



Hart Health
Strategies Inc.

Legislative/Regulatory Health Policy Brief

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Congress Celebrates Bipartisan Passage of SGR Repeal

President Signs SGR Repeal into Law – Last Thursday, President Obama signed the Medicare Access and CHIP Reauthorization Act (MACRA), permanently repealing and replacing the Medicare program’s sustainable growth rate (SGR) formula. The \$214 billion package was passed by both chambers of Congress with overwhelming bipartisan support. H.R. 2 will permanently end the automatic cuts to Medicare physician reimbursements, which policy makers have addressed with temporary fixes 17 times since the SGR’s inception in the Balanced Budget Act of 1997. The legislation was a result of quiet negotiations that took place between Speaker of the House John Boehner (R-Ohio) and Minority Leader Nancy Pelosi (D-Calif.) earlier this year. The package pays for approximately a third --\$73 billion – of the bill’s total cost. The House passed the bill by a vote of 392-37 last month. The Senate managed to pass the legislation within 2 hours of the April 15 deadline, in which a 21 percent cut to Medicare physician reimbursements would have gone into place. The final vote in the Senate was 92-8, with Republicans Ted Cruz (Texas), Mike Lee (Utah), David Perdue (Ga.), Marco Rubio (Fla.), Ben Sasse (Neb.), Tim Scott (S.C.), Jeff Sessions (Ala.), and Richard Shelby (Ala.) voting against the legislation in opposition to the bill not being fully offset. In their attempt to schedule the Senate vote on H.R. 2, Senate Majority Leader Mitch McConnell (R-Ky.) and Senate Minority Leader Harry Reid (D-Nev.) reached a deal which allowed each part to offer a limited number of amendments. None of the amendments were approved. Lawmakers rejected a proposal from Sen. Ben Cardin (D-Md.) to repeal Medicare’s annual cap on outpatient therapy costs. They also voted down an amendment from Sen. Patty Murray (D-Wash.) aimed at removing language from the bill prohibiting the use of federal funds to pay for abortions in community health programs – the so called Hyde Amendment language. Murray’s amendment would have also extended funding for community health centers, the National Health Service Corps, and teaching health centers for an additional two years. Furthermore, the provision would have renewed and expanded expired funding for the Medicaid bump to family medicine, general internal medicine, pediatrics, and OB/GYNs for two years to match higher Medicare payment rates. During the rulemaking process, CMS determined that “general internal medicine” included anyone boarded by the American Board of Internal Medicine (ABIM). The Murray amendment specifically included OB/GYNs, which did not meet the CMS definition, in the proposed list to receive bonus payments, but her amendment did not include psychiatry and neurology – cognitive specialties that do not qualify for the bonus payment since they are not

ABIM boarded. Sen. Michael Bennet (D-Colo.) offered an amendment to extend funding for the Children's Health Insurance Program (CHIP) for four years. The program was only extended for two years under the bill. Sen. John Cornyn's (R-Texas) amendment would have repealed the Affordable Care Act's (ACA) individual mandate. This amendment was rejected on a party line vote. Sen. Tom Cotton's (R-Ark.) proposal to simply replace the SGR with a 0.5 percent annual update was also rejected. Republican amendments from Sen. Mike Lee (R-Utah) and Sen. Jeff Sessions (R-Ala.) related to the cost of H.R. 2. Lee's amendment would have paid for the SGR deal under the "Pay as You Go (PAYGO) budget rules," which would have prevented the full cost of the legislation from being added to the deficit but would have resulted in sequester cuts next year. Rejection of all six amendments was in part a result of concerns regarding the deadline for reimbursement cuts. Had the Senate passed an amended bill, it would have been sent back to the House for passage, or the differences between the House and Senate versions would have needed to be conferenced. Congress had until Wednesday to pass a bill before the 21 percent pay cut went into place. Though the Senate stayed late into the night on Tuesday to meet the deadline, the Centers for Medicare and Medicaid Services (CMS) has acknowledged in a notice to providers that a small volume of claims will temporarily be paid using the reduced rate. These providers will be reimbursed at a later date once CMS re-processes their claims. The agency noted that they do not yet have an estimate about how many providers will be impacted.

