

THE NATIONAL LAW REVIEW

New Funding Legislation's Impact on Health Care Programs

Friday, February 9, 2018

Congress passed a funding bill early this morning just after the February 8th deadline. The new legislation will make several changes to the Medicare program, delay cuts to disproportionate share hospitals, provide two years of funding for community health centers, and renew certain expired or expiring health care programs. The legislation increases government funding caps by about \$300 billion over two years, extends government funding through March 23rd, and provides for a one year suspension on the debt ceiling.

The legislation includes several Medicare extenders (legislation that extends Medicare programs that were set to expire or have expired) that have developed out of the House and the Senate along with extensions for other health care programs discussed below.

Medicare Cap for Therapy Services

The new legislation removes Medicare caps for therapy services. Currently, Medicare beneficiaries receive assistance paying for outpatient physical and occupational therapy, and speech-language pathology services. When a beneficiary receives those services from an outpatient provider, there is a cap on how much Medicare will cover unless an exception applies. This cap will be removed.

Special Needs Plans

Special Needs Plans (SNPs) were set to expire at the end of 2018 and the legislation makes SNPs permanent. SNPs are Medicaid managed care plans that enroll beneficiaries with low income, chronic conditions, or who reside in a nursing home. The most well-known SNP is the D-SNP that is available to individuals that are eligible for both Medicare and Medicaid. Other SNPs are available to patients who are institutionalized, I-SNPs, or have chronic conditions, C-SNPs. Several plans have expressed concerns about the temporary nature of SNPs and have lobbied for a permanent solution.

Health Care Program Extensions

The legislation grants a five-year extension for the home health rural add-on payment, a 3% payment increase that expired on January 1. Ambulance providers will receive increased payments for services provided in rural and underserved areas and will also be required to provide cost reporting for ambulance services and Health and Human Services (HHS) could impose penalties for incomplete reports.

Along with the five-year extensions, the legislation tacks on a two-year extension for health programs such as the National Health Service Corps, the Medicare Dependent Hospital Program, and the low-volume hospital payment adjustment for hospitals that discharge fewer than 1,600 Medicare patients each year.

Medicare Expansion

Several measures in the legislation address expanding Medicare coverage for individuals with chronic conditions. Telehealth services would expand for end-stage renal disease treatments, stroke evaluations, accountable care



Article By [Jennifer F. Walsh](#)
[Taylor E. Whitten](#)[Dennis A. Cardoza](#)
[Foley & Lardner LLP](#)
[Health Care Law Today](#)
[Health Law & Managed Care](#)
[All Federal](#)

organizations, and Medicare Advantage plans. The legislation also allows Medicare Advantage plans to offer supplemental benefits to those with chronic conditions and modify Affordable Care Organizations to incentivize primary care programs.

The legislation creates a Medicare payment program for in-home infusion drug services to fill in the gap before the 21st Century Cures Act payment program takes effect and will codify certain Centers for Medicare and Medicaid Service (CMS) changes to the Stark law.

Home Health

The legislation also impacts home health providers. The home health services eligibility determination process documentation review now includes medical records of home health providers. The legislation also directs Health and Human Services (HHS) to modify payments for home health services beginning in 2020.

Funding of the Legislation

The legislation is funded through a variety of fiscal offsets including Medicare payment modifications and shifting money from other funds. The legislation reduces certain Medicare payments such as hospital payments made when a patient is transferred to a hospice after a short stay. Funding in the Medicare and Medicaid Improvement Funds will be withdrawn and the Affordable Care Act's Prevention and Public Health Fund payment structure will be modified. The proposal also modifies the Medicaid Disproportionate Share Hospital reductions, adding \$6 billion to FY21-FY23 to offset the elimination of reductions scheduled for FY18 and FY19. Payment for biosimilars will be included in the Medicare Coverage Gap Discount Program, a program that gives Medicare Part D beneficiaries a discount when out-of-pocket spending meets a certain threshold amount. And the legislation closes the gap in Medicare prescription drug coverage, known as the "donut hole," by shifting more of the cost onto drug companies.

© 2019 Foley & Lardner LLP

Source URL: <https://www.natlawreview.com/article/new-funding-legislation-s-impact-health-care-programs>