



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 Advocacy Continues Amidst Fallout From The Change Healthcare Cyberattack**

Three weeks into the payment disruptions caused by the cyberattack on Change Healthcare, APG continues to advocate for measures to resolve serious cash flow and other problems faced by some APG members. On March 9, the Centers for Medicare & Medicaid Services (CMS) announced that it would make available to eligible providers advanced Medicare Part B payments following direct pleas to the agency by APG and other physician organizations. APG has also briefed members of President Biden's Domestic Policy Council about specific problems that some members have encountered, such as lack of payment from Medicare Advantage plans despite CMS's request that the plans front money to providers as well.

Change Healthcare's pharmacy claims operations were restored earlier this week, and the organization says that there will be "phased reconnection/testing" of its claims system during the week of March 18. However, it is unclear at this point when full functionality of Change

Healthcare's systems will be restored, let alone how long it will take to process the huge backlog of unpaid claims throughout the health care system.

**Information Breach:** Meanwhile, the Department of Health and Human Service's Office for Civil Rights (OCR) [opened an investigation](#) this week into whether a breach of patients' protected health information (PHI) has also occurred as a result of the attack. OCR says it "is not prioritizing investigations of health care providers, health plans, and business associates that were tied to or impacted by this attack" for violations of Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, and Breach Notification Rules. However, APG is now seeking clarity from OCR about the circumstances under which health care providers will be expected to report to patients or the government any HIPAA-related PHI breaches due to the Change Healthcare cyberattack.



## **Medicare Advantage Plans Could Face Major Changes Under Biden Fiscal 2025 Budget Proposals**

Medicare Advantage (MA) plans and contracted providers could face major changes under a series of [proposals](#) contained in the Biden administration's fiscal year (FY) 2025 [budget request](#) to Congress. Under the proposals, the same 85 percent medical loss ratio requirements imposed on large group health plans under the Affordable Care Act would be extended to MA supplemental benefits, which could prompt plans to scale back some benefits not widely used by patients. In addition, diagnoses submitted by MA plans for risk adjustment would have to be confirmed in medical records before such payments could be made.

To assist in preventing and fighting fraud, MA plans would also have to collect and report to CMS the "valid ordering, referring, or prescribing provider identifiers for healthcare services" as part of encounter data submissions. And for the first time, both Medicare and MA plans would be subject to federal mental health parity provisions that require health plans to offer mental health and substance use disorder benefits "no more restrictive than the financial requirements or treatment limitations" that apply to medical and surgical benefits.

It is not clear how these proposals will fare in Congress alongside multiple other Biden health care measures, such as expanding the number of prescription drugs subject to mandatory Medicare price negotiation and limiting to \$2 per month beneficiary cost-sharing for certain generic drugs. APG will closely follow the vigorous 2025 budget debate as it plays out in Congress in the coming months.



## Emerging Congressional Legislation Could Tackle Care For Dual Eligibles, Artificial Intelligence, And Primary Care Payment In Medicare

Several pieces of legislation of potential interest to APG members are in different stages of development in Congress, as follows:

**Dual Eligibles:** A bipartisan group of six senators has introduced [legislation](#) that would require states to select from a group of program models chosen by the Centers for Medicare & Medicaid Services (CMS) for providing comprehensive, integrated health care for beneficiaries eligible for both Medicare and Medicaid. States would then work with the federal agency to implement the model. Every state would also have to allow Programs of All-Inclusive Care for the Elderly (PACE) to be established within its borders and expand coverage to individuals below age 55. APG provided comments in January 2023 in response to a November 2022 Request for Information from the bill's six sponsors.

**AI Governance And Transparency:** The House Committee on Oversight and Accountability approved a bipartisan [bill](#) to increase transparency, oversight, and responsible use of artificial intelligence (AI) by federal agencies, and establish guardrails for protecting privacy, civil rights, and civil liberties. The sponsors say the legislation is intended to allow the adoption of AI to improve public functions while protecting citizens' privacy, civil rights, and civil liberties. The bill's prospects are unclear among multiple other pieces of AI-related legislation now being developed in Congress.

**New Primary Care Payment Model:** Senate Budget Committee Chair Sheldon Whitehouse (D-RI) has unveiled a [discussion draft](#) of a bill encouraging CMS to create a new "hybrid" payment model in Medicare for primary care. The model would blend a prospective per member per month (PMPM) payment that could be risk-adjusted with fee-for-service payments. Beneficiary cost sharing could also be waived for services provided under the prospective payment. A technical advisory committee would also be appointed to advise CMS on improving the Medicare Physician Fee Schedule, which has "under-resourced both primary care services and primary care provider pay," Whitehouse said.



### APG Announcements And Offerings

- Registration is open for the APG Spring Conference in San Diego from May 29-31. Register [here](#).
- APG will host an Emerging Trends in Health Care Webinar on April 19, 12:15 pm – 12:45 pm ET, with guest Patrick Conway, MD, CEO of Optum Rx. Register [here](#).

- APG will host an Emerging Trends in Health Care Webinar on May 16, 12:00 pm – 12:45 pm ET, with guest Rebekah Gee, MD, CEO of Nest Health. Register [here](#).
- Want to get more involved in APG's Federal advocacy efforts? [Join APG Advocates today](#).

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