Wednesday, December 10, 2014

In this Issue:

Report: 340B Sales to Rise

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National Media Outlets Examine Impact of Higher Hospital Costs on Cancer Care

The *New York Times* and *Wall Street Journal* have both recently published coverage looking into how public policies support the consolidation of independent physician practices and hospital systems in cancer care delivery. **Read below**

Healthcare Spending Growth Slowed in 2013

Health spending grew at a slow rate in 2013 according to a new report from the Office of the Actuary at the Centers for Medicare & Medicaid Services. **Read below**

U.S. House of Representatives Passes ABLE Act

On December 3, the U.S. House of Representatives passed the Achieving a Better Life Experience (ABLE) Act, legislation to create new tax-exempt savings accounts for Americans born with disabilities, which includes Medicare offsets opposed by many physician groups. **Read below**

CMS Proposes New ACO Regulation

The Centers for Medicare and Medicaid Services proposed a new regulation for Medicare accountable care organizations on December 1 that includes several changes to eligibility requirements, definitions of an ACO participant and how “pioneer” ACOs transition into the Affordable Care Act’s Medicare Shared Savings Program. **Read below**

Report: 340B Sales to Rise

Projected growth in 340B program sales will result primarily from hospital acquisitions of community practices, contract pharmacy utilization and Medicaid expansion under the Affordable Care Act, according to a new white paper from the Berkeley Research Group.

The white paper projects sales through the 340B discount drug program will double over the next five years. The analysis projects sales will jump from about $7 billion in 2013 to $16 billion in 2019. Based on this estimate, Berkeley Research Group estimates that pharmaceutical drug manufacturers will be paying more than $11 billion for discounts given to 340B program participants annually for outpatient drugs.

The often-controversial 340B program lowers drug prices for providers that care for underserved communities, including rural health facilities. The dramatic rise in sales can be closely aligned to increased 340B enrollment among Disproportionate Share Hospitals (DSH), which the report finds to be "the single biggest driver of growth in the 340B program accounting for an estimated 50 percent of total 2013 340B drug sales." According to the report, between 2010 and 2013, overall 340B sales to DSH hospitals have grown by 96 percent, which results from new hospital enrollments, community practice acquisitions and contract pharmacy arrangements.

Specific to community practice acquisitions, BRG identified at least 140 instances of DSH hospitals acquiring community oncology practices between 2009 and 2012, in which each experienced an almost 120 percent increase in 340B oncology drug utilization at the acquiring hospitals following these acquisitions.

The report was paid for by the Alliance for Integrity and Reform of 340B (AIR 340B). The group said in a press statement promoting the report, "The 340B program has grown tremendously in the past ten years, and it's concerning to see projections that continue this unsustainable trajectory. Some entities use the program responsibly; however, 340B already lacks sufficient oversight for generating profits for well-funded hospitals that don't primarily serve the uninsured as the program intended. Now is the time to establish needed oversight for the program."

To read the full white paper, click here.

National Media Outlets Examine Impact of Higher Hospital Costs on Cancer Care

On November 23, the *New York Times* published an article, "Private Oncologists Being Forced Out, Leaving Patients to Face Higher Bills," which examines how higher hospital costs to Medicare are driving consolidation and increasing patient costs.

The article shines a light on the reduced payments to independent oncologists when compared to hospitals for administering the same cancer treatments. It also addresses the higher costs private practice doctors pay for cancer drugs, which combined with lower reimbursement by both Medicare and private insurers, are forcing doctors to sell their practices to hospitals and larger medical systems.

The NYT also reports on the increased costs that are then passed down to the cancer patient. According to a report by IMS Health, an average dose of common cancer drugs cost patients receiving care in a hospital-affiliated practice $134 per dose per patient.

"One thing is clear: The private practice oncologist is becoming a vanishing breed, driven away by the changing economics of cancer medicine," the NYT reports.

According to the Community Oncology Alliance's data, since 2008, 544 of the nation's 1,447 independent oncology practices have been purchased by or entered into contractual relationships with hospitals.

To read the full *New York Times* article, click here.

On December 7, the *Wall Street Journal* published an op-ed, "ObamaCare's Threat to Private Practice," by Dr. Scott Gottlieb, a physician and resident fellow at the American Enterprise Institute, which also examines how current healthcare payment policies are forcing physicians to sell to hospital systems.

The op-ed warns that Affordable Care Act policies favor the consolidation of independent physicians with larger healthcare systems, therefore eliminating local competition between healthcare providers. Instead, Dr. Gottlieb sites the need for policy alternatives that support physician ownership of independent practices to preserve local competition and patient choice.

