

Six Medicaid Moratoria In War Supplemental, Specialty Hospitals Out

The House Appropriations Committee has included in the Iraq War Supplemental set to hit the floor Thursday (June 19) a 10-month delay of six of seven controversial Medicaid regulations, Rep.. David Obey (D-WI) announced during a mark-up this morning. Sources had expected the House would pay for the moratoria by adopting a Senate-backed provision limiting the growth of physician-owned specialty hospitals, but lawmakers instead offset the \$1.65 billion cost of the delays by expanding a web-based asset verification program and borrowing from a physician quality fund.

The final compromise strips from the bill a moratorium on a rule redefining Medicaid outpatient hospital services. "With respect to the Medicaid regulations, as you know there were seven different [regulations] ... the House voted [to block] all seven of them" by "a very large vote, well over 300 votes on a bipartisan basis," Obey said. "But the White House did not want to see that adopted. In the end, we got six out of seven," he said, adding "even Babe Ruth struck out 1,400 times."

It is unclear why lawmakers chose the rule that would align Medicaid outpatient hospital payments with Medicare upper payment limits as the one to exclude from the moratoria.

House Minority Leader John Boehner (OH), ranking House Appropriations Committee Republican Jerry Lewis (CA) and the White House "wanted this one gone," a source says.

The source noted that the outpatient rule, along with rules prohibiting the collection of provider taxes and limiting the use of targeted case management, were on the chopping block last week (see Inside CMS, June 11).

Another insider agreed. Those three rules were on the table because Congress had not yet enacted moratoria against them, the insider says.

"Apparently, during the negotiations, the White House expressed more comfort with extending existing moratoria than using the [war supplemental] to create new ones. In the end, the Congress had to provide the White House/CMS with some kind of face-saving device and this decision is what they hit upon. Specifically, I don't believe there was a grand health policy reason for why the outpatient rule was picked."

Sources also suggested that governors -- who advocated delays on all seven rules -- had fewer concerns over the outpatient rule than with the other regulations.

In a survey the House Oversight and Government Reform Committee conducted earlier this year to gauge states' opinions on how each rule would impact finances, 22 states said that they'd be impacted by the outpatient provider rule, but only four gave estimates, which totaled about \$2 billion.

Regulations limiting states' ability to use the rehabilitation option or pay for school-based administrative and transportation services under Medicaid were delayed until June 30 under last year's Medicare and Medicaid extension bill. Congress also delayed implementation of rules banning intergovernmental transfers and graduate medical education funding under Medicaid in last year's war supplemental, which expired May 25. Both regulations are still not in effect since CMS, on May 21, voluntarily delayed their implementation until August.

Under the House version of the war supplemental, the above rules, plus the rules prohibiting provider taxes and limiting use of targeted case management services, would be delayed until April 2009.

The supplemental also includes \$5 million to conduct a study on the potential impacts of the regulations, as well as \$25 million to help root out fraud and waste in Medicaid. -- Amy Lotven
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