

BIDEN ADMINISTRATION PRESSED TO REVAMP INNOVATION CENTER DEMOS AND MAKE ADMINISTRATIVE CHANGES TO MEDICARE IN 2021

Stakeholders are urging the Biden administration to tackle health care changes through an administrative lens, coming as the courts face pressure to watch how the new administration acts on key policies before moving on cases involving regulations. Health care advocates also enter 2021 with ambitious legislative agendas, yet the immediate health care focus will be on COVID-19.

The outgoing Trump administration also spent its last few months instituting new demonstration projects, regulations and advisory opinions that the Biden administration — and Biden's Health and Human Services secretary pick Xavier Becerra — will have to factor into their plans.

Innovation Center and Value-Based Care. The Department of Health and Human Services (HHS) under President Trump saddled the Biden administration with a series of new Medicare demonstration projects, and stakeholders are watching to see whether the Biden team will embrace them.

The American Society for Radiation Oncology wants to work with HHS on changes to the mandatory radiation oncology alternative payment model. Congress in its 2020 year-end law delayed the start date of the highly criticized radiation oncology model demonstration until January 1, 2022, six months beyond what CMS proposed in a final rule earlier in December but in line with what stakeholders had requested.

The Health Care Transformation Task Force (HCTTF) is urging the Biden administration to publicly support value-based payment (VBP) and the innovation center overall, after CMS Administrator Seema Verma recently said the entire center needs a course correction as few models have seen success.

"At the core of CMS's current analysis appears to be a flawed approach to VBP model evaluations, and we believe a better way to evaluate models is needed. The HCTTF is actively gathering perspectives on better ways to modernize evaluations of VBP

models from experts and will share with CMS any resulting recommendations in early 2021," the task force says in a December 18, 2020 letter to incoming administration. The group also says CMS' view "appears to be premised on the conclusion that net savings to the Medicare program is the sole measure of success. We disagree here too."

The group calls for CMS, in the first 100 days of the new administration, to begin a national dialogue about the innovation center's operations, models, evaluations and lessons learned. There are circumstances where the net savings for a model might not be positive, but the CMS chief actuary could find that an expanded, permanent model would achieve savings — especially if a national model moved from voluntary to mandatory participation as part of an expansion, the group says.

Medicare Administrative Changes. Aside from work by the innovation center, the Center for Medicare Advocacy says there are numerous changes that the Biden administration could tackle to improve Medicare. These include long-standing requests by the group for CMS to improve the Medicare appeals system, increase access to durable medical equipment for those dually eligible for Medicare and Medicaid and hold more meetings with advocates.

The advocates also want the Biden administration to withdraw the Trump administration's proposed SUNSET rule that they worry could lead to the expiration of critical Medicare and other regulations. The rule, proposed by HHS the morning after the presidential election, calls for the department to review its rules every 10 years to determine whether they're still necessary or too burdensome.

The advocates also make the case that the Biden administration can — and should — change how beneficiaries' time in a hospital under outpatient observation factors into whether Medicare covers a nursing home stay. They also say Medicare can, and again should, make sure it covers medically necessary dental care.