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**March 22, 2021**

**Senate Unlikely to Pass House-Passed Bill to Stop Medicare Sequestration, Avoid Additional Medicare Cuts**

The House Friday passed H.R.1868 to prevent across-the-board direct spending cuts and extend the current moratorium on the 2% Medicare budget sequestration through December 31, 2021. That Medicare 2% sequestration goes into effect again April 1. The bill also stops another mandate that would have forced the government to cut the Medicare program by about \$36 billion (about 4%) in FY2022. The bill as it stands is unlikely to pass the Senate because a number of GOP senators are opposed to additional major spending bills. Senate Democratic leaders are considering breaking up the bill into separate pieces of legislation as a strategy to get the 60 votes necessary to avoid an expected GOP filibuster. To view the bill and summary, click [here](#).

- Sens. Susan Collins (R-ME) and Jeanne Shaheen (D-NH) last week introduced separate legislation to prevent the 2% Medicare sequestration cuts. To review their bill, click [here](#).
- Hospital operating margins decreased nearly 27% between December 2020 and January 2021, and 46% compared with the same time period last year, according to an AHA analysis conducted by Kaufman Hall. Click [here](#) to review
- The nation's health care workforce has reduced by about 3.5 percent during the pandemic, according to a new Altarum analysis, click [here](#).

**Hospital Medicare Loan Repayments Begin First Week of April**

Most hospitals and other providers that received Medicare loans last year to help with the pandemic will begin repaying those loans in less than two weeks. Legislation that would allow hospitals and other providers to use their Medicare loans as grants - not requiring repayment - for Covid losses and expenses between January 1, 2020 and December 31, 2021 has been introduced last week. Providers would have until July 1, 2023 to repay outstanding balances.

- Click [here](#) for a one-page description of the legislation
- Click [here](#) for the text of the bill
- Click [here](#) to see the list of House cosponsors already on the bill
- Click [here](#) for the hospital, health system letter to Congress asking leaders to support the conversion legislation. If your organization is not on the letter, please email your okay to me and we will add you to the letter.

Under a law that passed Congress in late September, this is the new Accelerated (Part A) and Advanced Payment (Part B) loan repayment schedule - Upon request of a hospital, the Secretary shall:

- provide 1 year before payments for items and services furnished by the hospital are offset to recoup payments under the program -
- provide that any such offset be an amount equal to –
  - during the first 11 months, offset at 25 percent of the amount of such payment for items and services, and

- during the succeeding 6 months, offset at 50 percent of the amount of such payment for items and services, and
- allow 29 months from the date of the first payment under the program to the provider before requiring the outstanding balance to be paid in full.

### **FCC Plans to Distribute \$250 Million for Telehealth**

The FCC is considering a plan to distribute \$250 million in funding for telehealth that was appropriated in the 2020 year end spending bill. If adopted, the plan would prioritize the funds to health care providers deemed most in need, including those serving low-income and tribal populations, or are in hard-hit areas or understaffed. The plan would also establish a date for applications, rather than the rolling application cycle used last year. Click [here](#) for press release.

- CMS released a notice correcting technical errors in its final rule updating physician fee schedule payments for calendar year 2021, The notice removes four codes from the newly created Category 3 list of approved telehealth services, among other changes, click [here](#).

### **CMS Nearly Doubles Payments for Administering Vaccinations**

Providers will receive nearly double payment to put "shots in arms" of Medicare beneficiaries to try and entice providers to administer more vaccines daily and increase the number of vaccinated patients in the over 65 group. The rate increase went to effect when announced on March 15 and went from \$23 per shot to \$40 for two-dose vaccines and from \$28 to \$40 for a single-shot vaccine. Additionally, the administration will fully cover all Medicaid and CHIP beneficiaries' Covid shots, as mandated by the American Rescue Plan Act signed into law last week. To read the announcement from CMS, click [here](#).

- A new HHS report details racial disparities in Covid-19 testing, cases, deaths and vaccine administration, concluding with an overview of proposed policy solutions including infrastructure improvements, increased support for chronic conditions and investments in the social determinants of health, click [here](#).
- A new national survey shows that more than 4 in 10 health care workers have not been vaccinated for the coronavirus, click [here](#).

### **Infrastructure Bill, including Billions for Health Care, Continues to Move Forward**

The House Energy and Commerce Committee will start this week with a hearing on H.R. 1848, the Leading Infrastructure for Tomorrow's America Act or LIFT America Act. Witnesses include former Administration officials from the Obama and Trump Administrations to discuss the proposed \$312 billion in clean energy, energy efficiency, drinking water, broadband, and health care infrastructure funding in the legislation. Health care infrastructure would get \$37 billion from the bill, including money that would be available for facilities as well as public health preparedness and cyber security. Click [here](#) for the hearing memo, advanced testimony, and to watch it at 11:00 am ET on Monday.

