

Legislative Action to Replace the Sustainable Growth Rate

In May 2012, U.S. Representatives Allyson Schwartz and Joe Heck introduced a bipartisan bill aimed at eliminating Medicare's Sustainable Growth Rate (SGR), the payment system component long criticized for the uneven results it has produced in setting physician payment rates under Medicare.¹ The bill, *The Medicare Physician Payment Innovation Act of 2012*, proposes to repeal the SGR and stabilize the current system by using funds saved from reduced military spending in Afghanistan and Iraq.² If passed, the bill would provide an initial five-year period of stability for physician payment rates, and would also require the Centers for Medicare and Medicaid Services (CMS) to develop at least four alternatives to the existing payment system by October 2016.³ Though the costs of eliminating the SGR are estimated to exceed \$300 billion over the course of a decade, the bill's sponsors claim this amount would be fully offset with the saved military funds, and there is widespread agreement that the SGR is flawed.⁴ In recent testimony before the Senate Finance Committee, four former CMS Administrators acknowledged that volume-driven reimbursement cannot achieve better results or changes in behavior, agreeing that both the SGR and the entire fee-for-service (FFS) payment system must be replaced.⁵

The SGR was created by the Balanced Budget Act of 1997 due to concerns that Medicare's fee schedule alone would be insufficient to contain spending increases related to physician services.⁶ The system was designed to control healthcare spending in the aggregate, but it was never expected to save significantly on costs. Accordingly, the SGR model is viewed as fundamentally flawed because it uses payment rate reductions as a means to control the growth of spending on physician services without addressing the increasing volume or complexity of those services.⁷ When the SGR was initially enacted, the temporarily slower growth rate of physicians' costs was expected to continue, and for several years, physician payment rates under the SGR system either matched or exceeded the growth in costs.⁸ However, beginning in 2002, the growth in physician costs returned to its historically higher rate, and under the SGR formula, significant cuts in physician payment rates resulted.⁹ Since 2003, Congress has passed bills on a nearly annual basis to prevent the significant SGR cuts from taking effect, but it has never acted to amend the

formula underlying the SGR or the spending targets against which the formula is applied.¹⁰ On February 17, 2012, Congress again passed legislation to prevent scheduled payment cuts of 27.4 percent from going into effect, but with the SGR still in place, a reduction of 32 percent is scheduled to take effect on January 1, 2013.¹¹

The bill itself acknowledges that Congress must first act to prevent the January 2013 cuts from going into effect, and further provides for physician payment rates to increase by an annual rate of 0.5 percent for four consecutive years.¹² In addition, primary care services fees would increase by an annual rate of 2.5 percent from 2014 through 2017.¹³ The bill also requires CMS to test, evaluate, and produce at least four new options for care and payment systems. Physicians who have transitioned to one of the "CMS-approved health care delivery models" by 2018 may experience stabilized payment rates,¹⁴ while payments to physicians still practicing under the existing Medicare FFS payment system would start being reduced by two percent in 2019, with a one percent increased reduction for each year thereafter through 2022.¹⁵ Physicians who are determined to be incapable of switching to an approved FFS-alternative may be eligible for an exemption from these cuts, but in any event, "payments in the straight [FFS] model will be permanently frozen at the 2022 levels."¹⁶

While this is certainly not the first legislative attempt to restructure the current Medicare SGR payment system, the bill is being touted as a critical step towards stabilizing Medicare in the short-term, and effectively transforming the system over the long-term.¹⁷ The American College of Physicians, the American College of Cardiology, the Society for Hospital Medicine, and the American Academy of Family Physicians have supported the legislation, the latter of which praised the bill for both improving the environment for physicians currently in practice and for demonstrating to medical students that primary care is fundamental to a healthcare system's quality and efficiency.¹⁸ The American Medical Association has publicized its support as well, although President Dr. Peter Carmel expressed the group's concerns over how the bill may negatively impact physicians unable to transition to a new system.¹⁹ However, Carmel indicated the group's willingness to work with legislators on this issue.²⁰

With widespread provider support and bipartisan sponsorship, the bill may pose the best chance at reforming the existing *volume-driven* payment system into one that rewards *value* instead. However, the bill must first gain Congressional approval, and the uncertain fate of the Patient Protection and Affordable Care Act and the 2012 elections are each likely to shape the political climate it faces.

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- 5 Ibid.
- 6 "The Sustainable Growth Rate Formula and Health Reform" By Paul N. Van de Water, Center on Budget and Policy Priorities, April 21, 2010, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3166> (Accessed 5/23/2012); "Medicare Physician Payment Growth Updates and the Sustainable Growth Rate (SGR) System" By Jim Hahn, To Members and Committees of Congress, Washington, DC: Congressional Research Service, April 9, 2010, p. 5.
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- 8 Paul N. Van de Water, April 21, 2010.
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- 10 Ibid.
- 11 "Medicare Physician Pay Frozen Until 2013" By Charles Fiegl, American Medical News, February 17, 2012, <http://www.ama-assn.org/amednews/2012/02/13/gvsg0217.htm> (Accessed 5/26/2012).
- 12 "Medicare Physician Payment Innovation Act of 2012" By Representative Allyson Schwartz and Representative Joe Heck,

