



Radiation Oncology

POLICY UPDATE

MARCH 2011

President's FY 2012 Budget Includes Offsets for Two-Year Doc Fix

The President's FY 2012 Budget includes \$62 billion in specified offsets to avoid a 25 percent cut in 2012 and instead proposes a two-year Medicare physician payment update. The biggest portion of these offsets is obtained through an expansion of "program integrity authority." The largest of the program integrity offsets would limit states' ability to use provider taxes to pay the state share of Medicaid beginning in 2015 (saves \$18 billion). House Republicans are likely to argue that the Administration should use health reform funding to offset a Medicare physician payment update. Although the President's budget assumes offsets for the total cost of a permanent extension of current payment rates (estimated at \$370 billion), offsets are not specified beyond the two-year "doc fix."

The Department of Health and Human Services (HHS) "[Budget-in-Brief](#)" provides a department level summary of the changes in the President's Budget.

HHS Secretary Testifies Before Senate and House Committees

HHS Secretary Kathleen Sebelius appeared before the [Senate Finance Committee](#) and the [House Ways and Means Committee](#) on February 15 and 16 to provide testimony regarding the President's Fiscal Year 2012 Budget. Among the major points made by Secretary Sebelius regarding the President's Budget were the following:

- The budget continues to implement the health care reform law enacted in 2010 and expanding access to health insurance coverage.
- The budget contains specific offsets to pay for a two-year "doc fix."
- The budget contains a number of reductions and terminations in the department and sets a discretionary spending level below 2010.

OMB Director Testifies Before House Budget Committee

On February 15, the House Budget Committee held a hearing on the [President's Fiscal Year 2012 Budget](#). Testifying before the committee was Director of the Office of Management and Budget, Jacob Lew. Among the major points made by Director Lew in his [testimony](#) were the following:



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- The President's Budget freezes non-security discretionary spending for five years.
- The budget pays for a two-year "doc fix."
- The budget includes over 200 terminations, reductions and savings.
- The budget targets resources towards education, innovation, clean energy, and infrastructure.

Director Lew's testimony "commended" the work of the President's National Commission on Fiscal Responsibility and Reform and indicated several proposals of the commission were included in the President's Budget.

Berwick and Foster Testify Before House Ways and Means Committee

On February 10, the House Ways and Means Committee held a [hearing](#) regarding the health care law's impact on the Medicare Program and its beneficiaries. CMS' Administrator [Donald Berwick](#) and Chief Actuary [Richard Foster](#) were the testifying witnesses. Dr. Berwick stated, "Medicare's long-term sustainability is stronger than ever as a result of new efficiencies, new tools, and resources, to reduce waste and fraud and slow growth in Medicare costs." Conversely, Mr. Foster stated "if Medicare payment rates become lower than the current level for Medicaid, which would in fact happen over time under the Affordable Care Act, then it raises questions about the ability of beneficiaries to have access to care."

MedPAC Meeting on Ancillary Services

On February 23, the Medicare Payment Advisory Commission (MedPAC) held a [meeting](#) entitled, "Improving payment accuracy and appropriate use of ancillary services." Four draft recommendations were presented separately to the MedPAC Commissioners to address concerns regarding self-referral. According to Chairman Hackbarth, these recommendations are meant to address inappropriate growth in volume, while also recognizing an outright ban on self-referral for certain services could adversely affect efforts towards clinical integration. MedPAC staff clarified that while most of the recommendations were focused on diagnostic imaging, the packaging/bundling draft recommendation (see # 1 below) could apply to radiation therapy.

- Draft Recommendation 1: The Secretary of HHS should (1) request the AMA RUC/CPT to expand efforts to combine discrete services into comprehensive codes and (2) develop bundled payments for multiple ambulatory services furnished during an episode of care.
- Draft Recommendation 2: Congress should require the Secretary to apply the Multiple Procedure Payment Reduction to the professional components of certain diagnostic imaging codes.
- Draft Recommendation 3: Congress should require the Secretary to reduce the work



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component for imaging and other diagnostic tests ordered and performed by same physician.

- Draft Recommendation 4: Congress should direct the Secretary to establish a prior authorization program for physicians that perform significantly more imaging than their peers.

MedPAC staff indicated the commission would be including a section on these issues in its June 2011 Report to Congress.

MedPAC Worried About Sustainable Growth Rate

On February 23, MedPAC held a [meeting](#) entitled, “The Sustainable Growth Rate System: Policy considerations for adjustments and alternatives.” The commission discussed concerns relating to the current sustainable growth rate (SGR) policy and potential options to replace the system.

Among the concerns raised regarding the current SGR policy were the following:

- In early years, volume growth under the SGR was less than GDP so updates were positive. In later years, volume growth was more than GDP so the SGR required cuts. Congress has overridden these cuts in such a way that a permanent fix now costs in the hundreds of billions.
- The SGR is strictly a budgetary tool and does not account for quality or efficiency and does not differentiate by provider.
- The recent history of stop-gap fixes have created uncertainty for providers.

Among the options MedPAC considered were:

- Apply technical changes to the SGR to forgive excess spending.
- Create “type-of-service” SGRs for services such as primary care, E&M, imaging and tests, major procedures, minor procedures, anesthesia.
- Exempt certain providers from the SGR (e.g. accountable care organizations, medical homes).
- Adjust the SGR policy to target outlier providers who use significantly more resources than their peers.

MedPAC is expected to make a recommendation to Congress on reforming the SGR by the Fall of 2011.

House Passes 2011 Spending Bill

On February 19, the House passed the Full-Year Continuing Appropriations Act, 2011 (H.R. 1) by a vote of 235-189. The bill, which funds government programs through September 30, 2011,



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would cut at least \$59 billion in spending for the remainder of fiscal year 2011. The Act would prohibit using continuing resolution (CR) funds to implement the Affordable Care Act (ACA) or pay any federal officer or employee to carry out ACA provisions, including the individual mandate and Independent Payment Advisory Board. The Senate is expected to take up some form of the measure prior to the current CR expiring on March 4.

Medical Liability Reform Moves in the House

On February 16, the House Judiciary Committee held a [mark-up](#) and passed [H.R. 5](#), the HEALTH Act of 2011. Among other things, this legislation would allow for unlimited compensation for economic damages, but place a \$250,000 cap on non-economic damages. Under the introduced bill, punitive damages would be allowed “only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer.”

The bill now goes to the House floor where it is expected to pass. In his State of the Union address last month, President Obama said he is willing to consider liability reform as a way to reduce health care costs.

Physician Quality Reporting System Town Hall

CMS held a Town Hall meeting on February 9 regarding the Physician Quality Reporting System (PQRS).

The town hall was intended to seek input on individual quality measures and measures groups that have the potential to be included in the 2012 PQRS program. Among the measures was a radiation oncology measure described as follows:

- Oncology: Treatment Summary Communication – Radiation Oncology: Percentage of patients, regardless of age, with a diagnosis of cancer who have undergone brachytherapy or external beam radiation therapy who have a treatment summary report in the chart that was communicated to the physician(s) providing continuing care and to the patient within one month of completing treatment

An American Society of Radiation Oncology (ASTRO) representative spoke in favor of the measure and also indicated ASTRO is working on future measures relating to palliative care. A transcript of the meeting and the related potential measures are available [here](#).

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