Medicare physician payment overhaul bill becomes law

April 15, 2015

Introduction

Late April 14, the US Senate passed H.R. 2, the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) with broad bipartisan support. President Obama will sign MACRA into law, thus ending the annual exercise of Medicare physician fee schedule payment fixes. MACRA contains several Medicare and other health "extenders," a two-year reauthorization of the Children's Health Insurance Program (CHIP), Medicare structural changes and provider reimbursement cuts.

For over a decade, the cost of an overhaul to the Medicare sustainable growth rate (SGR) formula has been the primary obstacle to achieving success. For the first time, Republican and Democratic leaders agreed to pursue an SGR overhaul without fully paying for the cost. The Congressional Budget Office (CBO) estimates that the SGR overhaul and physician payment changes in MACRA will cost $175.4 billion over the 2015–2025 period. Overall, MACRA will increase the budget deficit by $141 billion, with the bulk of the offsets derived from Medicare reimbursement cuts to hospitals and post-acute care providers and increased cost-sharing by wealthier beneficiaries.

The following summarizes the key provisions of MACRA, which will now transition to the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) for implementation. With passage of an SGR overhaul, other congressional health care priorities no longer will be held hostage to the threat of Medicare physician reimbursement cuts.

Title I – SGR repeal and medicare provider payment modernization

The primary purpose of MACRA is to avoid the yearly threat of severe Medicare physician reimbursement cuts. As such, the law repeals the SGR formula and provides for a 0% update for April, May and June and a 0.5% payment update effective July 1 through December 31, 2019.

For 2019 through 2025, Medicare physician payment rates will be set at the 2019 rate. Providers will be eligible for an incentive program, the Merit-Based Incentive Payment System (MIPS). The MIPS consolidates the Physician Quality Reporting System, Value-Based Modifier and the meaningful use incentive programs. Under MIPS, incentive payments will be provided to professionals who achieve high quality performance and improved performance year-to-year, as compared to a base performance threshold. Performance scores falling below the performance threshold will subject professionals to payment reductions, which will be capped at 4% in 2019, 5% in 2020, 7% in 2021 and 9% in 2022.

Professionals who receive a significant portion of their revenue from eligible alternative payment models (APMs) will be excluded from the MIPS program and will receive a 5% bonus each year from 2019–2024. Eligible APMs include two-sided risk accountable care organizations (ACOs) and primary care medical homes expanded through regulation under the authority of the Center for Medicare and Medicaid Innovation.

Beginning in 2026, physicians and other professionals paid under the Medicare physician fee schedule will receive an annual update of 1% for participating in APMs, while all other professionals will receive annual updates of 0.5%.

Title II – Medicare and other health extenders

As noted above, MACRA contains Medicare and other health program “extenders” that customarily have been attached to the temporary SGR bills over the years.

Several provisions are extended until January 1, 2018:

- Work Geographic Practice Cost Index (GPCI) 1.0 floor.
- Therapy caps exception process.
- Add-on payment for ground ambulance services.
- Medicare home health 3% rural add-on payment.

Hospital-based extenders included in MACRA through the end of FY 2016:

- Medicare low-volume hospital payment increase.
- Special payments for Medicare-dependent hospital (MDH) program.

Authority for Medicare Advantage (MA) special needs plans (SNPs) is extended through December 31, 2018. MACRA also contains a transition policy for Medicare reasonable cost contract plans to transition to MA plans.

Other health programs set to expire were extended through FY 2017:

- Community Health Center program.
- National Health Service Corps (NHSC).
- Teaching Health Center Graduate Medical Education Payment program.
- Special diabetes program for Type I diabetes and Type II Indian Health Service programs.
- Abstinence-only education programs.
- Personal responsibility education program (PREP).
- Family-to-family health information centers.
- Health workforce demonstration project for low-income individuals.
- Maternal, Infant, and Early Childhood Home Visiting Program.

MACRA also permanently extends the qualifying individual (QI) program and the transitional medical assistance (TMA) program and provides Medicaid disproportionate share (DSH) allotments for Tennessee for FY 2015–2025.

Title III – CHIP extension

Funding for the Children's Health Insurance Program expires on September 30, 2015. MACRA extends CHIP funding for FY 2016–2017. While Senate Democrats and some stakeholders pursued a four-year extension of CHIP, MACRA ultimately includes a two-year extension with the increased payments provided under the Affordable Care Act.

Title IV – Offsets

Beginning in 2018, wealthier beneficiaries will be required to pay a greater portion of Part B and Part D premiums. Medigap for new Medicare beneficiaries no longer will provide first-dollar coverage for the Part B deductible, beginning in 2020.

Medicare reimbursement updates for skilled nursing facilities (SNFs), inpatient rehabilitation facilities (IRFs), home health agencies, hospice providers and long-term care hospitals (LTCHs) will be limited to 1.0% for FY 2018. A one-time Medicare reimbursement adjustment for hospitals will be phased-in over six years.

Medicaid DSH reductions imposed by the ACA will be delayed by one year until FY 2018, but extended by one year to 2025.

Title V – Program integrity

MACRA includes the Protecting the Integrity of Medicare Act of 2015 (PIMA). PIMA contains the following Medicare program integrity provisions:

- Social Security numbers will be prohibited from being included or embedded on Medicare beneficiary cards.
- The Medicare Administrative Contractors (MACs) will be directed to establish an outreach and education program for improper payments. This program will provide information to providers and suppliers regarding the most frequent and expensive payment errors, including instructions on correcting and avoiding errors and audits.
- MAC contracts could be re-bid every 10 years, instead of five.
- Civil monetary penalties (CMPs) will be eliminated for inducements to physicians to limit non-medically necessary services. The HHS Secretary must submit a report on establishing a permanent physician-hospital gainsharing program.

Additionally, PIMA will extend through September the MAC "probe and educate" program regarding the two-midnight rule.

Conclusion

As with any Medicare bill, passage of the law does not end the debate. Providers and stakeholders will continue to pursue legislative changes or fixes with Congress. As HHS and CMS begin to implement the numerous provisions of MACRA, navigating the regulatory process will be essential to a successful outcome. The Dentons Public Policy and Health Care teams are equipped with the institutional knowledge, legislative and regulatory policy capabilities and relationships in Washington to help ensure that your organization's needs are not overlooked or disrupted by Congress or the Administration.

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