Legislative Medicare Issues & Efforts

Presented by Chris Hartmann NAHU Vice President, Congressional Affairs

MEDICARE AT A GLANCE

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Medicare is Changing

1965	2021
▪ Traditional Medicare A/B ▪ Medigap	▪ Medicare Advantage, Part C (*MA is 40% of market and growing at about 2-3%/yr*) ▪ Medicare Part D ▪ Special Needs Plans ▪ Agent governance, SOA ▪ Extra benefits ▪ Mergers ▪ FMOs ▪ Evolving regulatory changes ▪ Medicare Plan Finder ▪ Medicare and You Handbook

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What is Driving Change?

- MACRA Impacting Med Supplements
- End Stage Renal covered by Medicare Advantage in 2021
- Medical Inflation
- High cost of prescription drugs
- COVID-19 impact on face-to-face appointments
- COVID-19 impact on how seniors access care (telehealth)
- Trend of consumers self-enrollment

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2021 Medicare Legislative Priorities

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COBRA as Creditable Coverage

- The intersection between employer coverage and Medicare is fraught with landmines.
- People take COBRA for a variety of reasons, but pulling along a younger spouse is common.
- Last year, bipartisan legislation **H.R. 2564** was introduced by Reps. Kurt Schrader (D-OR) and Gus Bilirakis (R-FL) to treat COBRA as creditable coverage for Medicare, the same way that similar employer-sponsored insurance is already treated as creditable.
  - It passed out of the Energy and Commerce Committee, but due to the pandemic, momentum was lost.
- The issue is ripe for again for bipartisan action to remove the penalty and provide a special enrollment period to enroll in Part B.
- NAHU is working with lead sponsors to evaluate the best way to achieve passage this year.

Observation Status

- Last Congressional session, bipartisan legislation **H.R. 1682** introduced by Reps. Joe Courtney (D-CT) and Glenn Thompson (R-PA) and **S. 753** introduced by Sen. Sherrod Brown (D-OH) and Susan Collins (R-ME) would have allowed observation stays to be counted toward the three-day mandatory inpatient stay for Medicare coverage of a skilled nursing facility.
- Similar to the COBRA issue, momentum was lost due to the pandemic.
- CMS suspended the three-day inpatient stay requirement because of the pandemic.

Observation Status

- A new study has found that beneficiaries on observation status tend to cycle through the hospital repeatedly because they did not receive the skilled nursing facility (SNF) care they need resulting in higher costs. This is contrary to the purpose of the utilization review to lower inappropriate readmissions. Conversely, those who did receive SNF care, had very few readmissions.
- This situation disproportionately affects rural, low income beneficiaries who often lack transportation, running water and other personal support systems upon discharge.
- This is another issue that may be ripe for resolution this Congress and we expect reintroduction of legislation to solve the issue in the coming weeks.

End-Stage Renal Disease (ESRD) to Impact Medicare Advantage Prescription Drug Plans (MAPD) Pricing

- 21st Century Cures Act mandates
- ESRD is included in MAPD offerings in 2021
- Excludes transplants, but annual treatments exceed $100,000
- Maximum out-of-pocket can increase from $6700 to $8400 in 2022, but we haven't seen evidence that carriers are moving that high.
- Funding gap estimated at $10-$12k annually

Part D Seniors Savings Model

- The cost of insulin has become the poster child for out of control pharmaceutical costs.
- The last Administration sought to address the cost of insulin in Medicare through a new program, the Part D Senior Savings Model.
- It is a voluntary program and about 30% of carriers participate to charge beneficiaries $35/month for insulin.

Insulin Under Part B vs Part D

- We have identified a problem for those who use insulin pumps which are excluded from the reduced $35 cap (unless medically necessary) due to the fact that the pumps are considered durable medical equipment (DME) covered under Part B.
- The medication should be under Part D - separated from the delivery mechanism.
- Beneficiaries may be discouraged from using the pump because of the significant difference in pricing.

Medicare Solvency

- Projected to become insolvent in 3-4 years.
- Solvency will become a catalyst for reforms, and will be tied to an effort to extend the debt limit sometime after it expires on June 30, 2021.
- Democrats will push for fee-for-service benefit expansions, including hearing, dental and vision benefits.
- Difficult to see how hospitals and other providers would be cut during a pandemic, but some items and services may be eligible for reform including nursing home payments, quality and staffing requirements, Medicare Advantage coding intensity adjustments, more aggressive risk sharing in provider models and expansion of site neutral payment policies.

