



## Legislative and Regulatory Update

### **What the Sequester Means for You**

For physicians, hospitals, and other health care providers, sequestration's greatest impact will be through the 2 percent cut in Medicare physician payments; cuts to the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), the National Institute of Health (NIH), the Food and Drug Administration (FDA), and other agencies with direct health care oversight; Graduate Medical Education (GME) funding; and potential delay of efforts to move a permanent fix to Medicare physician payments.

Medicare payments to providers and health insurance plans will continue to be cut by 2 percent. These cuts are not cumulative. So, for the entire nine-year period 2013-2021, providers and plans will be paid 98 cents on the dollar; however, because Medicare costs are projected to rise from 2013 through 2021, the dollar amount saved by this 2 percent cut will increase, from \$11.0 billion in 2013 to \$11.4 billion in 2014 and ultimately to \$17.8 billion in 2021. For 2014 through 2021, the Medicare cut will remain at 2 percent while the percentage cuts in other programs will gradually shrink.

Even several weeks into the sequester, it remains somewhat unclear exactly how each agency is implementing the required cuts, with discussions and decisions ongoing. For more details, see the [sequestration memo](#) posted in the ASTS Member Portal.

### **Movement on the Medicare SGR Fix**

Despite Congress, White House, and agency focus on sequestration during the first two months of 2013, there have been positive indications regarding potential passage of a permanent SGR fix this year. Since 1997 when the Medicare physician payment formula was enacted, Congress has interceded a total of 15 times to temporarily correct negative updates to the formula's sustainable growth rate (SGR). For the first time in nearly as many years, Congressional leaders and Medicare Payment Advisory Commission (MedPAC) officials are saying that 2013 may indeed be the right time for a permanent fix. The Congressional Budget Office scored a permanent fix at \$138.3 billion last month, a drastic reduction from last year's score of \$316 billion.

The debate has shifted toward serious efforts to reform Medicare physician payments. Republicans on the House Ways and Means Committee recently partnered with the House Energy and Commerce Committee Republicans to outline their construct for a new system and elicit comments from the physician community on this four-pronged approach:

- After the period of stability, physician fee schedule payment updates will be based on performance of meaningful, physician-endorsed measures of care quality and participation in clinical improvement activities.
- Medical specialty societies will develop meaningful quality measures and clinical improvement activities using a standard process.
- Performance will be based on both risk-adjusted relative rankings amongst physician specialty peer groups and improvement on quality over time.
- This proposal will reduce the reporting burden on physician practices, override the current CMS quality measurement programs, and align Medicare payment initiatives with private payer initiatives.

Senate Finance committee Republicans are working with their House counterparts and House and Senate Democrats are hoping to also work closely to come to bipartisan, bicameral agreement on a permanent fix construct. Most Hill staffers say, "the devil is in the details" and predict that areas of disagreement will revolve around CMS involvement, timeframe for implementation, and penalties associated with non-compliance. Further, it is unclear whether Congress will find the money to fund the fix and exactly what will replace the SGR formula.

### **Immunosuppressive Drug Coverage Bill Reintroduced in the House**

On March 21, Congressman Michael Burgess (R-TX) and Ron Kind (D-WI) reintroduced H.R. 1325, the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act. The legislation is identical to legislation advanced last session, according to the bill sponsors. Original co-sponsors, those who sponsored at introduction, are: Ron Kind (D-WI); Marsha Blackburn (R-TN); Tom Marino (R-PA); Bill Cassidy (R-LA); C.W. Bill Young (R-FL); Ander Crenshaw (R-FL); Jim McDermott (D-WA); Spencer Bachus (R-AL); Michael Grimm (R-NY); Frank Wolf (R-VA); Pat Tiberi (R-OH).

The legislation will allow individuals who are eligible for immunosuppressive drugs whose insurance benefits under Part B have ended due to their 36 months running out to remain in the program only for the purpose of receiving immunosuppressive drugs. If they have group health insurance with this benefit, they would not qualify for coverage beyond the 36 months.

### **HOPE Act Passed by Senate Committee**

The Senate Health, Education, Labor & Pensions (HELP) Committee has passed the HOPE Act (HIV Organ Policy Equity Act), legislation that would end the federal ban on research into organ donations from HIV-positive donors to HIV-positive recipients. The bipartisan measure introduced by U.S. Senators Barbara Boxer (D-CA) and Tom Coburn (R-OK) – which is also sponsored by Senators Tammy Baldwin (D-WI), Rand Paul (R-KY), Michael Enzi (R-WY), Elizabeth Warren (D-MA), Richard Burr (R-NC) and Mark Kirk (R-IL) – would open a pathway to the eventual transplantation of these organs, offering hope to thousands of HIV-positive patients who are on waiting lists for life-saving organs. Currently, even researching the feasibility of such transplants is banned under federal law.