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Congress Passes Legislation to Delay Medicare Reimbursement Cuts

Congress has passed legislation that would delay most cuts to Medicare reimbursement that were scheduled to take effect January 1, 2021. The “Protecting Medicare and American Farmers from Sequester Cuts Act” (S. 610) now awaits President Biden’s signature to become law.

The legislation would make the following changes to Medicare payments:

- The conversion factor as published in the Calendar Year (“CY”) 2022 Medicare Physician Fee Schedule (“MPFS”) Final Rule would be increased by 3%.
- The 2% sequestration cut would be suspended for an additional three months, through March 31, 2021, then resume at varying rates. Accordingly, sequestration cuts will be as follows:
 - January 1, 2022 – March 31, 2022 – No reduction
 - April 1, 2022 – June 30, 2022 – 1% reduction
 - July 1, 2022 – September 30, 2029 – 2% reduction
 - October 1, 2029 – March 31, 2030 – 2.25% reduction
 - April 1, 2030 – September 30, 2030 – 3% reduction
- Automatic PAYGO payment reductions would be delayed until 2023.

Prior to this legislation, providers were facing almost a 10% reduction in reimbursement starting January 1, 2022, including a 3.75% reduction in the physician fee schedule, resumption of the 2% Medicare sequestration, and a 4% PAYGO cut resulting from government spending related to COVID-relief programs. The provisions in this bill stave off the majority of those cuts, at least temporarily.

The CY 2021 MPFS included significant changes to the values attributed to office visits and similar services. These adjustments necessitated a reduction in the Medicare conversion factor used to derive payments to physicians in order to achieve budget neutrality, as required by law. Shortly before that cut went into effect on January 1, 2021, Congress intervened and approved a 3.75% increase to mitigate the financial impact of that fee schedule reduction. However, the increase was applicable only to payment for services rendered in 2021, with explicit language that “the increase...shall not be taken into account in determining such fee schedules...for services furnished in years after 2021.” In effect, the 3% increase to the CY 2022 MPFS included in this bill yields only a slightly lower conversion factor than 2021.

The 2% Medicare sequestration cut stems from a 2011 law that required across-the-board spending cuts for the federal government from FY2013 to FY2030. Under this law, Medicare cuts cannot exceed 2%. Subsequent legislation suspended the application of sequestration to Medicare from May 1, 2020 through December 31, 2021. As described above, this bill extends the suspension through March 31, 2022 and phases in the resumption of sequestration at 1% for three months before the full 2% reduction resumes on July 1, 2022.

The Statutory Pay-As-You-Go Act (“PAYGO”) was enacted in 2010 and requires spending cuts across the



federal government if legislation enacted in a year results in a deficit increase. Medicare cuts resulting from this law cannot exceed 4%. To date, PAYGO has been waived by Congress to avoid sequestration. This bill continues that trend, delaying PAYGO cuts until 2023.

Other healthcare provisions in this legislation include:

- Delay of a 15% pay cut for clinical diagnostic laboratory tests that was scheduled to apply in 2022 through 2024. This 15% pay cut will now be delayed until 2023, and will continue through 2025.
- Implementation of the Radiation Oncology Model will be delayed for one year, moving from January 1, 2022 to January 1, 2023. This model would provide site-neutral prospective payments for certain radiation therapy services. Some provider groups have expressed concern that the model would result in significant cuts that would make it difficult to cover the costs associated with providing these services.

Should you have questions regarding how the provisions in this bill may impact your practice, contact your JTaylor advisor.