Budget Conferees Appointed – House and Senate leadership made their appointments to the conference committee on the fiscal year (FY) 2016 budget resolution last week. Speaker of the House John Boehner (R-Ohio) appointed five members of the Budget Committee to the conference, including House Budget Chairman Tom Price (R-Ga.), Rep. Mario Diaz-Balart (R-Fla.), Rep. Diane Black (R-Tenn.), Rep. Todd Rokita (R-Ind.), and Rep. John Moolenaar (R-Mich.). House Minority Leader Nancy Pelosi (D-Calif.) appointed Ranking Member Chris Van Hollen (D-Md.) alongside Rep. John Yarmuth (D-Ky.) and Rep. Gwen Moore (D-Wis.). Senate leadership appointed the entire membership of their Budget Committee to the conference. This includes 12 Republicans headed by Budget Chairman Michael B. Enzi (R-Wyo.), eight Democrats, and two Independents, including Ranking Member of the Budget Committee Bernard Sanders (I-Vt.). The conference committee is charged with reconciling the two chambers' FY 2016 budget resolutions. Negotiations on a final budget blueprint began between Rep. Price and Sen. Enzi over the Congressional recess. One focus on the conference committee will be to determine the extent to which reconciliation will be used. Reconciliation would allow the Senate to pass legislation by a simple majority rather than the typical 60-vote threshold required to overcome a filibuster, as long as the two chambers can agree upon a budget resolution. Republicans in the House support the use of reconciliation to repeal the Affordable Care Act (ACA) in addition to furthering other priorities, such as tax reform and entitlement reform. Senate Republicans would rather limit the use of reconciliation to ACA repeal. The Senate's budget agreement granted reconciliation instructions only to the two committees with ACA jurisdiction: Finance and Health, Education, Labor and Pensions (HELP). Senate Finance Committee Chairman Orrin Hatch (R-Utah) has expressed opposition to using reconciliation to pass tax reform along party lines. Sen. Tim Kaine's (D-Va.) bipartisan addition to the Senate budget resolution providing a two-year sequester replacement deal will also be a major subject of debate in the conference.

The provision calls for \$148 billion in sequester replacement in FY 2016 and FY 2017, with unspecified offsets and tax hikes over the next decade. House Republicans will likely push for leaving the measure out of the conference report. The conference committee is expected to come to an agreement within the next two weeks.

Appropriations Panels Begin Work on Spending Bills – House Appropriations subcommittees having begun writing FY 2016 spending bills under the constraints of sequestration limited budget caps. The first two subcommittee mark ups took place in the House Appropriations’ Energy and Water Subcommittee and the Military Construction-Veterans Affairs Subcommittee, in an attempt to move the most popular funding bills early and quickly through the appropriations process. Other Appropriations subcommittees continue to hold hearings on budget requests. Last week, the Appropriations Labor-HHS-Education Subcommittee convened a FY 2016 budget hearing with Thomas R. Frieden, Director of the Centers for Disease Control and Prevention (CDC) and Nicole Lurie, Assistant Secretary for Preparedness and Response at the U.S. Public Health Service, to discuss funding for Ebola. The Appropriations Defense Subcommittee also held a FY 2016 budget hearing with witnesses testifying on the defense health program. Appropriations Chairman Harold Rogers (R-Ky.) has said that his goal is to move all 12 spending bills through the House by October 1, the start of the new fiscal year.

