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Congress Averts the Fiscal Cliff & Fixes Medicare Physician Payment Cuts

Last week, the House of Representatives followed the Senate in passing the Biden-McConnell compromise that will avert the fiscal cliff, delay the 2 percent sequestration cuts to Medicare and defense spending, and implement a 1-year freeze to the Medicare physician payment rate, thereby averting the 27 percent cuts that were scheduled to take effect January 1, 2013.

This deal effectively extends tax rates on annual household income under \$450,000. While the legislation will freeze the scheduled 27 percent cut to doctors' Medicare payments for one year, this \$25 billion fix will be paid for with additional health care spending cuts.

A summary of the Biden-McConnell compromise is below:

- The 2 percent sequester cuts to Medicare and defense spending will be delayed for 2 months.
- Scheduled cuts to doctors under Medicare will be avoided for 1 year but paid for using offsetting health care spending cuts, including the following:
 - \$0.3 billion through equalizing payments for stereotactic radiosurgery services provided under Medicare hospital outpatient payment system;
 - \$0.8 billion by adjusting the equipment utilization rate for advance diagnostic imaging services, increasing the utilization factor used in the setting of payment for imaging services in Medicare from 75 percent to 90 percent;
 - \$2.5 billion through a coding intensity adjustment to Medicare Advantage plans. Under current law, Medicare Advantage plans receive risk-adjustment payments that are further adjusted to reflect differences in coding practices between Medicare fee-for-service and Medicare Advantage. This provision increases this coding intensity adjustment.
- Tax rates will permanently rise to Clinton-era levels for families with income above \$450,000 and individuals above \$400,000 and all income below the threshold will permanently be taxed at Bush-era rates.
- The tax on capital gains and dividends will be permanently set at 20 percent for those with income above the \$450,000/\$400,000 threshold. It will remain at 15 percent for everyone else. (Clinton-era rates were 20 percent for capital gains and taxed dividends as ordinary income, with a top rate of 39.6 percent).
- The estate tax will be set at 40 percent for those at the \$450,000/\$400,000 threshold, with a \$5 million exemption (this threshold will be indexed to inflation).
- The pay freeze on members of Congress, which President Obama had recently lifted, will be re-imposed.
- The 2009 expansion of tax breaks for low-income Americans: the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit will be extended for five years.
- The Alternative Minimum Tax will be permanently patched to avoid raising taxes on the middle-class.
- The deal will not address the debt-ceiling, and the payroll tax holiday will be allowed to expire.
- Two limits on tax exemptions and deductions for higher-income Americans will be reimposed: Personal Exemption Phaseout will be set at \$250,000 and the itemized deduction limitation kicks in at \$300,000.

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- The full package of temporary business tax breaks will be extended for another year.
- Federal unemployment insurance will be extended for another year.
- A 9-month, \$30 billion farm bill fix is attached to the deal.

This sets up another major legislative show-down in two months as the Congress will once again face both the 2 percent sequestration cuts to Medicare and defense spending along with the controversial vote on raising the debt ceiling.

For the text of the legislation click [here](#). For a two-page summary of the legislation click [here](#). For a summary of the health care offsets click [here](#).

The US Oncology Network Offers Payment Policy Recommendations in *Community Oncology* Article

The US Oncology Network's Chief Medical Officer Dr. Roy Beveridge and Matt Brow, Vice President of Public Policy and Reimbursement Strategy, are among a group of community cancer care experts whose recommendations were published in December's issue of the peer-reviewed journal, *Community Oncology*.

The article, titled "Thoughts and Recommendations on Cancer Care Site of Service," focuses on the challenges of providing quality cancer care while also running a viable business during a time when payment policies incent the delivery of care in hospital outpatient departments (HOPDs) over community settings.

According to the authors and data collected by the Community Oncology Alliance (COA), increasing financial pressures on community oncology practices are driving facility closures, mergers, financial problems, and patient referrals to other facilities for treatment. Central to the financial pressures experienced by community practices are Medicare's payment differentials – which

often reimburse at wide variability for the same service at different sites.

The authors offer recommendations for payment parity across sites of care, including a value-based reimbursement system that pays the same amount regardless of the site of service and differentially more for quality and cost-effective care. In conclusion, they note that, "At a time when access and cost issues are intertwined, we believe that it is important that payment amounts be commensurate with the actual services provided, not the site of care. Preferentially paying higher amounts in certain settings will predictably lead to the expansion of higher cost centers. The result will be a further increase in the cost of cancer care for those who pay for it—patients, private and government payers."

Full text of the article is available in *Community Oncology's* [December issue](#).

CMS Issues Proposed Decision for Positron Emission Tomography

On December 13, the Centers for Medicare & Medicaid Services (CMS) issued its proposed decision regarding Positron Emission Tomography (PET) payment. In its decision, CMS has proposed that that local Medicare Administrative Contractors (MACs) may determine coverage within their respective jurisdictions for positron emission tomography (PET) using radiopharmaceuticals for their labeled indications for oncologic imaging that are approved by the U.S. Food and Drug Administration (FDA).

If finalized without change, the new rule would mean removal of the national non-coverage for identified uses of certain radiopharmaceuticals that have not been more specifically determined nationally. Nationally, PET has generally been non-covered, except for specific covered uses of particular radioactive tracers – which are detailed in the National Coverage Determination Manual.

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The current proposed rule resulted from a formal request by the Access to Medical Imaging Coalition (AMIC) that CMS remove the current non-coverage language as it pertains to new PET radiopharmaceuticals that receive approval from the FDA.

CMS is currently accepting public comment on the proposed decision. Additional information is available by clicking [here](#).