Policy Brief

September 7, 2018

CMS Doing More to Address Social and Behavioral Needs

Recognizing the impact of social determinants of health on patient outcomes, providers are slowly adopting new initiatives to target patients' social and behavioral needs. Due to a lack of reimbursement, most of these initiatives are small in scope and target only high health care utilizers. CMS is dabbling in expanding the scope of its payment models to include more types of interventions. The Agency released a new model, Integrated Care for Kids (InCK), that would combat the effects of the opioid crisis by addressing both the behavioral health and social risk factors of children. Also, CMS sought comments on how to create a behavioral health payment model. Below is more on the current barriers hospitals face and how new payment models may help overcome them.

Many hospital executives have expressed commitment to addressing social determinants but are unsure of what actions will lead to a positive return on investment. Deloitte surveyed 300 hospitals in 2017 and found that while 88% were committed to addressing social determinants, 72% had not made any investments. The development of the InCK model and the RFI on behavioral health indicate that CMS is beginning to recognize the impact of these issues on clinical outcomes. This may result in new payment models for providers to experiment and tackle behavioral and social health. Time will tell if CMS' new focus will be enough of an incentive for more hospitals to invest in social and behavioral health programs.

Senate Passes Massive Spending Package

The Senate has passed its version of the spending package, which must be reconciled with the House bill by September 30th to avoid a government shutdown. The Senate appropriations bill contains funding for the Department of Health and Human Services (HHS) as well as the departments of Defense, Education and Labor. Funding is increased for medical research, opioid-combating efforts and mental health initiatives. The Senate package also earmarks money for HHS regulations requiring drug manufacturers to post their prices in direct-to-consumer advertising. Below is a breakdown of the bill's contents, as well as its next steps.

What's in it?

Alongside increasing the National Institutes of Health and opioid budgets, sections of the bill fund Children's Hospital Graduate Medical Education and rural telehealth pilots. Others require that HHS report regularly on the wellbeing of migrant children in its care. $10 million is allocated to expanding training and support for school-based mental health practitioners, an amendment championed by Senators Bill Nelson (D-FL) and Marco Rubio (R-FL).

What's not in it?

Not surprisingly, the bill contains no funding for the ACA's risk corridor payments. It also does not contain any language denying federal funding to Planned Parenthood—the measure to do so failed by a narrow margin. President Trump has previously threatened to veto spending packages that do not include border wall funding, something this bill also lacks.

What's next?

With a shutdown looming, lawmakers need to combine the House and Senate versions of the bill, resolve those areas where they differ and secure presidential approval. Although the package does not include money for the border wall, some hope its historic defense funding may inspire the President to sign anyway. If passed by the deadline, this would be the first bill to fund the Pentagon on time since 2006.

Opioid Legislation Stalled in Senate

Congress has been working on passing a legislative package to address the opioid epidemic. The Senate version, which is expected to move to a floor vote soon, is comprised of four committee bills and is less comprehensive than the House bill. The House version passed in June and contains 58 individual bills including two AHPA priorities: removing the Institutions for Mental Disease (IMD) exclusion and allowing Medicaid patients to receive Medically Assisted Treatment (MAT) for up to 30 days per year. AHPA is actively advocating for the inclusion of these provisions in the Senate bill. The chart below outlines the similarities and differences in the two packages.

Major Provisions	House Bill	Senate Bill
Repeals the Institution for Mental Disease (IMD) exclusion	**Included** *(would allow Medically Assisted Treatment for up to 30 days)*	**Not Included**
Includes Funding Allocation	**Included ($4 Billion)**	**Not Included**
Allows doctors to access a patient's substance use disorder records (Amends 42 CFR Part 2)	**Included**	**Not Included**
Expands access to treatment through telemedicine	**Included**	**Included**
Expands access to buprenorphine	**Included**	**Included**
Increases screenings for fentanyl being illegally imported by mail	**Included**	**Included**
Promotes an improved disposal of unused prescription opioids	**Included**	**Included**

Supports the use of opioid alternatives for pain treatment	**Included**	**Included**

House Committee Sends Recommendations to CMS on Reducing Red Tape

On Tuesday, the House Ways and Means Committee sent several letters to CMS highlighting areas the agency can reduce regulatory burden in Medicare. This is part of the Committee's Red Tape Relief project, which seeks to identify opportunities to reduce legislative and regulatory burdens. The Committee has held several roundtables with health providers and discussed issues such as Stark law reform and telehealth. According to a recent report, the Committee is expected to take legislative action on these and other issues in the near future. Below are key areas outlined by the Committee for CMS to seek regulatory relief.

Hospital Conditions of Participation

- Eliminate or revise standards in the hospital Conditions of Participation that do not promote patient care.

Co-Location

- Allow visiting specialists to use rural hospitals and provider-based clinics without requiring an alternative space and separate waiting area.

Hospital Quality Star Ratings

- Modify the methodology for the hospital quality star ratings, including "assessing the effect of sociodemographic adjustment for outcome measures."

Meaningful Measures

- Streamline quality reporting and eliminate measures that are not tied to patient outcomes.

Skilled Nursing Facilities

- Streamline the consolidated billing process for SNFs and "clarify policies to reduce time lost on paperwork."

Documentation to Satisfy Home Health Eligibility

- Encourage CMS to exercise its regulatory power so that home health eligibility is determined based on the entire patient record and not just the physician record.

Hospice Medical Review Audits

- Increase accountability and transparency for auditors to ensure that they are appropriately trained.

Quality Payment Program

- Make the implementation of the Quality Payment Program in MACRA "gradual enough to ensure success and participation."

Evaluation and Management (E/M)

- Instead of merging the E/M codes into two categories as proposed in the OPPS CY 2019 rule, consider a policy with three coding categories and account for patient risk scores.

Prior-Authorization

- When adopting prior-authorization, exempt items that are regularly ordered for patients, such as diabetic supplies. The Committee also expressed concern that prior-authorization could result in unnecessary delays in patient care.

Reporting Consolidation for Physicians

- Develop a uniform reporting system for specialists to report under the Merit-Based Incentive Payment System (MIPS).

Accountable Care Organizations

- Include "some level of regulatory and payment stability for the length of agreements."

A Look at The Federal Register

Request for Information (RFI) on Anti-Kickback Statute. The Office of Inspector General (OIG) released a **Request for Information** that seeks input on potential new safe harbors to the Anti-Kickback Statute and exceptions to the beneficiary inducement prohibition in the Civil Monetary Penalty (CMP) Law. The RFI is divided into four categories: promoting value-based care, beneficiary engagement, feedback on fraud and abuse waivers, as well as the intersection of Stark Law and the Anti-Kickback Statute. **Comments are due October 26, 2018.**

RFI on Electronic Health Record (EHR) Reporting Program. The Office of the National Coordinator for Health IT (ONC) issued a RFI seeking input on components of the EHR Reporting program. The RFI seeks input on two subject areas. The first seeks input on priorities on the intersection of health IT product-related reporting criteria and healthcare provider reporting criteria. The second seeks input on specific focus areas, including the reporting criteria categories required by the 21st Century Cures Act. **Comments are due by October 17, 2018.**

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AHPA Resources

On September 24th, at 1:30 p.m. EST, AHPA is hosting a webinar on the final FY 2019 Inpatient Prospective Payment System rule. **To register,** click here.

IPPS FY 2019 Final Rule

Inpatient Prospective Payment System Comment Table

OPPS FY 2019 Proposed Rule

AHPA Webinar Slides