

APRIL 16, 2010

PASSAGE OF MEDICARE FEE CUT LEGISLATION (CUTS DELAYED UNTIL JUNE 1)

During an extended session [last](#) evening, Congress has given final approval to legislation that will reverse the 21 percent cut in Medicare payments to ODs and other physicians. We anticipate that President Obama will sign the measure into law shortly. Below is a detailed description of the process, its impact on patients and providers and AOA recommendations for members, which we will be sending out in the morning. Please feel free to share with your folks or let us know if you would like additional information.

Congress Approves 2-Month Retroactive Medicare Pay “Patch”

Congress has approved an AOA-backed bill that would retroactively reverse a massive cut in Medicare payments to optometrists and other physicians. The 21 percent cut was scheduled to take effect Apr. 1; however, the measure approved by Congress today would overturn the steep cut and freeze Medicare payments at pre-cut levels through May 31.

After overcoming an important procedural hurdle late Monday and extended debate in the following days, the U.S. Senate gave final approval to the Continuing Extension Act (HR 4851) today by a vote of 59-38. The bill, which passed the U.S. House on Mar.17, would also extend long-term unemployment benefits, COBRA health insurance subsidies for jobless workers, a national flood insurance program and the use of 2009 poverty guidelines for federal programs.

The full measure had been blocked from consideration by Sen. Tom Coburn (R-OK) before Congress adjourned for its spring recess on the basis that it should not be considered emergency spending. In the run-up to the final vote, Senate Democrats and Republicans continued to wrangle over how the \$9.2 billion bill would ultimately be paid-for and whether the bill's price tag would be exempt from budgetary offset requirements.

After leading a successful effort to waive budgetary pay-as-you-go requirements and consider the legislation as emergency spending, Sen. Max Baucus (D-MT), Chairman of the Senate Finance Committee, offered an amendment to the House legislation that would move the freeze beyond the original date of Apr. 30 and extend it ultimately to May 31. The Senate agreement on the Baucus amendment sent the bill back to the U.S. House, which the lower chamber quickly approved.

This latest action delays enactment of the planned cut until June 1. However, Congress will need to take further legislative action before the May 31 deadline to avert another scheduled 21 percent cut. Meanwhile, Democratic leaders are still trying to resolve differences on a package (HR 4213) that would prevent further cuts and extend the Medicare pay freeze and other expiring provisions through the end of the fiscal year.

As the Apr. 1 deadline passed, the U.S. Centers for Medicare & Medicaid Services (CMS) instructed its contractors to temporarily hold fee-for-service claim processing; anticipating Congress would once again intervene. In turn, the AOA Washington Office advised ODs to hold claims, if possible, with dates of service on or after Apr. 1, until Congress acted to reverse the cuts in order to help ensure ODs receive full payment for claims.

As of today, CMS had started to pay claims from Apr. 1 at the lower fee schedule amount. The Medicare agency is committed to reprocess payments at the higher amount after Congressional action to override the cut. CMS expects to automatically reprocess claims paid and pay doctors the difference unless the doctor submitted the claim with a fee lower than the new fee schedule amount. In the latter case, a doctor might have to resubmit the claim after receiving the initial lower payment from Medicare to get the full payment allowed by Congress.

The AOA recommends members continue to wait, if possible, before submitting claims for April services until Medicare reports that it can process and pay those claims at the proper rate. Members would get fully paid one time without having to wait for reprocessing or even to resubmit claims, and avoid the accounting difficulties that those steps could create. However, AOA is aware that some practices might need the Medicare cash flow immediately.

AOA also expects CMS and the Office of the Inspector General for the US Department of Health and Human Services to issue a temporary reprieve from usual patient co-payment collection requirements. Doctors who collected co-payments this month based on the lower fee schedule amount will probably not be required to (but could voluntarily) go back to patients to collect additional co-payments on the difference with the higher Medicare payment approved by Congress today. The reprieve would match Medicare policies in previous years when fee schedules were adjusted retroactively.

While the latest action averts an immediate cut, AOA continues to pressure lawmakers to put an end to the uncertainty facing patients and providers by enacting lasting and equitable reform. Concerned doctors and students are encouraged to join the fight by using the [AOA's Online Legislative Action Center](#) to contact their elected officials directly and urged them to prevent impending cuts as well as advocate for long-term reform.

Originally, the Medicare physician fee schedule was scheduled to have been cut 21 percent on Jan. 1, 2010 as part of a reduction mandated by the current Medicare payment formula, but Congress acted late last year to freeze payment rates at 2009 levels through Feb. 28, 2010. Congress then acted again - just as hundreds of ODs and students stormed Capitol Hill as part of a massive grassroots advocacy push - to extend the freeze through Mar. 31, 2010.

For more information on this priority issue and how to join the AOA's efforts on Capitol Hill, please contact the AOA Washington Office directly at ImpactWashingtonDC@aoa.org.
