

Potential Medicare Reforms Impact on NJ Patients: President-elect Donald Trump campaigned on a platform to repeal the Affordable Care Act and now the Republican Speaker of the House, Rep. Paul Ryan, recently announced that Medicare would also need to be reformed as well in an effort to trim Medicare's cost to the federal budget. Although there is no consensus on how Medicare will be reformed, some proposals include phasing it out and replacing it with vouchers that would allow recipients to buy insurance in the private market, called a "Medicare Exchange." The impact such a reform would have on New Jersey patients cannot be understated, as nearly 1.5 million New Jersey residents are insured by Medicare, which comprises approximately 17 percent of the state's population. Further compounding the issues is the fact that the Baby Boomer generation is reaching the age of 65 in unprecedented numbers, which is increasing the state's pool of Medicare recipients at about 33,000 enrollees a year. In light of the potential complications and confusion to current enrollees, most of the policy discussion concerning such sweeping changes in Medicare includes the possibility that current Medicare recipients have their benefits "grandfathered" so they remain unchanged. Any reforms would be aimed at workers who are too young to be Medicare recipients yet. The changes to Medicare would also affect not just people age 65 and older but also people of all ages who are on disability, including children with multiple handicaps. In New Jersey, people on disability account for 13 percent of Medicare enrollees; the rest are 65 and older. Although Trump did not address Medicare during his campaign, Speaker Ryan has said that the Affordable Care Act and Medicare are "intertwined" and repealing and replacing the Affordable Care Act will also require changes to Medicare.

HHS Targets Increases in Drug Prices: The Office of the Inspector General ("OIG") of the Health and Human Services Department ("HHS") has released a list of items which it intends to look into, on a priority basis, in 2017. Prominently featured on this list is the goal of reducing costs for prescription drugs. The release notes that spending on certain compounded topical prescription drugs increased by more than 3,400% percent between 2006 and 2015, to some \$224 billion, possibly as a result of "questionable billing." The loud public outcries over the huge increases in prices for some prescription medications, such as for Mylan Pharmaceutical's EpiPen and Turning Pharmaceutical's Daraprim, likely helped turn the agency's attention to this issue. Although "fraud" is often cited as a reason for high drug prices, HHS is looking at other solutions. One possibility under review would be to expand requirements under Medicaid that drug manufacturers pay inflation-based rebates to hospitals and clinics which treat low-income patients to outpatient drugs paid for under Medicare Part B. Another, apparently simple, solution would be for manufacturers to provide drugs in smaller, single use vials, such as are used in some other countries, in order to reduce waste. The OIG will certainly not reduce its focus on exposing and recovering for fraud, but believes cost savings may be achieved through such small innovations which, spread across the large number of prescriptions paid for with federal dollars, could add up to substantial savings.

No Decrease in Health Sector Antitrust Enforcement Seen Likely in Trump Administration: Since the George W. Bush administration, antitrust enforcement agencies, such as the Antitrust Division of the Department of Justice and the Federal Trade Commission, have been active in the healthcare field, conducting extensive merger reviews and bringing actions before federal courts and administrative tribunals to challenge mergers and other potential deals as anticompetitive. The pattern has been to oppose market concentration, and commentators believe this focus most likely will not change with the coming of a new administration. Antitrust enforcement at the Department of Justice and the FTC has largely been free of excessive political influence, and that trend is expected to continue. Antitrust enforcers view themselves as largely professional and independent of political influence. Antitrust enforcement is often the province of experienced career staff, and independence of antitrust enforcement has been the rule rather than the exception. Although Donald Trump has not focused upon antitrust issues during the campaign, and conservative political theory generally disfavors excessive governmental regulations, antitrust enforcement has been an area where conservative legal scholars believe that enforcement of laws and regulations which foster a competitive marketplace are generally beneficial to both the free market economy and to consumers. Antitrust enforcement has not been typically seen as a particularly partisan issue.

For more information on the above items, contact Kern Augustine, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



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