simply wait and see what Congressional actions are taken over the next 28 days.[12]

BRIEF BACKGROUND ON THE SGR DEBATE

Enacted as part of the Balanced Budget Act of 1997, the SGR was designed to control aggregate growth in Medicare spending by setting annual spending targets based on inflation, Medicare enrollment, national gross domestic product, and regulatory developments.[13] The statutory SGR formula mandates yearly adjustments to the MPFS based on the relationship between actual spending and targeted spending: if actual spending does not exceed targets, the physician fee schedule update would result in increased physician reimbursements for Medicare services; if actual spending exceeds the targets, the physician fee schedule update would result in a reduction in Medicare reimbursements. Spending has exceeded targets every year since 2002, yet each

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(Continued from previous page)

year Congress has overridden the spending cuts called for by application of the SGR formula leading to constant debate between policy holders over the correct action.[14]

Each time Congress offers legislative relief from pending SGR reimbursement cuts for Medicare providers, the fix must be funded by billions in budget offsets.[15] Many commentators have been pushing for a permanent solution to the SGR formula. On September 15, 2011, The Medicare Payment Advisory Committee (MedPAC) suggested completely repealing the SGR resulting in a ten year payment freeze for primary care providers and a 17 percent reduction in specialist payments.[16] Without a long-term solution the Medicare program may face significant financial challenges over the coming years.[17] For more information on the current SGR debate see HC Topics Article: *The Sustainable Growth Rate Saga Continues*, Volume 4, Issue 10 (October 2011).

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8 MGMA "Special Edition: SGR Update" December 19, 2011.

9 "Extension of Tax Cut Stalls in House as G.O.P. Objects" By Jennifer Steinhauer, The New York Times, December 18, 2011, Accessed at http://www.nytimes.com/2011/12/19/us/politics/house-republicans-oppose-senate-deal-on-payroll-tax-cut-boehner-says.html (Accessed 12/19/11).

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12 "CMS Releases Information on Holding 2012 Claims" Medical Group Management Association, Washington Connexion, December 19, 2011, http://www.mgma.com/washington/ (Accessed 12/20/11).

13 "Estimated Sustainable Growth Rate and conversion Factor, for Medicare Payments to Physicians in 2010" Centers for Medicare and Medicaid Services, November 2009, p. 1.

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