Dr. Gottlieb writes, "Individual, provider-owned medical practices also deserve equal footing when it comes to reimbursement. Right now, Medicare is paying much more for many procedures when performed in a hospital outpatient clinic rather than an independently owned medical office. Things as common as heart scans ($749 versus $503), colonoscopies ($876 versus $402) and even a 15-minute doctor visit ($124 versus $70) all pay more when done by a hospital-based doctor than a privately owned medical office."

To read the full *Wall Street Journal* op-ed, click here.

Healthcare Spending Growth Slowed in 2013

A report from the Office of the Actuary (OACT) at the Centers for Medicare & Medicaid Services (CMS) published in Health Affairs this month found that healthcare spending grew at a slow rate in 2013. The annual report showed health spending growth remains

slow – between 3.6 percent and 4.1 percent for five consecutive years.

Total national health expenditures in the United States reached $2.9 trillion in 2013, or $9,255 per person.

The Medicare program accounted for 20 percent of national spending in 2013 and total spending growth for Medicare slowed in 2013. The report found slow growth was due to productivity adjustment rates in Medicare fee-for-service and reduced Medicare Advantage (MA) base payment rates as well as a slowdown in Medicare enrollment in 2013. Medicare enrollment increased by 3.2 percent in 2013 while it grew by 4.1 percent in 2012.

"This slowdown was primarily caused by a deceleration in Medicare enrollment growth, as well as net impacts from the Affordable Care Act and sequestration. Per-enrollee Medicare spending grew at about the same rate as 2012, increasing just 0.2 percent in 2013," CMS said in a CMS press release.

U.S. House of Representatives Passes ABLE Act

The U.S. House of Representatives passed the Achieving a Better Life Experience (ABLE) Act (H.R. 647) on December 3. The bill, sponsored by Congressman Ander Crenshaw (FL-4), creates new tax-exempt savings accounts for Americans with disabilities. The legislation is designed to help individuals maintain health and independence and save for expenses such as transportation, education and housing.

The bill includes more than $1 billion in Medicare offsets by accelerating the application of relative value targets for misvalued services in the Medicare physician fee schedule. The legislation would require the HHS Secretary to reduce physicians' payments:

This provision would now begin the policy requiring the Secretary to identify overpayments one year earlier and reduce the number of years it is in effect from four to three. The target would be 1 percent in 2016, 0.5 percent in 2017, and 0.5 percent in 2018. This policy would allow physician groups to have efforts to reduce overpaid services that are well underway, primarily through the Relative Value Scale Update Committee (RUC), counted against the target. Utilizing those efforts puts physicians in a position to avoid potential across-the-broad cuts in 2016. CBO estimates that moving the effective dates and revising the first year target for this policy will reduce spending by $365 million.

Leading physician groups, including the American Medical Association (AMA), have expressed opposition to the inclusion of this Medicare offset in the ABLE Act.

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate the ABLE Act would increase on-budget deficits by $187 million and reduce off-budget deficits by $220 million over the 2015-2024 period.

The bill passed the House by a 404-17 vote and now moves to the U.S. Senate for consideration.

To view the bill summary released by the House Committee on Ways and Means, click here.

CMS Proposes New ACO Regulation

The Centers for Medicare & Medicaid Services (CMS) issued a new Proposed Rule for Accountable Care Organizations (ACO) in the Medicare program. The CMS proposal calls for changes to eligibility requirements, new definitions of an ACO participant and alters how Pioneer ACOs transition into the Affordable Care Act's Medicare Shared Savings Program.

According to CMS, the Proposed Rule would:

- Provide more flexibility for ACOs seeking to renew their participation
- Encourage ACOs to take on greater performance-based risk and reward
- Put greater emphasis on primary care
- Offer alternative methodologies for benchmarks
- Streamline data sharing and reducing administrative burden

The proposed rule, which seeks to better ensure senior and disabled Americans receive the quality care at the lowest cost, will be open to a 60-day comment period.

"This proposed rule is part of our continued commitment to rewarding value and care coordination – rather than volume and care duplication. We look forward to partnering with providers and stakeholders to continuously refine and improve the Medicare Shared Savings program," CMS Administrator Marilyn Tavenner said in a press statement.

The Shared Savings Program currently includes more than 330 ACOs in 47 states, providing care to more than 4.9 million beneficiaries in Medicare fee for service. To view the CMS fact sheet, click here.