



Friday, December 7, 2018

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Alliance for Site Neutral Payment Reform Submits Comments on Final OPSS Rule

On December 3, the Alliance for Site Neutral Payment Reform submitted comments to the Centers for Medicare & Medicaid Services (CMS) regarding the Outpatient Prospective Payment System Final Rule for Calendar Year 2019. [Read below.](#)

Hospital Groups File Lawsuit to Stop Site Neutral Payments for E/M Services

The American Hospital Association, the Association of American Medical Colleges, and three hospitals filed a lawsuit against the Centers for Medicare & Medicaid Services (CMS) this week, arguing the agency lacks the authority to move forward with its proposed site neutral payment changes. [Read below.](#)

New HHS Report on Health Care Competition Urges Congress to Expand Site Neutral Payments

A new report issued this week by the Department of Health and Human Services (HHS) offering strategies for how policymakers can increase choice and competition across the health care marketplace highlights the need for Congress to take action on expanding site neutral payments to more sites of service. [Read below.](#)

HRSA to Implement 340B Ceiling Price Rule in January 2019

This week, the Health Resources and Services Administration announced it would be implementing its long-awaited 340B ceiling price rule beginning January 1, 2019. [Read below.](#)

Supreme Court to Hear Case On CMS’ Rulemaking Authority on January 15

On January 15, the United States Supreme Court will hear oral arguments for a case that could define the extent of the Centers for Medicare & Medicaid Services’ (CMS) authority to issue legal interpretations without conducting notice-and-comment rulemaking. [Read below.](#)

Democrats Nominate Nancy Pelosi as Candidate for House Speaker

Last week, the House Democratic Caucus nominated Nancy Pelosi to be the party’s candidate for Speaker of the House, all but guaranteeing she will return to lead the chamber in January. [Read below.](#)

Conservative Lawmakers, Groups Oppose the International Pricing Index (IPI) Model

On November 28, a coalition of 57 conservative groups wrote a letter calling on the Trump administration to withdraw the International Pricing Index (IPI) drug pricing proposal, warning against adopting the price controls of “socialized foreign health care systems.”

The letter, which was signed by leaders of prominent conservative groups such as Americans for Tax Reform, FreedomWorks and the American Conservative Union, argues the IPI proposal would thwart pharmaceutical innovation and threaten U.S. leadership in research and development. It also expresses concern that the model is being proposed through the Center for Medicare and Medicaid Innovation (CMMI), which is exempt from the Congressional appropriations process.

On November 29, members of the GOP Doctors Caucus questioned Secretary of Health and Human Services Alex Azar on the President’s proposed IPI Model. Lawmakers, including Rep. Larry Bucshon, MD (R-IN) have also expressed concerns with the proposal.

To read the full text of the conservative group letter, [CLICK HERE](#).

To read the Network’s statement on the IPI proposal, [CLICK HERE](#).

Alliance for Site Neutral Payment Reform Submits Comments on Final OPPS Rule

On December 3, the [Alliance for Site Neutral Payment Reform](#) submitted comments to the Centers for Medicare & Medicaid Services (CMS) regarding the Outpatient Prospective Payment System Final Rule for Calendar Year 2019. The Alliance commends CMS for finalizing a proposal to implement a Physician Fee Schedule (PFS) equivalent rate on Evaluation and Management (E/M) services performed at exempted hospital off-campus departments (HOPDs). Previously, certain hospital outpatient departments were allowed to continue billing at the higher OPPS rate due to a provision contained in the Bipartisan Budget Act of 2015 that grandfathered in existing facilities.

In its comment letter, the Alliance also urged CMS to implement further site neutral reforms, including finalizing a policy to reimburse new clinical families of services offered at exempted HOPDs at a PFS-equivalent rate rather than the higher OPPS rate.

To view the Alliance’s comment letter, [CLICK HERE](#).

Hospital Groups File Lawsuit to Stop Site Neutral Payments for E/M Services

The American Hospital Association, the Association of American Medical Colleges, and three hospitals filed a lawsuit against the Centers for Medicare & Medicaid Services (CMS) this week, arguing the agency lacks the authority to move forward with its proposed site neutral payment changes. As a part of the 2019 Hospital Outpatient Prospective Payment System (OPPS) Final Rule, CMS will begin reimbursing exempted hospital off-campus facilities for Evaluation and Management (E/M) services at a rate equivalent to what is paid under the Physician Fee Schedule.