Bipartisan Legislation to Combat Opioid Abuse Introduced in the House and Senate – Rep. Larry Bucshon, M.D. (R-Ind.), Rep. Ed Whitfield (R-Ky.), Rep. Joe Kennedy, III (D-Mass.), and Rep. Frank Pallone, Jr. (D-N.J.) have introduced H.R. 1725, the National All Schedules Prescription Electronic Reporting (NASPER) Reauthorization Act of 2015. H.R. 1725 will provide grant funding to states to foster the use of prescription drug monitoring programs (PDMPs) in addressing prescription drug abuse. PDMPs offer timely access to accurate prescription information, allowing a provider to screen and treat patients at risk of addiction. This legislation would require grantees to facilitate PDMP interoperability with at least one border state. The bill also encourages states to incorporate access to PDMPs into provider workflow systems, such as electronic health records (EHRs) and e-prescribing. Meanwhile, Sen. David Vitter (R-La.) and Sen. Joe Manchin (D-W.Va.) introduced S. 954, the FDA Accountability for Public Safety Act, which would hold the FDA accountable for opioid drugs approved by the agency. All opioid medications would be subjected to advisory committee review and recommendation before the Food and Drug Administration (FDA) makes a decision on opioid approval. If the advisory committee does not approve of an opioid medication due to concern over consumer health and safety, the FDA Commissioner would be required to make the final decision regarding drug approval. The FDA would also be required to submit a report to the relevant congressional committees that includes medical and scientific evidence justifying their decision in situations in which the advisory committee’s recommendation is ignored. Distribution of the drug would be prohibited until the report is submitted to Congress.

Mental Health Companion Legislation Introduced in the House – Rep. Lynn Jenkins (R-Kan.) and Rep. Doris Matsui (D-Calif.) have introduced legislation to improve mental health training for teachers, first responders, and police officers, among others. The Mental Health First Aid Act (H.R. 1877) is aimed at helping the public identify, understand, and respond to mental

health issues and disorders. Under the bill, mental health first aid training would teach the warning signs and risk factors for schizophrenia, major clinical depression, panic attacks, anxiety disorders, trauma, and other common mental disorders; teach crisis de-escalation techniques; and provide trainees with a five-step action plan to help individuals in psychiatric crisis connect to professional mental health care. H.R. 1877 parallels the Senate bill S. 711, introduced by Sen. Kelly Ayotte (R-N.H.) and Sen. Richard Blumenthal (D-Conn.).

IMS Report on Drug Spending – Spending on prescription pharmaceuticals rose 13.1 percent in 2014, reaching a record high of \$374 billion for 4.3 billion prescriptions filled, according to new [research](#) released by the IMS Institute for Healthcare Informatics last week. The report attributes the increase to the 43 new drugs approved by the FDA last year. \$11.3 billion was spent on four new hepatitis C drugs alone. The report also tracked the impact of the ACA on health service usage. Medicaid patients in states which their programs filled 25.4 percent more prescriptions than before expansion of the program. This is significantly higher than the 2.8 percent increase in states that did not expand their Medicaid program. The research also found that while 15 million people gained health care coverage over the last year, the number of visits to doctors' offices fell 3 percent. Hospital visits decreased 1.7 percent, and inpatient stays dropped 6.2 percent. Emergency room visits, however, saw an increase of 1.4 percent.

Medicare & Medicaid News

Medicaid Leaders Comment on 21st Century Cures – In a [letter](#) to the House Energy and Commerce Committee, the National Association of Medicaid Directors urged members to focus on the potential risks of new drugs and devices for patients as they continue work on the 21st Century Cures Initiative. “Federal policymakers must assess the impact to U.S. prescription drug budgets, insurance premiums and costs borne by the state Medicaid programs, taxpayers and patients,” the letter says. “New pathways and incentives should include appropriate protections for vulnerable patients, particularly those enrolled in the Medicaid program, to ensure they are not inadvertently subject to adverse consequences.” The 21st Century Cures Initiative is aimed at making the approval of new health products faster and more efficient.

Upcoming Congressional Meetings and Hearings

Senate Caucus on International Narcotics Control: hearing on the **quota system used to manage controlled substances**; time and place TBD

Senate Finance Committee: hearing titled **“Creating a More Efficient and Level Playing Field: Audit and Appeals Issues in Medicare;**” time and place TBD

House Veterans' Affairs Oversight and Investigations Subcommittee: **markup of HR 1016, the “Biological Implant Tracking and Veteran Safety Act of 2015;**” 4:00 p.m., 334 Cannon Bldg.; April 21

Senate Finance Health Care Subcommittee: hearing titled **“A Fresh Look at the Impact of the Medical Device Tax on Jobs, Innovation and Patients;**” 10:00 a.m., 215 Dirksen Bldg.; April 23

