



## Legislative and Regulatory Update

*March 2014*

### **Temporary SGR Fix Vote Expected**

On Thursday, March 27, the House of Representatives passed H.R. 4302, the Protecting Access to Medicare Act of 2014, on a voice vote. The Senate is expected to vote today on the [121-page bill](#), which would delay for one year the 24 percent sustainable growth rate (SGR) Medicare physician payment cut, due to go into effect on April 1. The bill would keep Medicare payment rates level until April 1, 2015. If both chambers pass the short term fix, President Obama is expected to sign it.

The bill represents an acknowledgement that the consensus, bipartisan approach to permanent repeal of the SGR formula will not be accomplished this year due to lack of agreement on a package of offsets. A bill permanently repealing the SGR passed the House on March 14, but is not expected to get a vote in the Senate because the principal offset is a repeal of the individual mandate under the Affordable Care Act (ACA). Senator Ron Wyden (D-OR) has introduced the same permanent repeal bill in the Senate, but as an offset his bill proposes funds no longer needed for the wars in Iraq and Afghanistan.

The delay of a permanent SGR fix means that the debate and negotiations around offsets to pay for that broader bill will remain unresolved until the expiration of the next patch on April 1, 2015.

### **CMS Continues Immunosuppressant Protected Class Status**

The Centers for Medicare and Medicaid Services (CMS) decided not to finalize the provision of a proposed rule that would have eliminated protected class status for immunosuppressive drugs under Medicare Part D. The decision was announced by CMS Administrator Marilyn Tavenner in a letter to the House Committee on Energy and Commerce on March 10 after ASTS and many other health care organizations objected strongly to the proposal.

In the first year of the Medicare prescription drug benefit, CMS implemented a policy that required all Part D plans to include on their formularies “all or substantially all” Part D drugs within six drug classes—antineoplastics, anticonvulsants, antiretrovirals, antipsychotics, antidepressants, and immunosuppressants. The Affordable Care Act later codified this policy and allowed CMS to specify criteria for identifying protected classes through notice and comment rulemaking.

ASTS submitted [comments](#) as well as [testimony for the record](#) to the House Committee on Energy and Commerce Subcommittee on Health hearing on February 26, 2014, objecting to this change in the strongest possible terms. ASTS’ testimony was introduced by Dr. Michael Burgess (R-TX), longtime champion of the transplant community.

In her letter to Congressman Henry Waxman, Administrator Tavenner noted that on the parts of the proposed rule not being finalized at this time, CMS plans to “engage in further stakeholder input before advancing some or all of these changes in these areas in future years.” ASTS will, as always, monitor the CMS rulemaking process and engage in public comment periods where indicated.

### **Winter Symposium Webcasts Online**

Did you miss the Legislative Update and Advocacy Symposium at the 14th Annual State of the Art Winter Symposium? [You can watch the webcasts from all the symposium sessions online.](#)

### **Missed an Issue?**

All issues of the ASTS Legislative and Regulatory Update are now [archived on ASTS.org](#).