AMERICA'S PHYSICIAN GROUPS

WASHINGTON UPDATE

March 10, 2023

Welcome to "Washington Update," the weekly e-newsletter on the latest health care happenings in the nation's capital that affect APG's members.

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APG Submits Comment Letter on CMS Medicare Advantage Advance Notice

The Centers for Medicare & Medicaid Services' (CMS) proposed changes in the risk adjustment model for Medicare Advantage (MA) will have a disproportionate impact on special needs plans, disadvantaged Medicare beneficiaries, and primary care physicians, APG wrote in a comment letter submitted to the agency this week. The result would undermine several of the Biden Administration's most important goals for reshaping health care, leading to "poorer care and greater inequities in care, rather than the increased equity and greater quality that CMS seeks," wrote APG President and CEO Susan Dentzer. Other outcomes could include diminished support for primary care in MA, and "forc[ing]…groups out of…relationships with health plans in which they assume direct accountability for costs and quality –

thwarting CMS's goal of ensuring that all Medicare enrollees have these accountable relationships with their providers by 2030."

As noted in previous *Washington Update* newsletters, CMS has called for substantial changes to the MA risk adjustment model based on the faulty premise that the larger number of diagnoses collected in MA compared to fee-for-service is indicative of excessive coding. The agency estimates that the overall impact of its risk adjustment overhaul would result in about a 3 percent reduction in risk scores and a 1 percent increase in revenue on average across MA plans, beginning in 2024. CMS did not release estimates of the impact on physician groups that contract with MA plans. APG members that were able to analyze the effect on their operations during the brief comment period concluded that the impact varied by group, with some reporting pending revenue losses that range as high as 17 percent, and possibly higher.

In the comment letter, APG pointed to a new ATI Advisory analysis that it commissioned underscoring the potential negative effects of the proposed changes in risk adjustment. The study examined the effects on Medicare beneficiaries in the fee-for-service part of the program, so as to control for any coding effects specific to MA enrollees and to obtain more information about the results across different demographic groups. The findings indicate that the proposed changes will impact some beneficiaries and physicians more than others. For example, risk adjusted payments will be reduced for two-thirds (67%) of Medicare beneficiaries with diabetes. These beneficiaries with diabetes are more likely than the average Medicare beneficiary to be age 75 years or older, Black or Hispanic/Latino, and dually eligible for Medicaid. They are also more likely to have low income, have lower levels of education, and experience food insecurity.

APG recommended that CMS grant at least one of its three requests: that the risk adjustment changes be placed on hold for a year pending further examination; that specific changes be made in coding decisions that would have the greatest impact on APG groups; or that the changes be phased in over two to three years, to give the most affected plans and provider groups greater time to adjust.

In its ongoing advocacy efforts, APG has shared its comment letter and recommendations broadly, including with Senate staff. Last week a group of Senate Republicans, including Sen. Bill Cassidy, met with CMS Administrator Chiquita Brooks-LaSure on Monday to relay similar concerns. It is unclear what impact the discussion will have as the agency heads towards finalizing the Advance Notice over the next several weeks.

Biden's Fiscal Year 2023 Budget Proposal: More Medicare Advantage Changes, Lowering the Deficit, and Boosting Medicare's Solvency

Meanwhile, President Joe Biden proposed an additional set of MA changes in his fiscal year 2023 budget proposal this week – while also attempting to stake out key policy ground by proposing major deficit cuts and measures to extend the life of Medicare's Hospital Insurance (HI) Trust Fund.

On MA, the Biden administration continued efforts to weed out inappropriate upcoding or overcoding by implementing targeted pre-payment risk adjustment review on plans, diagnoses, and beneficiaries that the administration classifies as being at higher risk for improper pay through the confirmation of the diagnoses submitted by MA plans for risk adjustment with beneficiaries' medical records. There would be a threshold for plans to submit documentation in support of risk adjustment, though certain types of plans would be excluded. In addition, the budget calls for a medical loss ratio (MLR) minimum for supplemental benefits of 85 percent, aligning with the existing MLR across other benefits. The budget states that the proposal will create incentives for MA plans to reduce administrative costs and ensures that taxpayers and beneficiaries receive value from Medicare health and drug plans.

Biden's budget also proposes the following steps to cut the federal budget deficit and shore up the HI Trust Fund:

- Increasing the Medicare tax rates on both earned and investment income above $400,000 from 3.8 percent to 5 percent;
- Closing a loophole to collect these higher Medicare tax rates on income routed through business entities that now escape these Medicare taxes;
- Dedicating the revenue from the Medicare tax on net investment income to the HI Trust Fund;
- Beefing up provisions of the 2022 Inflation Reduction (IRA) Act by allowing Medicare to negotiate prices for even more drugs, and subjecting drugs to price negotiation sooner after they launch;
- Extending the IRA requirement that drug companies pay rebates to Medicare when they increase prices faster than inflation so that drug companies also pay inflation rebates to commercial health insurance.
- Capping Part D cost-sharing on certain generic drugs to $2 per prescription per month.

The Medicare Office of the Chief Actuary estimates that Biden's proposals would extend the solvency of Medicare's HI Trust Fund by at least 25 years, into the 2050s. Savings from extending the IRA requirements alone would add $200 billion to the HI Trust Fund over ten years. In total, President Biden is proposing to cut the deficit by approximately $3 trillion over the next decade through a new tax on households worth more than $100 million and by quadrupling the tax on stock buybacks.

For the most part, Biden's budget arrived on Capitol Hill to a predictable chorus of congressional Republicans declaring it dead on arrival. The action now moves to the House and Senate Budget Committees, which are expected to develop their own budget blueprints in the coming weeks.

Key Senate Panel Seeks Input on Health Care Workforce

The Senate Committee on Health, Education, Labor and Pensions (HELP) wants to hear from physicians, hospitals, and other stakeholders on ideas to shore-up the health care workforce—an issue that APG members continue to rank as a top concern. To that end, the committee's leaders, Chairman Bernie Sanders (I-VT) and Ranking Member Bill Cassidy (R-LA), issued a broadly worded request for information earlier this month.

Concerns over physicians, clinicians, and nurses leaving the workforce, even as workforce needs grow and the pipeline of future workers remains inadequate, have been expressed for years. Last year, health care executives ranked shortages among nurses, medical technicians, therapists and both primary care physicians and specialists as their top challenge, topping even concerns over financial performance, patient safety, and access to care. The issue is especially acute for value-based care organizations, which rely on teams of practitioners to coordinate patient care in a holistic manner.

The HELP Committee is asking for “views on the drivers of health care workforce shortages” as well as potential solutions. Lawmakers on the committee expect to draft legislation later this year. Comments are due back to committee staff by March 20. The issue, which is also on the radar of House staffers, could constitute a rare area of bipartisan cooperation this year.

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