

## 2019 Outlook: Six Things to Watch in Medicare

By Shira Stein and Mindy Yochelson

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- Fight over payments could end in hurt for hospitals
- Rule change expected that would allow Medicare to pay what other countries pay for drugs

The Trump administration has been working over the past two years on initiatives to lower health-care costs, like new payment models and allowing Medicare to pay what other countries pay for drugs, and those initiatives will start being put into action in 2019.

The Department of Health and Human Services has focused on lowering health-care costs by looking at the high cost of hospital services and lowering prescription drug prices. Medicare was the largest single purchaser of health care in 2016, according to the Centers for Medicare & Medicaid Services.

The coming year should see action on six fronts:

### Site Neutral Payments

Medicare is either going to stop paying more for the same type of clinic visit in the hospital outpatient setting than in the physician office setting in 2019, or the battle over what are called “site neutral payments” is going to heat up.

The CMS finalized a regulation in 2018 to change site neutral payments for hospital outpatient departments, and, almost immediately, hospitals and other health-care groups sued the HHS to stop it from going into effect on Jan. 1.

Site neutral payments will likely expand to other facilities in 2019, like skilled nursing facilities and long-term care facilities, Mike Strazzella, leader of the federal government relations department at Buchanan, Ingersoll & Rooney, told Bloomberg Law in an interview.

### Stark Law Reform

Changes to the physician self-referral law, known as the Stark law, are likely to come in 2019. The administration plans to release in the next six months a regulation to get rid of barriers in the Stark law to coordinating care among doctors, hospitals, and other health-care providers, according to a semiannual list of rules that federal agencies are pursuing.

Deputy HHS Secretary Eric Hargan previously told Bloomberg Law that the administration would “try to be as bold as we can within the restrictions of the law.”

The Stark law, named after its congressional sponsor and first enacted in 1989, prevents physicians from referring patients to medical facilities where the doctors or their immediate family members have financial interests. Penalties for violating the law can include \$15,000 for each medical service and three times the amount of Medicare payments received for services.

### **Payment and Service Delivery Models**

Trump administration officials have been dropping hints about new payment and service delivery models in the last half of 2018, and industry consultants expect those models to be released in the early part of the new year.

New models likely will include those for cardiac care and radiation oncology, as well as a model to address social needs that harm Americans' health, such as insufficient food or housing.

The Center for Medicare and Medicaid Innovation is seen as a test kitchen for new payment models for the health-care industry and is taking the lead on advancing value-based care. The administration has been using alternative payment models, systems where providers earn rewards for delivering high quality and cost-efficient care in exchange for taking on risk, to promote payment based on patient outcomes instead of numbers of procedures.

### **Aligning Drug Payments**

The CMS gave the public until the end of 2018 to comment on a proposal that would revise pricing for high cost office-administered drugs like chemotherapy. The agency is considering a model that would align Medicare payments for drugs with lower prices paid in other countries, among other requirements.

Expect "enormous pushback from congressional Republicans against the idea of pegging prices to those set in other countries," Brian Rye, a senior health-care analyst for Bloomberg Intelligence, said.

In the meantime, industry, patient, and health-care provider groups are working on less radical alternatives that could be supported by the administration and announced by the end of January, Matt Brow, president of the Washington-based consultant, Avalere Health, told Bloomberg Law.

### **Prescription Proposal**

Another proposed rule, this one for prescription drugs, would attempt to lower pharmacy prices through a variety of methods, including lessening requirements for "protected class" drugs.

These medications treat patients with complex health conditions, who some believe need access to the full range of medication options and can't take a substitute for their current prescription. Medicare currently must cover substantially all medications within the six classes, protecting patient access.

Patient advocates are concerned the proposal, which would allow drug plans some latitude, including letting them drop from their coverage list a protected class drug if the price rises over a threshold.

But Lawrence Kocot, principal and national leader of KPMG's Center for Healthcare Regulatory Insight, told Bloomberg Law he predicts the proposal on protected classes will be largely implemented as proposed.

### **Managed Care**

Medicare managed care plans, which offer the prescription drug benefit, will have a strong year with growth in enrollment and plans offerings, as well as extra benefits that are at a historically high level, according to the Medicare Payment Advisory Commission, which advises the CMS and Congress on Medicare policy.

Plans for the first time will be able to offer a large array of extra benefits, such as wheelchair ramps, after the Medicare agency expanded what it considers health-related.

"Medicare Advantage continues to be the most attractive segment of the health insurance industry with the fastest growth," Jason McGorman, a senior equity analyst for Bloomberg Intelligence, said.

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