

HHS ASKS CONGRESS TO PUSH SITE NEUTRAL PAYMENT

The Department of Health and Human Services (HHS) is pushing Congress to consider more site-neutral payment policies in Medicare, repeal the Affordable Care Act's limit on physician-owned hospitals, relax telehealth restrictions and give Medicare beneficiaries more access to health savings accounts, as part of a new Trump administration report on ways to increase health care choice and competition. The report also says the administration should push Medicare Advantage (MA) policies and move away from fee-for-service, even as the administration has been questioned for allegedly steering beneficiaries toward MA plans during Medicare open enrollment.

The report, which was due six months ago, stems from an October 2017 executive order that was used to expand the availability of short-term plans that don't have to comply with the Affordable Care Act. The report lays out a number of ways to increase competition in the health sector – many of which are already underway.

Greater reliance on site-neutral pay. The administration touts CMS' policies to establish site-neutral pay for certain Medicare services – some of which hospitals have threatened to sue over – but CMS Administrator Seema Verma recently said that “it would take an act of Congress to change the payment systems within Medicare that charge patients different prices for the same services based on the care setting.” The report recommends lawmakers take that step.

“Congress should establish site neutral payment policies based on the anticipated clinical needs and risk factors of the patient, rather than the site of service. In delivering these reforms, Congress should account for differing levels of patient acuity,” the report recommends.

The report says that because Medicare fee-for-service pay is often based on care settings and not patient need, there are financial incentives for providers to refer patients selectively to more highly reimbursed care settings. That, according to the report, can unjustifiably increase provider concentration and spending. The report points to post-acute care and physician services furnished in hospital outpatient departments as providers affected by these incentives.

The report also suggests that state Medicaid programs “embrace site neutrality as a goal and reform their payment systems to pay for the value delivered” rather than the care setting. Value, the recommendation says, should be defined in a limited, straightforward, non-gameable way, and metrics shouldn't be designed and proposed only by those providers to which they ultimately apply.

Physician self-referral policy shifts. HHS also recommends Congress look at repealing changes to the physician self-referral, or Stark, law that limit physician-owned hospitals. The report says concerns about potential financial conflicts of interest with doctors referring patients, particularly those that are healthy, to their hospitals may have been overstated.

The report notes that the restrictions were favored by the American Hospital Association (AHA), which pushed back on the

administration's recommendation, pointing to research from the Congressional Budget Office, the Medicare Payment Advisory Commission and others that AHA says shows higher Medicare costs and greater use of services at physician-owned hospitals.

“Further, physician-owned hospitals tend to cherry-pick the most profitable patients, jeopardizing communities' access to full-service care. This trend creates a destabilizing environment that leaves sicker and less-affluent patients to community hospitals, threatening the health care safety net,” said AHA Executive Vice President Tom Nickels in a statement.

AHA also expressed concerns with the report's call for greater use of site-neutral policies and implementation of a proposal from the president's fiscal 2019 budget that would streamline graduate medical education funding.

Expansion of telehealth. The report says states should consider adopting licensure compacts or model laws to let providers more easily practice in multiple states, creating more opportunities for telehealth use. State laws and regulations typically require providers to be licensed in the state where the patient is, which can limit telehealth use, the report says. The report recommends Congress increase opportunities for license portability, including letting licensed providers provide telehealth services to out-of-state patients.

AHA and Health IT praised the recommendations.

Telehealth reimbursement has also been a barrier in some areas – particularly in Medicare fee-for-service – and the report recommends that states and the federal government look at legislative and administrative proposals to change reimbursement policies that make telehealth more difficult. In particular, the recommendation says Congress should consider proposals to change the Medicare originating site requirements, which restrict where a beneficiary can receive telehealth services and keep beneficiaries from accessing services from their homes, and to change the geographic location requirements.

The report also says that states should consider allowing providers and payers to decide “whether and when it is safe and appropriate to provide telehealth services, including when there has not been a prior in-person visit.”

Expansion of health savings accounts. The report also includes numerous recommendations to increase the use of health savings accounts, including letting Medicare beneficiaries in high-deductible health plans contribute to an HSA. Separately, the report recommends letting all individuals, including Medicare beneficiaries, have access to an HSA, not just those in high-deductible plans.

Alternative pay models. The report also included recommendations on alternative payment models, including making sure HHS doesn't rely on “technical and burdensome definitions invented in Washington” and small providers aren't hurt by delivery system reform. ■