Senate Appropriations Labor, Health and Human Services, Education and Related Agencies Subcommittee: hearing on **proposed fiscal 2016 appropriations for programs under its jurisdiction – Department of Health and Human Services**; 10:00 a.m., 124 Dirksen Bldg.; April 23

House Veterans' Affairs Health Subcommittee: hearing on **veterans health and safety legislation**; 10:00 a.m., 334 Cannon Bldg.; April 23

House Energy and Commerce Oversight and Investigations Subcommittee: hearing titled "**Combatting the Opioid Abuse Epidemic: Professional and Academic Perspectives**;" 10:15 a.m., 2322 Rayburn Bldg.; April 23

Senate Health, Education, Labor and Pensions Committee: hearing titled "**Continuing America's Leadership: The Future of Medical Innovation for Patients**;" 10:00 a.m., 430 Dirksen Bldg., April 28

House Veterans' Affairs Committee: hearing titled "**Examining Access and Quality of Care and Services for Women Veterans**;" 10:30 a.m., 334 Cannon Bldg.; April 30

House Veterans' Affairs Committee: hearing titled "**Assessing the Promise and Progress of the Choice Program**;" 10:30 a.m., 334 Cannon Bldg.; May 13

Health Legislation Recently Introduced

H.R.1741 (ADVERTISING), to ensure that patients receive accurate health care information by prohibiting misleading and deceptive advertising or representation in the provision of health care services, and to require the identification of the license of health care professionals, and for other purposes; BUCSHON; to the House Committee on Energy and Commerce; April 13

H.R.1752 (HSAs), to amend the Internal Revenue Code of 1986 to make members of health care sharing ministries eligible to establish health savings accounts; KELLY; to the House Committee on Ways and Means; April 13

H.R.1761 (PHSA), to amend the Public Health Service Act to provide for the inclusion of occupational therapists in the National Health Service Corps Program, and for other purposes; TONKO; to the House Committee on Energy and Commerce; April 13

H.J.RES.43 (REPRODUCTIVE HEALTH), disapproving the action of the District of Columbia Council in approving the Reproductive Health Non-Discrimination Amendment Act of 2014; BLACK; to the House Committee on Oversight and Government Reform; April 13

H.RES.190 (EVERY KID HEALTHY WEEK), expressing support for the designation of the fourth week in April as Every Kid Healthy Week; DAVIS; to the House Committee on Energy and Commerce; April 13

H.RES.197 (ORGAN DONATION), expressing support for designation of April as "Organ Donation Awareness/Donate Life Month"; WALKER; to the House Committee on Oversight and Government Reform; April 13

S.898 (PHSA), to amend the Public Health Service Act to provide for the participation of optometrists in the National Health Service Corps scholarship and loan repayment programs, and for other purposes; KIRK; to the Committee on Health, Education, Labor, and Pensions; April 13

S.901 (VA), to establish in the Department of Veterans Affairs a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces that are related to that exposure, to establish an advisory board on such health conditions, and for other purposes; MORAN; to the Committee on Veterans' Affairs; April 13

H.R. 1769 (VA), to establish in the Department of Veterans Affairs a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces that are related to that exposure, to establish an advisory board on such health conditions, and for other purposes; BENISHEK; jointly, to the committees on Veterans' Affairs and Armed Services; April 14

H.R. 1771 (MEDICAL ASSISTANCE), to amend title XIX of the Social Security Act to count portions of income from annuities of a community spouse as income available to institutionalized spouses for purposes of eligibility for medical assistance, and for other purposes; MULLIN; to the Committee on Energy and Commerce; April 14

H.R. 1784 (HOSPITAL-BASED NURSING PROGRAMS), to enable hospital-based nursing programs that are affiliated with a hospital to maintain payments under the Medicare program to hospitals for the costs of such programs; JENKINS; to the Committee on Ways and Means; April 14

H.R. 1797 (TROPICAL DISEASES), to facilitate effective research on and treatment of neglected tropical diseases, including Ebola, through coordinated domestic and international efforts; SMITH; jointly, to the committees on Energy and Commerce, Foreign Affairs, and Financial Services; April 15

H.R. 1807 (PHSA), to amend the Public Health Service Act to reauthorize a sickle cell disease prevention and treatment demonstration program and to provide for sickle cell disease research, surveillance, prevention, and treatment; DAVIS; to the Committee on Energy and Commerce; April 15

