

Eli's Rehab Report

Outpatient Outlook: Congress Cuts It Close With Last-Minute SGR Patch

Plus: Legislation shocks providers with ICD-10 delay.

Relish in the relief that the therapy cap exceptions process and Medicare payments are once again safe — just in the nick of time since the old legislation expired at the end of March.

Temporary solution: Congress passed yet another "fix" legislation, HR 4302, the Protecting Access to Medicare Act. This new law's SGR and therapy cap exceptions patch is good until March 31, 2015.

Instead of plummeting 24 percent, the SGR under the new legislation will provide a 0.5 percent Medicare payment update for the rest of 2014, continuing at the same rate through March 31, 2015.

Bipartisan Agreement: Close, But No Cigar

The House and **Senate** attempted to create a new Medicare payment policy sans therapy caps and flawed sustainable growth rate (SGR) before April, but they were unable to reconcile on how to pay for it.

"The three committees in Congress with jurisdiction over the Medicare program took all the thoughtful steps necessary to give comprehensive reform a real chance this Congress," says **Tim Casey**, director of federal affairs for the **American Occupational Therapy Association**. The legislation's fate, however, was, not surprisingly, tied closely to the ability of a Democratic-led Senate and a Republican-led House finding agreement on how to offset its cost.

In the end, multiple odds were stacking up against a timely legislative package to permanently fix the Medicare policies. On top of the struggles to find savings and working with a politically sensitive issue, lawmakers were working in an election year, all of which "ultimately proved too high a bar to clear," Casey observes.

"It's hard to predict what Congress will do as there does not seem to be an agreement on how to pay for a longer-term solution," says **Ingrida Lulis**, director of federal and political advocacy for **ASHA**. "Unfortunately continued short-term patches create more difficulties in finding pay-fors for a longer term solution," she continues, noting the stress both on providers and their beneficiaries.

Keep Holding Out for a Permanent Fix

With chances looking optimistic earlier this year to pass legislation that would nix the troublesome Medicare payment policies once and for all, many therapists have wondered if a full fix will ever happen. Industry leaders, however, believe there is still hope.

"Every indication suggests legislators want to keep working on these issues," points out **Mandy Frohlich**, senior director of government affairs for the **American Physical Therapy Association**. "Although a permanent fix for SGR and therapy cap was not reached by the March 31 deadline, APTA and many in the provider community remain hopeful that Congress will build upon the substantial progress made on permanent solutions for these flawed policies."

Biggest culprit: "Ultimately, finding offsets to pay for this legislation delayed the timetable on finalizing a bill," Frohlich notes.

"The hard and meticulous work put forth in crafting a comprehensive, bipartisan solution to Medicare's payment system and outpatient therapy cap was not in vain," Casey says.

Upside: In Congress there is "broad agreement on the merits of the [new] policy," Casey says. So, "we remain optimistic

that a path forward on pay-fors will emerge."

"ASHA supports **Senator Wyden's** efforts to pass a long term solution to both the SGR and the therapy caps," Lulis says, noting that the therapy caps were created at the same time as the SGR policy. Thus, "we believe these policies should be fixed together as a part of Medicare payment reform."

Prepare for Post-Payment Review Only

On the bright side, you don't have to adapt to brand new policies and procedures when it comes to therapy cap exceptions.

"The [patch] legislation made no changes to the exceptions process to the therapy cap beyond extending the current process through March of 2015," says **Tim Nanof, MSW**, director of health care policy and advocacy for the **American Speech Language Hearing Association**.

Don't miss: CMS, however, followed up with a recent regulatory change, Nanof notes. Through March 15, 2015, should your therapy cap amounts reach the manual medical review level, Medicare Recovery Audit Contractors will do the review on a post-payment review basis only.

"Previously in 11 states that were part of a pre-payment review demonstration, the manual medical review was conducted pre-payment," Nanof says, "but all reviews will now be conducted in a post-payment manner."

Reminder: In post-payment, you will still provide the service and receive payment, but your claims will be reviewed at a later date.

Surprise: Your ICD-10 Deadline Just Changed

A delay to the Oct. 1, 2014, implementation of ICD-10 came out of left field in the same legislation that fixed therapy cap exceptions and the SGR. Now, ICD-10 won't go into effect until Oct. 1, 2015.

"Efforts to include a delay of ICD-10 in the one-year SGR patch was a late and unexpected development," Casey says.

Reasoning: The main arguments cited for delaying ICD-10 implementation "included lack of readiness surrounding clinical documentation, vendor solutions, and systems testing," according to a statement from the **American Academy of Professional Coders**.

"The ICD-10 delay is very frustrating □ especially for groups that had made so much progress in anticipation of the Oct. 1, 2014, implementation," Nanof says. "The delay until Oct. 1, 2015, allows more time for preparation but has also made members concerned that there may be yet another delay."

Most professional healthcare associations are still encouraging their members to keep training and preparing as usual.

Creative idea: "Several larger groups and many hospitals are ... planning to implement ICD-10 on their own in October as planned and then map ICD-10 codes back to ICD-9 for billing purposes," Nanof says.

For more ideas on how to plan and train for ICD-10, see the following link on CMS' website: www.cms.gov/Medicare/Coding/ICD10/ICD-10ImplementationTimelines.html. The agency offers different timelines based on the size and type of your facility. The deadline has not yet been updated to reflect the new legislation, but the step-by-step visual timeline over a year's period is a great place to get started.