Medicare Solvency

- The 2020 Medicare Trustee Report determined that the Trust Fund for Part A will cover just 90% of claims by 2026.
- Since the report, federal tax receipts have dipped, but claims have also fallen due to the pandemic.
- What happens if there becomes an imbalance in the fund?
  - Payments continue to be made, but take longer to be paid. The lag will depend on the amount of the imbalance.

Medicare Solvency

- How will Congress respond?
  - 2022 is a mid-term election and the margins in Congress are the closest since 1896.
  - Unlikely that a large restructuring of Medicare will take place in the near future.
  - Expect Congress to do enough to extend the Trust fund solvency long enough to get past 2022.
  - There is talk about including a Medicare buy-in in the next reconciliation bill, but passing it in the Senate is a long shot.

Medicare Sequester

- The Senate recently passed **H.R. 1868** which would eliminate the 2% across-the-board cut to all Medicare payments, known as sequestration, until the end of 2021.
- The House of Representatives will have to vote on this measure when it returns from spring recess.
- The next House votes are scheduled for April 13, 2021 and CMS is being urged to hold claims until the House acts.

FEDERAL/REGULATORY SUCCESSES

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Federal/Regulatory Successes

- Repealed disenrollment period and restored open-enrollment period.
- Dropped Medicare Marketing Guideline 120.4.4
- Bipartisan legislation introduced to address COBRA as creditable coverage and observation status issues.
- Removed CMS rules to impose restrictions on Medicare Advantage and Part D choices for seniors

Federal/Regulatory Successes

- CMS withdrew Part D rules and rescinded Medicare Advantage marketing restrictions on agents
- Extended value-based design for Medicare Advantage
- HSAs into Medicare Modernization Act
- Regular calls with CMS/HHS officials on MPF
- Reduced the SOA requirements

RESOURCES

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Join Us!

NAHU Resources

- **Medicare Web Portal**
  - Compliance
  - Legislative news
  - Newsletters
  - NAHU Medicare brochures
  - FMO Council
  - Medicare Advisory Council
  - Medicare Summits

NAHU is the only trade organization representing professional agents and brokers who work with Medicare beneficiaries and Medicare products. A long history of working on Medicare issues on Capitol Hill has resulted in strong relationships with legislators. In addition, growing influence with the Center for Medicare and Medicaid Services (CMS) makes NAHU your valued choice for advocacy and professional development.

Cutting Edge Information!

Stay tuned for our new bi-weekly state policy newsletter!

Medicare Plan Finder: Does This Look Familiar??

NAHU & Medicare Plan Finder

- NAHU engaged with CMS on the MPF from the beginning of the rollout fielding a NAHU team to prioritize hundreds of programing issues which were addressed with CMS senior staff during weekly calls.
- 2021 AEP saw a steep drop in reported issues.
- Since the launch of the MPF, NAHU advocated for restoration of the drug look up and save feature requested by agents. We have been promised restoration of the drug look up tool and save feature for this year's AEP.
- Today, GAs provide agents alternative application enrollment platforms but NAHU leveraged its resources and relationships at CMS for those who rely on the government portal.

Strength in Numbers! We are Stronger Together

- Neither political party has your back:
  - Some Democrats are pushing for Medicare buy-in and/or Medicare for All.
  - Some Republicans would eliminate first dollar coverage in Medigap and redesign Medicare by combining deductibles into a single deductible.
  - NAIC regulations split the difference.
  - Carriers offer plans for you to sell, but don’t represent agent interests.

Advocacy is Not Free

- NAHU believes in free markets, but as you know, there are legislators, regulators and other stakeholders who would restrict what you can sell and what you can do.
- You are a licensed agent, recognized by your state as a professional in your field.
- Invest in your future and ***JOIN NAHU TODAY!*** Remember, there is strength in numbers, we are stronger together.
- You can join NAHU at **https://nahu.org/membership/join-now**

Questions

Chris Hartmann
Vice President,
Congressional Affairs
chartmann@nahu.org