H.R. 1818 (PHSA), to amend the Public Health Service Act to provide grants to States to streamline State requirements and procedures for veterans with military emergency medical

training to become civilian emergency medical technicians; KINZINGER; to the Committee on Energy and Commerce; April 15

H.R. 1821 (OPIOID OVERDOSE DRUGS), to provide certain protections from civil liability with respect to the emergency administration of opioid overdose drugs; NEAL; to the Committee on the Judiciary; April 15

H. Res. 203 (CANCER), expressing support for designation of June 2015 as "National Men's Cancer Awareness Month"; HASTINGS; to the Committee on Energy and Commerce; April 15

S. 954 (OPIOID DRUGS), to establish procedures regarding the approval of opioid drugs by the Food and Drug Administration; MANCHIN; to the Committee on Health, Education, Labor, and Pensions; April 15

H.R. 1849 (PHSA), to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes; ROYCE; addition to the Committee on Ways and Means; April 16

H.R. 1852 (RESEARCH), to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities, to increase such credit for amounts paid or incurred for qualified research occurring in the United States, and to increase the domestic production activities deduction for the manufacture of property substantially all of the research and development of which occurred in the United States; EDWARDS; to the Committee on Ways and Means; April 16

H.R. 1859 (PHSA), to amend the Public Health Service Act to provide for the participation of pediatric subspecialists in the National Health Service Corps program, and for other purposes; COLLINS; to the Committee on Energy and Commerce; April 16

H.R. 1860 (VA), to direct the Secretary of Veterans Affairs to publish information on the provision of health care by the Department of Veterans Affairs, and for other purposes; BOUSTANY; to the Committee on Veterans' Affairs; April 16

H.R. 1862 (VA), to direct the Secretary of Veterans Affairs to conduct outreach to veterans regarding the effect of delayed payments of claims for emergency medical care furnished by non-Department of Veterans Affairs medical providers by the Chief Business Office and to direct the Secretary to submit to Congress an annual report regarding such delayed payments; BOUSTANY; to the Committee on Veterans' Affairs; April 16

H.R. 1863 (VA), to amend the Veterans Access, Choice, and Accountability Act of 2014 to expand the Veterans Choice Program to veterans who would otherwise receive medical care from a deficient medical facility of the Department of Veterans Affairs; BOUSTANY; to the Committee on Veterans' Affairs; April 16

H.R. 1877 (PHSA), to amend section 520J of the Public Health Service Act to authorize grants for mental health first aid training programs; JENKINS; to the Committee on Energy and Commerce; April 16

H.R. 1886 (PPACA); to amend section 1341 of the Patient Protection and Affordable Care Act to repeal the funding mechanism for the transitional reinsurance program in the individual market, and for other purposes; TIBERI; to the Committee on Energy and Commerce; April 16

S. 968 (HUNTINGTON'S DISEASE), to require the Commissioner of Social Security to revise the medical and evaluation criteria for determining disability in a person diagnosed with Huntington's Disease and to waive the 24-month waiting period for Medicare eligibility for individuals disabled by Huntington's Disease; GILLIBRAND; to the Committee on Finance; April 16

S. 971 (MEDICARE), to amend title XVIII of the Social Security Act to provide for an increase in the limit on the length of an agreement under the Medicare independence at home medical practice demonstration program; WYDEN; to the Committee on Finance; APRIL 16

S. 984 (EYE TRACKING), to amend title XVIII of the Social Security Act to provide Medicare beneficiary access to eye tracking accessories for speech generating devices and to remove the rental cap for durable medical equipment under the Medicare Program with respect to speech generating devices; VITTER; read the first time; April 16

S. 1005 (INSURANCE), to amend the Internal Revenue Code of 1986 to extend and modify the credit for health insurance costs of certain eligible individuals, and for other purposes; WYDEN; to the Committee on Finance; April 16

H. Res. 211 (VETERANS), expressing the sense of the House of Representatives that veterans deserve the health and living standards they fought to protect; HASTINGS; jointly, to the committees on Veterans' Affairs and Armed Services; April 17