The hospitals' lawsuit contends the OPPS rule goes beyond CMS' authority because it violates the Medicare statute's budget neutrality mandate which requires payment changes that target specific items or services to be budget neutral. The groups are also arguing the Bipartisan Budget Act of 2015, which established site neutral payments for newly built hospital off-campus facilities, intended to treat exempted facilities differently than non-exempted facilities and that implementing these payment reforms violates Congress' intent.

To view the hospital groups' lawsuit, [CLICK HERE](#).

New HHS Report on Health Care Competition Urges Congress to Expand Site Neutral Payments

A new report issued this week by the Department of Health and Human Services (HHS) offering strategies for how policymakers can increase choice and competition across the healthcare marketplace highlights the need for Congress to take action on expanding site neutral payments to more sites of service.

"Congress should establish site neutral payment policies based on the anticipated clinical needs and risk factors of the patient, rather than the site of service," the report reads. "In delivering these reforms, Congress should account for differing levels of patient acuity."

The report was drafted by the Department of Health and Human Services (HHS) in collaboration with the Departments of Labor and Treasury and lays out several other actions states or the federal government can take to improve healthcare competition such as repealing the Affordable Care Act's limit on physician-owned hospitals, relaxing telehealth restrictions, repealing or scaling back Certificate of Need (CON) statutes, scrutinizing Any-Willing Provider laws, and addressing potential antitrust and provider consolidation.

In December 2017, HHS issued an informal Request for Information (RFI) asking healthcare stakeholders for feedback on how to reform state and federal laws – especially those that pertain to Medicare and Medicaid – in order to identify barriers to competition and patient choice. The Network submitted comments to that request, specifically urging the Administration to expand site neutral payments to more hospital off campus facilities.

To read the full HHS report, [CLICK HERE](#).

To read The Network's response to the Choice and Competition RFI, [CLICK HERE](#).

HRSA to Implement 340B Ceiling Price Rule in January 2019

This week, the Health Resources and Services Administration (HRSA) announced it would be implementing its long-awaited 340B ceiling price rule beginning January 1, 2019. First developed by the Obama Administration, the rule would allow HHS to fine drug manufacturers that intentionally charge a hospital more than a drug's set ceiling price. The rule has been delayed at least five times in the past over concerns that implementing it would conflict with the Department of Health and Human Services' broader efforts to address prescription drug prices.

Hospital groups led by the American Hospital Association, Association of American Medical Colleges, America's Essential Hospitals and 340B Health – which had filed a lawsuit to force the Administration

to implement the rule – praised the move, while pharmaceutical manufacturers led by Pharmaceutical Research and Manufacturers of America (PhRMA) were highly critical.

To view the HRSA 340B Price Ceiling Final Rule, [CLICK HERE](#).

Supreme Court to Hear Case On CMS' Rulemaking Authority on January 15

On January 15, the United States Supreme Court will hear oral arguments for a case that could define the extent of the Centers for Medicare & Medicaid Services' (CMS) authority to issue legal interpretations without conducting notice-and-comment rulemaking.

The case, *Azar v. Allina Health Services*, No. 17-1484, involves the calculations of hospital payment adjustments for the 2012 payment year. CMS instructed its administrative contractors to use a new formula to calculate those adjustments, which resulted in lower payments to disproportionate share hospitals. Hospitals sued, arguing the agency violated federal law because it did not go through notice-and-comment rulemaking before issuing its new interpretation of how the payment adjustments should be calculated under the Medicare statutes.

The U.S. Court of Appeals for the D.C. Circuit ruled the change invalid, but the Department of Justice appealed, arguing CMS was not required to use formal rulemaking because the agency was merely issuing a non-binding interpretation of the law that did not establish or change any substantive legal standards.

To read more about the case, [CLICK HERE](#).

Democrats Nominate Nancy Pelosi as Candidate for House Speaker

Last week, the House Democratic Caucus nominated Nancy Pelosi to be the party's candidate for Speaker of the House, all but guaranteeing she will return to lead the chamber in January. Though 36 Democrats voted against her during the party's closed-door caucus meeting, several of those members have indicated they will consider voting for Pelosi on the House floor on January 3. A total of 218 votes are needed for a member of Congress to be elected House Speaker.

Pelosi, who has been House Minority Leader since 2011, previously served as Speaker of the House between 2007 and 2011 and was Minority Leader before that from 2003 to 2007.