

**Temporary “Doc Fix” Agreement Delays ICD-10 Implementation:** Although CMS adamantly opposed any delay to the October 1, 2014 ICD-10 implementation date, the Protecting Access to Medicare Act of 2014 contains a provision where CMS will have no choice but to postpone implementation of ICD-10 for at least one year. The American Health Information Management Association has already asked for clarification of the critical term “at least one year” as it could lead to speculation that implementation may be delayed more than one year. ICD-10 implementation is now postponed to at least October 1, 2015.

**CMS Reveals Medicare Part B Physician Payments:** CMS released the data in response to demands for transparency in the wake of a court case requiring the agency to provide public access to physician billing records. Analysts sifting through the data in the coming days and weeks will try to shed light on payment trends and expose outliers among services and providers. Insurers and government payers will use the data to identify high-cost providers and spot inter- and intra-regional variations in the patterns of care. One of the reasons CMS officials gave for releasing the data was to aid in the search for healthcare fraud and abuse, particularly by exposing statistical outliers.

**United States Senate Committee on Finance Supports Increased Notice and Appeal Timeframes from CMS:** The United States Senate Committee on Finance recently wrote to CMS supporting CMS’ proposal to improve beneficiary notices such as the Annual Notice of Change to contain a clear explanation of an enrollee’s rights if a plan terminates a provider from its network. Medicare Advantage (“MA”) networks should provide CMS information about the steps the plan will take to ensure affected enrollees can locate new providers that meet their individual needs. CMS should also ensure affected providers have sufficient time to exercise their appeal rights before enrollees are notified of network changes. These safeguards are intended to help beneficiaries understand what the provider networks in their MA plan will look like before they have to make decisions about enrolling in a particular plan.

**NY Appellate Division Holds Investigation Committee Not Required to Convene within 90 Days:** In the case of *Patel v. Shah*, decided March 20, 2014, the Court held that the failure of the Office of Professional Medical Conduct (“OPMC”) to convene an investigation committee within 90 days of the interview of a physician does not require dismissal of the OPMC’s investigation of the physician. The physician’s attorney filed a petition seeking, among other things, a writ of mandamus to compel OPMC to dismiss the investigation against the physician, and a writ of prohibition prohibiting OPMC from acting on the basis of any information obtained through the investigation. The petition asserted that the physician was interviewed by OPMC, and that the failure of OPMC to convene an investigation committee within 90 days violated the statute, Public Health Law 230 (10) (a) (iii), and required dismissal of the investigation. The Appellate Division held that the statute’s 90 day limit was “directory” to OPMC and not strictly mandatory. The Court held that the physician had no clear legal right to the relief sought, and neither mandamus nor prohibition was available.

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at [info@DrLaw.com](mailto:info@DrLaw.com).



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