

HEALTHCARE REGULATORY ROUND-UP

MedPAC: What It Is and Why You Should Care

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MedPAC: Role and Purpose



Independent congressional agency

- Established under Balanced Budget Act of 1997
- Advises Congress on issues impacting Medicare program
 - Includes access to care, quality of care, payment updates

MedPAC meetings open to the public

- Currently virtual
- Transcripts available

Other MedPAC activity

- Comments on proposed regulations
 - Responses contained in final rules

March 2021 Report: Rate Updates



Hospital services

- Recommended 2% payment update for both inpatient and outpatient services; same update for LTCH

Physician services

- Follow current law for update

No update –

- ASC
- Outpatient dialysis
- Skilled nursing
- Hospice

Reduce current rate –

- Home health (5%)
- Inpatient rehab (5%)

- Dozens of bills introduced to expand Medicare coverage for telehealth services post-PHE
- MedPAC recommends continuing coverage 1-2 years post-PHE to evaluate impact on access, quality, and cost
 - Limited to specific services
 - Including audio-only E/M for established patients
 - Reimburse at facility rate
 - No cost-sharing waiver
 - Safeguards to address higher risk of fraud
 - Monitor outliers
 - Face-to-face visit required before ordering high-cost DME/lab
 - No incident-to billing for clinicians who can bill directly
- On the look-out for regulations implementing expanded telehealth coverage for behavioral health services

June 2021 Report: Policy Revisions



- Operating a smaller portfolio of more harmonized alternative payment models
 - CMMI's experience
 - Now operating 12 APMs with 25 different tracks
 - Population-based and episodic payment models have generated gross savings and some have produced net savings; primary care transformation models have had inconsistent results
 - Success-limiting factors
 - Providers in APMs can continue to have incentives to maximize utilization
 - Payment models' incentives can be hard to understand.
 - Clinicians' employers may shield them from models' incentive
 - It may take more time for APMs' impact to materialize than CMMI currently allows
 - Voluntary payment models allow selection bias among participant
 - Some clinicians may be unable to make the infrastructure investments needed to succeed in new payment models
 - Beneficiaries' financial incentives are not aligned with those of provider

- After a decade of playing mad scientist, CMMI needs greater discipline in designing and implementing APMs
 - “[D]eploy a more parsimonious portfolio of models that are designed to work together”
 - Use more consistent model parameters (e.g., for calculating spending targets and measuring quality performance)
 - “If models were less complex, they could also attract more independent providers, since such providers might no longer need to hire consultants to help them understand different models, enroll in a model, and excel in that model.”
 - Consider geographically-restricted models
- MedPAC is silent on voluntary vs. mandatory APMs

- Revising Medicare’s indirect medical education payments to better reflect teaching hospitals’ costs
 - Current methodology results in add-on payment under IPPS (teaching hospitals)
 - Concern that IME payments are “well above” the added costs of IME associated with training residents
 - Is there an incentive to provide care in inpatient settings that could have been safely provided in outpatient setting?
 - Recommendation: Expand policy to include both inpatient and outpatient IME policy
 - Maintain overall current level of funding
 - Need to address beneficiary cost sharing on outpatient IME payments

- Improving Medicare's policies for separately payable drugs in the hospital OPPS
 - Current policy addresses payment for relatively costly drugs
 - Pass-through policy
 - Separately payable non-pass-through drugs
 - Policy is not restricted to drugs that are supplies to a service
 - Policy does not have a clinical superiority requirement
 - Results in additional payments for higher cost drugs that are no more effective than similar drugs already on the market
 - Recommendation: Revise policies to assure that separately payable status is warranted

- Changing Medicare coverage and payment for vaccines
 - Cover all appropriate preventive vaccines and their administration under Part B instead of Part D, without cost sharing
 - Establish payment rate of 103% of wholesale acquisition cost (WAC) for Part B preventive vaccines
 - Moderate reduction from current rates based on 95% of average wholesale price
 - Require manufacturers to report average sales price (ASP) data for vaccines to permit CMS to analyze impact of payment based on ASP rather than WAC

June 2021 Report: Request from Congress



- Private equity and Medicare - requested by the Chair of the Committee on Ways and Means
 1. What are current gaps in Medicare data that create issues in tracking PE investments?
 - No reliable ownership data; challenges with collecting such data and making it public
 2. What are PE funds' business models when investing in health care? How do these strategies vary by health care setting?
 - Limited interest in hospitals; waning interest in nursing facilities; growing interest in and opportunities with physician practices
 3. How has PE investment affected Medicare costs and the beneficiary and provider experience?
 - Research inconclusive regarding impact on hospitals and nursing facilities; concern that pressure on physicians to increase revenue will drive up costs
 4. To what extent are PE firms investing in companies that participate in Medicare Advantage, and is it possible to evaluate the effects of such investments on Medicare costs?
 - PE making significant investments in primary care delivery and care management companies

June 2021 Report: Request from Congress



- Rural access to care (interim report)
 - 2018 claims data analysis
 - Rural beneficiaries have less access to outpatient specialist care
 - Minimal differences in utilization of hospital inpatient services
 - Rural beneficiaries have higher utilization of hospital outpatient services
 - Minimal differences in utilization of SNF and home health services
 - Rural hospital closures
 - Decline in inpatient admissions (outmigration); ED and outpatient services remained constant up until closure
 - Beneficiaries residing in communities in which hospital closed had lower utilization of hospital inpatient and outpatient services
 - FQHCs offered best option to maintain local services
 - Policies to support rural access to care
 - “substantial reservations about the expanded use of cost-based reimbursement”
 - Global budget pilots
 - Rural emergency hospital program
 - Rural health clinic payment increases
 - Telehealth expansion

June 2021: Mandated Report



- Assessing the impact of recent changes to Medicare's clinical lab fee schedule payment rates
 - Report examines the PAMA requirement to establish CLFS rates based on private payer rates for lab services
 - Rates were previously set based on local lab charges, updated for inflation (subject to cap)
 - Report evaluates spending and utilization before and after implementation of PAMA requirement in 2018
 - Independent lab overrepresented in private payer data
 - Once private payer rates fully implemented, expect average of 24 percent decrease in payment rates (heaviest declines were for routine, low-cost tests)
 - Report reviews options to collect private payer rates
 - Goal is to identify least burdensome data collection process that results in representative sample of lab market segments

Other MedPAC Issues



- Medicare Advantage – benchmarks and risk adjustment
- Skilled nursing value-based purchasing program
- Hospital value-incentive program

- **Wednesday, July 14 – 11 am EDT**
 - 2022 Medicare Physician Fee Schedule Proposed Rule
 - or-
 - No Surprises Act Interim Final Rule – Part 1
- **Wednesday, July 21 – 11 am EDT**
 - Provider Relief Fund Reporting Requirements
- **Wednesday, July 28 – 11 am EDT**
 - 2022 Outpatient Prospective Payment System Proposed Rule
 - or-
 - No Surprises Act Interim Final Rule (Part 1 and/or Part 2)

Questions:

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