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Late breaking news on medical-legal development affecting physicians and health care professionals

CMS Warns of Possible Delay of MACRA Implementation. On July 13, CMS Acting Administrator Andy Slavitt and senators showed that they have heard and understand the calls to slow down plans for implementing the Medicare Access and CHIP Reauthorization Act (MACRA). Slavitt said he knows small physician practices might not have enough time to prepare for the important changes in Medicare payments if they go into effect on Jan. 1 as planned, particularly since the CMS Final Rule on new payment models is not expected to be announced until November. The Senate Finance Committee expressed concerns over the short period between the Final Rule announcement and the planned implementation date. In response to repeated questions concerning this issue, Slavitt advised that the CMS is open to alternatives that include postponing implementation and establishing shorter reporting periods. Additionally, Slavitt also suggested that the CMS was considering modifying reporting requirements to ease the burden on physicians. For instance, CMS could obtain data through an automated database such as a registry. Also, in instances where a practice demonstrates strength in a particular area of care, that practice might not have to report such data. Similarly, if physicians do not see a high volume of Medicare patients, they might not be required to report data. Unfortunately, there is still much uncertainty surrounding MACRA that may not be resolved until the Final Rule comes out in November.

CMS Report Notes High Deductible Plans Will Curb Physician Spending. Healthcare spending is expected to grow 5.8% annually, outpacing the overall gross domestic product by 1.3 percentage points between 2015 and 2025. According to a new CMS report, however, spending on physician services during the next decade is likely to be significantly slower and limited in part by the continuing rise of high-deductible health plans. Actuaries at the CMS found that currently one in four employer health plans had high deductibles in 2015, up from one in five in 2014. Sean P. Keehan of the CMS' Office of the Actuary said "research has found that moving into high-deductible health plans or being subject to other increases in cost sharing tends to have a disproportionate impact on the use of physician and clinical services, such as preventive care." The Office of the Actuary found that 2015 was the first year of an expected 4-year trend of accelerating out-of-pocket spending resulting from both fading coverage gains under the Affordable Care Act and more people being moved to high-deductible plans or coverage that requires other forms of increased cost sharing. Plans that emphasize cost-sharing have been criticized widely in the healthcare community as they both reduce patients' use of both necessary and unnecessary care. The CMS report also found that physicians will likely be affected in 2016 by private health plans' continued expansion of "narrow networks" of providers, designed as a way to "prevent sharp increases in health prices." For a copy of the CMS report, please see: http://content.healthaffairs.org/content/early/2016/07/12/hlthaff.2016.0459.full.

New Law Limits Initial Prescriptions for Opioids for Acute Pain to Seven Day Supply. The New York State Legislature recently passed legislation mandating that a licensed practitioner may not prescribe more than a 7 day supply for any schedule II, III, or IV opioid to any ultimate user upon the initial consultation or treatment for "acute pain." The bill was signed into law by Governor Cuomo on June 22, 2016 and by its terms becomes effective 30 days thereafter, on July 22, 2016. The law defines "acute pain" as ". . . pain, whether resulting from disease, accidental or intentional trauma, or other cause, that practitioner reasonably believes to last only a short period of time. Such term shall not include chronic pain, pain treated as part of cancer care, hospice or other end-of-life care, or pain treated as part of palliative care practices." The bill further provides that, upon any subsequent consultations for the same pain, a practitioner may issue up to a 30 day supply, any appropriate renewal, refill, or new prescription for the opioid or any other drug. The legislation amends various provisions of the Insurance Law to provide that every insurance policy which provides coverage for prescription drugs subject to a copayment shall charge a copayment for a limited initial prescription of an opioid drug that is either (i) proportional between the copayment for a 30 day supply and the amount that the patient was prescribed; or (ii) equivalent to the copayment for a full 30 day supply of the opioid drug provided that no additional copayments may be charged for any additional prescriptions for the remainder of the 30 day supply.

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