### **Another 340B Setback: Court Stops Dispute Resolution Process**

Federal Judge Sarah Evans Barker granted drug manufacturer Eli Lilly a preliminary injunction on HHS implementing the administration dispute resolution process as created under the Affordable Care Act. This stems from the lawsuit filed by 340B entities against the new contract pharmacy policies that the pharmaceutical companies started implementing last year. The suit claimed that HHS had not put in place the ADR as was required by law. HHS responded to the injunction that arguments were meritless, that the company would suffer no irreparable harm if it had to respond to ADR claims brought against it, and that it was in the public interest to let the rule take effect. The basis for granting the injunction, was that Eli Lilly lacked, "an opportunity to engage in the comment process, Lilly's rights and interests have been violated," as HHS moved forward with the rule without a formal comment period. Click [here](#) for the decision.

- Bipartisan group of Senators re-introduce legislation that would ensure that any previously 340B eligible hospital will be deemed eligible for any cost reporting period during which the public health emergency occurred regardless of DSH percentages, click [here](#).

### **Medicare for All Introduced in the House**

Pramila Jayapal (D-WA) and Debbie Dingell (D-MI) introduced the Medicare for All Act of 2021 along with more than 100 other Democratic cosponsors including 14 committee chairs and leadership members. While the legislation faces an uphill battle in Congress, and President Biden has not been supportive in the past, the legislation could pressure Biden to follow through on his other health care proposals, including a public option - especially since the sponsors of the bill boast over 300 endorsements. Click [here](#) for the legislation and [here](#) for the press release for the bill introduction.

- Colorado state lawmakers introduced their version of a public health care option bill, click [here](#).
- A new report from the Robert Wood Johnson Foundation offers a way for policymakers to use the \$1.9 trillion COVID-19 relief package as a foundation to continue growing coverage, click [here](#).

### **Most Large Hospitals are Not Complying with the Price Transparency Rule**

Sixty-five of the 100 largest U.S. hospitals, based on bed count, were not in compliance with the CMS price transparency rule, according to price transparency files collected from late January to early February for a study published in *Health Affairs*. The rule required hospitals to make public by Jan. 1, 2021, "a machine-readable file containing a list of all standard charges for all items and services." To comply, the files must contain gross charges, discount cash prices, payer-specific negotiated charges, deidentified minimum and maximum charges and descriptions of and codes for the services and items provided by hospitals. Of the 65 not in compliance, 50 hospitals either did not include the payer-specific negotiated rates with the name of the payer and plan, or some other noncompliance issue. 12 did not post any files or provide links to searchable databases that were not downloadable. To read the study in *Health Affairs*, click [here](#).

- After nine months of delayed or interrupted onsite survey activity, the Joint Commission started March 15 conducting unannounced onsite surveys, click [here](#).
- The House Ways and Means Oversight Subcommittee announced a hearing on March 25 to look at private equity's role in health care, click [here](#).

### **Medicare Advisory Panel Recommends Pay Increases Only for Hospitals and LTCHs**

Using data from 2019, MedPAC recommended that both acute-care hospitals and long-term care hospitals see a 2 percent Medicare rate hike in 2022, while stating that physicians, ambulatory surgery centers, outpatient dialysis facilities, nursing homes, and hospice providers receive no increase. MedPAC detailed its recommendation in the March report to Congress. Additionally, commissioners recommend that home health agencies and inpatient rehabilitation facilities get a 5 percent cut to their payments. The commission said it considered the effect of Covid-19, "To the extent that the effects of the Covid-19 public health emergency are temporary or vary significantly across providers in a sector, they are best addressed through targeted, temporary funding policies rather than permanent increases in the payment rates for all providers in 2022 that would get compounded over time." Click [here](#) for the report.

- MACPAC (Medicaid and CHIP Commission) also released its recommendations for the upcoming year suggesting to Congress that it automatically increasing the federal share of Medicaid expenditures during economic downturns, extend the postpartum coverage period to one year after delivery for Medicaid and CHIP, and require states to provide full Medicaid benefits to all pregnant and postpartum individuals. The report also includes the annual update on Medicaid disproportionate share hospital allotments to states, click [here](#).

### **20 Rural Hospitals Closed in 2020**

Since 2010, 136 rural hospitals have closed - 20 in 2020 alone, according to the Sheps Center for Health

Services Research. The hardest hit states were Texas with 21 rural hospital closures, followed by Tennessee with 16 hospitals closures. Almost every state has at least one rural hospital at risk for closure and in 22 states, 25 hospitals were at immediate risk due to a cumulative negative total margin over the most recent three-year period, and their financial situation has likely deteriorated because of the pandemic. To read the full report, click [here](#).

- Last week, Reps. Tom Reed (R-NY) and Terri Sewell (D-AL) introduced the Rural Hospital Support Act that would make permanent the Medicare-Dependent Hospital program and enhanced low-volume Medicare adjustment for small, rural prospective payment system hospitals, click [here](#).

### **CMS Makes Request for Primary Care First Model Cohort 2 Applications**

CMS is encouraging primary care practices in eligible regions to apply for the recently released application for Primary Care First Model Cohort 2. Practices that participate in the PCF model will have care delivery flexibility and an opportunity to increase practice revenue through performance-based model payments. CMS notes that participating practices that focus on patients with complex chronic needs receive higher model payments for the care of these patient populations in the model. The deadline for practice applications is April 30, 2021; the deadline for payer applications is May 28, 2021. Click [here](#) for more on the model.

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