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Eli's Hospice Insider

Budget: Physician Assistant Change Should Ease Hospice Access

Plus: Trump administration budget proposal highlights hospice fraud.

The two-year budget deal passed by Congress and signed by President **Trump** Feb. 9 contains both good and bad news for hospice providers.

While the House-passed version of the budget deal did not contain a provision allowing physician assistants to serve as hospice attending physicians, the Senate version did include the proposal contained in the earlier-introduced Medicare Patient Access to Hospice Act.

Good news: The final law, the Bipartisan Budget Act, retained the provision, and as of Jan. 1, 2019, PAs will be able to serve as attendings in addition to the already-allowed nurse practitioners and physicians.

The **National Hospice & Palliative Care Organization** applauds the provision, which will "be especially helpful in underserved areas and rural communities," NHPCO President **Edo Banach** tells **Eli**.

The changes will "allow patients to continue on with their physician assistant if they are their primary care provider when they enter into hospice, if they so choose," adds the **National Association for Home Care & Hospice**. "While PAs would not be able to certify or recertify hospice orders, they would be allowed to manage and bill for hospice care."

Bad news: But another provision in the law will make accessing hospice more difficult, experts predict. The **Centers for Medicare & Medicaid Services** will implement a payment penalty for hospitals that discharge and transfer patients to hospice "early." The hospital DRG payment would be prorated based on how early the discharge would be.

The **HHS Office for Inspector General** made this recommendation last year in its 2017 "Compendium of Unimplemented Recommendations" (see Eli's Hospice Insider, Vol. 9, No. 5).

How it works: Currently, when "a patient is discharged from a hospital to another hospital, or post-acute care setting before a stay threshold based on Medicare severity diagnosis related group (MS-DRG) is met, the reimbursement shifts to a per-diem amount to the hospital," NAHC explains. "The stay threshold is not met if the length of stay is at least one day less than the geometric mean length of stay for the MS-DRG."

Problem: The law puts the change into place by Oct. 1. That leaves CMS "little time to prepare for implementation without fully understanding the impact on hospice providers," NAHC protests. "When a similar policy was applied to post-acute care providers, CMS initially limited the roll-out to a few MS-DRGs to avoid unintended consequences."

Timeline: Watch for CMS to include this change in the Fiscal Year 2019 rulemaking process, NAHC says. "We can expect to see a proposal as soon as April and will then have an opportunity to comment on their proposed rule."

Meanwhile, the bill would soften the blow by also requiring a study on the impact of the change conducted by the **Medicare Payment Advisory Commission**. The study would evaluate the change's "effects on (A) the numbers of discharges of patients from an inpatient hospital setting to a hospice program; (B) the lengths of stays of patients in an inpatient hospital setting who are discharged to a hospice program;" and "(C) spending under the Medicare program" as well as "other areas determined appropriate by the Commission," the law says.

The study would evaluate "whether the timely access to hospice care by patients admitted to a hospital has been affected" by the payment change, the legislation adds. MedPAC would have to report its preliminary results to Congress in March 2020 and its final report in March 2021, according to the law.

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NHPCO is "discouraged" by this new policy, Branach says.

More bad news: NHPCO also is disappointed that the budget deal lacks "a provision that would allow Rural Health Clinics and Federally Qualified Health Centers to receive payment for serving as the hospice attending physician - which would be a significant benefit to Medicare beneficiaries in rural and underserved communities who face barriers in accessing hospice," Branach says.

Services Furnished In Home 'Susceptible To Fraud,' Trump Budget Proposal Says

Meanwhile, the Trump administration released its budget proposal for 2019, and it calls for increased enforcement for "additional funding to address fraud, waste, and abuse in home health and other noninstitutional-based services."

Specifically: "Services provided in a beneficiary's home or other noninstitutional settings, including home health, hospice, and other home- and community-based services, are susceptible to fraud," the budget says. The OIG "will develop new recommendations for targeted program safeguards for beneficiaries in homes- or community-based settings and prevent fraud by bad actors while limiting the burden on legitimate providers," the proposal says. "Through data analytics, OIG would also detect new and emerging fraud schemes, enabling us to monitor trends and evolution of known fraud schemes."

ROI: CMS "actuaries conservatively project that, for every new dollar spent by HHS to combat health care fraud, about $2 is saved or avoided," the budget says.

The Trump budget also suggest charging surveyed providers a user fee for survey revisits.

While the president's budget is widely considered DOA as an entire document, don't be surprised to see policy- and lawmakers cherry pick cost-cutting ideas from the proposal.

Note: See the Bipartisan Budget Act text at www.congress.gov/bill/115th-congress/house-bill/1892/text and the HHS budget summary at www.hhs.gov/sites/default/files/fy-2019-budget-in-brief.pdf.

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