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- 14 Ibid.; "Medicare Physician Payment Innovation Act of 2012: Summary of Provisions" By Representative Allyson Schwartz and Representative Joe Heck, p. 5-6, <http://heck.house.gov/sites/heck.house.gov/files/Medicare%20Physician%20Payment%20Innovation%20Act%20Framework.pdf> (Accessed 5/29/2012).
- 15 Charles Fiegl "Former Medicare Chiefs Say SGR Must Be Eliminated," May 21, 2012.
- 16 "Medicare Physician Payment Innovation Act of 2012: Summary of Provisions" By Representative Allyson Schwartz and Representative Joe Heck, p. 5-6, <http://heck.house.gov/sites/heck.house.gov/files/Medicare%20Physician%20Payment%20Innovation%20Act%20Framework.pdf> (Accessed 5/29/2012).
- 17 "Progress Made on How Medicaid Pays Doctors" By Louise Radnofsky, The Wall Street Journal, May 9, 2012, <http://blogs.wsj.com/washwire/2012/05/09/progress-made-on-how-medicare-pays-doctors/?KEYWORDS=medicare> (Accessed 5/23/2012); "House Bill Would Reform Medicare Payment, Eliminate SGR" American Academy of Family Physicians, May 9, 2012, <http://www.aafp.org/online/en/home/publications/news/news-now/government-medicine/20120509schwartzbill.html> (Accessed 5/23/2012).
- 18 "House Legislation Would Permanently Repeal Sustainable Growth Rate" By Bob Herman, Becker's Hospital Review, May 9, 2012, <http://www.beckershospitalreview.com/news-analysis/house-legislation-would-permanently-repeal-sustainable-growth-rate.html> (Accessed 5/23/12); "Medicare Physician Payment Innovation Act of 2012" By Shaun Frost, To the Honorable Allyson Schwartz and the Honorable Joe Heck (May 9, 2012); http://www.hospitalmedicine.org/AM/Template.cfm?Section=Letters_to_Congress_and_Regulatory_Agencies&Template=/CM/ContentDisplay.cfm&ContentID=31231 (Accessed 5/23/2012); AAFP "House Bill Would Reform Medicare Payment, Eliminate SGR, May 9, 2012.
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Robert James Cimasi, MHA, ASA, FRICS, MCBA, AVA, CM&AA, serves as President of **HEALTH CAPITAL CONSULTANTS (HCC)**, a nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, MO, serving clients in 49 states since 1993. Mr. Cimasi has over thirty years of experience in serving clients, with a professional focus on the financial and economic aspects of healthcare service sector entities including: valuation consulting and capital formation services; healthcare industry transactions including joint ventures, mergers, acquisitions, and divestitures; litigation support & expert testimony; and, certificate-of-need and other regulatory and policy planning consulting.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: *“The U.S. Healthcare Certificate of Need Sourcebook”* [2005 - Beard Books], *“An Exciting Insight into the Healthcare Industry and Medical Practice Valuation”* [2002 – AICPA], and *“A Guide to Consulting Services for Emerging Healthcare Organizations”* [1999 John Wiley and Sons].

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious *“Shannon Pratt Award in Business Valuation”* conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows.



Todd A. Zigrang, MBA, MHA, ASA, FACHE, is the Senior Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas valuation and financial analysis for hospitals and other healthcare enterprises. Mr. Zigrang has significant physician integration and financial analysis experience, and has participated in the development of a physician-owned multi-specialty MSO and networks involving a wide range of specialties; physician-owned hospitals, as well as several limited liability companies for the purpose of acquiring acute care and specialty hospitals, ASCs and other ancillary facilities; participated in the evaluation and negotiation of managed care contracts, performed and assisted in the valuation of various healthcare entities and related litigation support engagements; created pro-forma financials; written business plans; conducted a range of industry research; completed due diligence practice analysis; overseen the selection process for vendors, contractors, and architects; and, worked on the arrangement of financing.

Mr. Zigrang holds a Master of Science in Health Administration and a Masters in Business Administration from the University of Missouri at Columbia, and is a Fellow of the American College of Healthcare Executives. He has co-authored *“Research and Financial Benchmarking in the Healthcare Industry”* (STP Financial Management) and *“Healthcare Industry Research and its Application in Financial Consulting”* (Aspen Publishers). He has additionally taught before the Institute of Business Appraisers and CPA Leadership Institute, and has presented healthcare industry valuation related research papers before the Healthcare Financial Management Association; the National CPA Health Care Adviser's Association; Association for Corporate Growth; Infocast Executive Education Series; the St. Louis Business Valuation Roundtable; and, Physician Hospitals of America.



Anne P. Sharamitaro, Esq., is the Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where she focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro is a member of the Missouri Bar and holds a J.D. and Health Law Certificate from Saint Louis University School of Law, where she served as an editor for the *Journal of Health Law*, published by the American Health Lawyers Association. She has presented healthcare industry related research papers before Physician Hospitals of America and the National Association of Certified Valuation Analysts and co-authored chapters in *“Healthcare Organizations: Financial Management Strategies,”* published in 2008.