Society of General Internal Medicine

THE CRD ASSOCIATES'

HEALTH POLICY REPORT

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The Headlines:

- **Congress Returns to an Unfinished Agenda**
- **The Common Rule: Are There Changes Coming?**
- **PCORI Looks Ahead to an Active Year**
- **The End of the Medicare Payment Nightmare?**

Congress Returns to an Unfinished Agenda

As you undoubtedly know by now, the House and Senate in mid-December reached an agreement on the broad parameters of a budget deal intended to create a framework for FY2014 and FY2015 federal spending.

Much of the media of coverage of the agreement, which passed both houses of Congress and was signed into law by the President, suggested that it assured the there would be no government shutdown in either year and that it would provide stability to the government moving forward.

While the latter may be true, the former certainly is not.

What Congress passed lessened (but did not eliminate) sequestration; it generated a small amount of additional revenues through fees; it included a three-month patch to the perennial sustainable growth rate formula; and it set a budget ceiling for discretionary spending for both fiscal years.

What it did not do was actually fund the government – for either year.

For that to happen, Congress has to address the appropriations issues (as distinct from the budget issues) that it has consistently dodged for the last number of years.

Congressional staffs have been working almost non-stop since mid-December to reach agreements on the twelve appropriations bills that are pending.

The reports we are hearing coming out of these closed meetings is that significant progress is being made. But no one should underestimate the difficulty of the task at hand. Not only do they have to agree on the funding levels for virtually every discretionary program in the federal budget, but they have to decide what policy positions – if any – should be included in the bill.

For example, it has been an article of faith among House Republicans that no funding should be appropriated to implement the Affordable Care Act. The Senate has money in its draft bill. That is a very difficult issue to settle, particularly when the House subcommittee chair is running for the Senate in Georgia.

So, there remains much to be done. However, it is clear that the House and Senate have moved much closer to a resolution of the issue that could have been expected even a month ago.

SGIM for its part has weighed in with the leadership of the House and Senate Appropriations committees on issues of importance that are being discussed in the negotiations. Among these are a number of Title VII programs funded under the Health Resources and Services Administration; the National Institutes of Health; the Agency for Healthcare Research and Quality; and others.

The current Continuing Resolution is due to expire on January 15, 2014. Much remains to be done in a short period of time. But, if Congress is not careful, they might actually get it done!

The Common Rule: Are There Changes Coming?

As you know, federally-funded research is governed by a document generally referred to as the Common Rule. Early in the Obama administration, at the direction of Dr.

Zeke Emanuel, proposals were made amend the Common Rule in a number of areas.

Shortly after enactment of the Affordable Care Act, Dr. Emanuel left the administration and little was heard about the changes. Then about two months ago, we began to hear rumblings that something might be happening with moving the changes forward.

NIH is now saying they do not intend to address this issue further until after they complete action on an unrelated issue -- the proposed genomic data sharing (GDS) regulations. It is our understanding that NIH is locked in a dispute with the Office of Human Subject Protections about the GDS regulation and that, in turn, is slowing down work on the Common Rule changes. NIH hopes to have the GDS regulation finalized by the end of March. So it seems unlikely there will be any further movement on the Common Rule changes until late spring.

Nevertheless, we will continue to monitor this situation closely and you can be certain that SGIM will be involved in any action related to changing the rules that govern how federally-funded research is conducted.

PCORI Looks Ahead to an Active Year

Dr. Joe Selby, the Executive Director of the Patient-Centered Outcomes Research Institute (PCORI) blogged on December 30 about the Institute's successes in 2013 and plans for 2014.

In 2013, PCORI approved more than 200 proposed research awards and initiatives totaling in excess of $440 million. These included about 175 primary research projects and initiatives across their five National Priorities for Research and 29 projects worth more than $93 million to establish research infrastructure.

In 2014, Dr. Selby's blog indicates that PCORI plans to begin to implement an increase in its patient-centered CER from the current $350 million to an average of $500 million per year from 2014-16. They will also commission the development of a detailed blueprint for promoting dissemination and implementation into practice of appropriate findings from funded studies. Third, they will utilize a recently constituted task force to develop a comprehensive evaluation plan. Finally, results from the first 50 pilot projects funded will come on line in late 2014.

On balance, it looks like a busy year coming up for PCORI. SGIM remains fully engaged with the leadership and staff and will continue to support high-quality clinical comparative effectiveness research.

The End of the Medicare Payment Nightmare?

Congress gave physicians an early Christmas present by passing a 3-month sustainable growth rate (SGR) "bridge," ensuring that Medicare payment would not be slashed by almost 25 percent on January 1. The more encouraging sign is the emergence of a bi-partisan and bi-cameral agreement to replace the SGR once and for all.

Last summer the House Energy & Commerce Committee unanimously passed legislation to replace the SGR. Then, on December 12, 2013, the House Ways and Means and the Senate Finance Committees passed very similar bills to address this issue. The bills passed by the two Committees are very similar with the main difference being that the Ways and Means Committee bill provides a 0.5% update in physician fees for three years followed by a freeze in fees for seven years. The bill passed by the Senate Finance Committee would freeze fees from 2014 – 2023.

Starting in 2017, the bills establish a Value-Based Performance Incentive Program (VBP), which consolidates and makes changes to the existing Medicare quality programs. Under the VBP, physician performance will be assessed in four categories: 1. Quality reporting - using PQRS measures, 2. Resource Use - based on CMS' Value-Based Modifier program's cost measures, 3. EHR meaningful use, and 4. Clinical practice improvement activities – activities to help transition providers to Alternative Payment Models, such as Accountable Care Organizations and Medical Homes. Funding for the incentive program in 2017 will equal 4% of Medicare spending of professionals eligible to participate in the program increasing to 12% in 2021. Providers will be assessed and receive bonus payments or adjustments based on a composite score determined by performance in all 4 categories.

The bill also authorizes an annual 5% bonus payment for providers participating significantly in Alternative Payment Models (APMs) that involve quality measurement and risk of financial loss from 2017 - 2022. Professionals meeting these requirements will be excluded from the bill's Value-Based Incentive Program.

For five years, the bill provides $15 million a year for the further development of quality measures and

$25 million is provided annually for technical assistance to help smaller practices improve their VBM scores or to transition to APMs.

Given the bipartisan support for the effort and a seeming change of tide on what to actually do about the SGR, it seems that maybe 2014 will be the year for big policy change. With the Congressional Budget Office's score of repealing the SGR on blue light special – a true bargain at $116 billion - it may be easier than ever for lawmakers to come together.

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