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Senate Delays Medicare Pay Cut to June 1

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Editor's note: Soon after the Senate's vote, the House also passed the delay of the Medicare pay cut to June 1.

April 15, 2010 — Physicians once again have dodged a financial bullet. The Senate today voted 59 to 38 to delay a 21.2% Medicare pay cut from April 1 to June 1 — the third such delay this year.

The postponement of the massive reduction in Medicare reimbursement was part of a larger bill that extends expired unemployment compensation benefits and subsidies for health insurance premiums for out-of-work Americans under the COBRA program.

Organized medicine has warned that if it materializes, the Medicare pay cut will force many physicians to close their doors to not only seniors but also military families, whose TRICARE coverage is based on Medicare rates.

The original version of the bill passed today would have made May 1 the new effective date, but an amendment offered by Sen. Max Baucus (D-MT) tacked on an extra month for all the bill's provisions.

The measure now will go to the House, where approval is expected. Earlier this year, the House passed a version of the legislation that delayed the Medicare pay cut to May 1.

CMS Says It Will Reprocess Claims Paid at Reduced Rate

The pay cut technically took effect on April 1, but the Centers for Medicare and Medicaid Services (CMS) tried to shield physicians from it by instructing carriers not to process claims for April services for the first 10 business days of the month, or through yesterday. CMS was hoping that Congress would avert the pay cut before today, which would allow carriers to reimburse suspended physician claims at the old, higher rate.

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Today, CMS announced before today's vote that since the 10-day hold had expired, its carriers will begin processing these suspended claims according to the new reduced fee schedule. "This will begin as soon as systems are fully tested to ensure proper claims payment," CMS said in a written statement. "And, Medicare contractors will pay these claims on a first in–first out basis."

However, CMS also stated that if Congress postpones the pay cut, Medicare will reprocess those claims at the older, higher rate. "Claims with submitted charges at or above the higher rates will be able to be automatically reprocessed without further action," CMS stated. "Providers have the option of holding their affected claims until the legislative landscape becomes clearer."

Claims for services rendered before April 1 are not subject to the pay cut and will be reimbursed at the higher rate, CMS added.

Physicians may receive some favors from Medicare carriers that do not intend to immediately start processing suspended claims at the reduced rate. The American Medical Association reported to state and specialty medical societies today that "some carriers have the capacity to hold claims for an additional day or 2 and still meet Medicare law's prompt payment requirements, others will begin processing claims today at the reduced rates."

Delay Buys Time for Congress to Devise Long-Term Fix

The 2-month delay gives Congress breathing room to devise a longer-term "doc fix" — the name that lawmakers give to legislation dealing with how Medicare reimbursement is calculated. Right now, reimbursement is determined by the so-called sustainable growth rate (SGR) formula, which sets an annual target for Medicare spending on physician services based partly on the growth of the gross domestic product. If actual spending tops the target, Medicare is supposed to decrease physician pay the next year to recoup the difference.

Congress has called off annual SGR-triggered cuts going back to 2003, so the gap between actual and targeted spending on physician services has continued to grow, resulting in the 21.2% decrease for 2010.

Organized medicine has loudly lobbied Congress to replace the SGR formula with one that would set reimbursement rates more in line with physician practice expenses. Congressional Democrats and Republicans both view this request sympathetically, but the high cost of a radical doc fix has deterred them from obliging. The House last fall passed a measure that would have scrapped the SGR formula, but it also would have added \$210 billion to the federal budget deficit, according to the Congressional Budget Office. A similar doc fix bill in the Senate got nowhere after budget hawks — most of them Republicans — objected to its price tag.

Between now and June 1, Congress is likely to consider extending the Medicare pay cut again to October 1. The Senate has already passed such a measure, and House Democrats have indicated they are willing to follow suit, provided they can find "pay-fors" — new revenue or spending cuts — to offset the cost and avoid adding to the federal budget deficit.

Congressional Democrats also have contemplated postponing the pay cut for 5 years and freezing Medicare rates in the meantime. Congress laid the groundwork for this move when it recently enacted a budgetary rule called pay-as-you-go, or pay-go. Designed to curb deficit spending, pay-go requires Congress to finance any future appropriation by either cutting the budget somewhere else or raising taxes. The pay-go rule contains an exception, however — the equivalent of a 5-year freeze of Medicare reimbursement at 2009 levels, should Congress decide to approve it. In other

words, Congress could put the cost of the freeze — roughly \$82 billion, as estimated by the American Medical Association — on the federal deficit tab.

Some leaders of organized medicine have stated that going 5 years without a Medicare raise is nearly as bad as a 21.2% cut, because physician practice costs will continue to rise during that stretch.

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