



# BOS Washington Update



Tuesday, January 7, 2014

Happy New Year! Congress returns from its winter break today, as unresolved questions about the 2014 budget and SGR repeal loom large. On the docket this week is a plan from House Majority Leader Eric Cantor (R-VA) to place more security requirements on the new Affordable Care Act insurance exchanges. Also on the horizon is the January 27<sup>th</sup> deadline to submit comments on the proposed physician fee schedule changes.

## Congress/Administration

- **Doc Fix**

Before leaving for the holiday recess, lawmakers [passed a three-month payment patch](#), with plans for a more permanent fix to be achieved in the first quarter of 2014. The patch averts a scheduled 24 percent payment cut in reimbursement rates and provides a 0.5 percent increase.

As lawmakers return today, the biggest question is how to pay for permanent repeal. The Congressional Budget Office found that the [Senate Finance Committee bill](#) would cost \$148.6 billion over 10 years, while [the bill approved](#) by the House Energy and Commerce Committee would cost \$153.2 billion.

- **This Week: Two ACA Bills**

The House will vote Friday on a bill requiring HHS to notify people within two days if their personal data has been compromised on the health insurance exchanges. The Health Exchange Security and Transparency Act is sponsored by Energy and Commerce health subcommittee chairman Joe Pitts (R-PA). ([PDF Link](#) to legislation)

The House is also expected to vote Friday on [H.R 3362](#), a bill introduced by Rep. Lee Terry (R-NE). The legislation would require the administration to release public, weekly reports detailing the performance of HealthCare.gov, including a state-by-state breakdown of unique website visits, individuals who create an account and how many successfully enroll in a qualified health plan or Medicaid.

- **Cracking Down on “Poor Performers”**

CMS has proposed a rule whereby the agency could more easily remove “consistently poor performers” from Medicare Advantage and Part D. The proposed rule would require all doctors who prescribe to Medicare patients to be enrolled in Medicare Part D, which CMS will use to ensure that prescriptions are only prescribed by qualified doctors. It would also let CMS revoke physicians’ ability to participate in the program if “a pattern or practice of prescribing Part D drugs that” is “abusive and represents a threat to the health and safety of Medicare beneficiaries”. The agency would also be allowed to kick doctors out of their program if the doctor has lost “the ability to prescribe drugs via a suspension or revocation of a DEA Certificate or by state action”. ([PDF link to rule](#))

- **Changes to Hip and Knee Codes**

On Wednesday, November 27, 2013, the Centers for Medicare and Medicaid Services (CMS) released the 2014 Medicare Physician Fee Schedule final rule. Recommendations from the American Medical Association’s Multi-Specialty Relative Value Update Committee (RUC) called for greater cuts than CMS enacted, and CMS cited AAOS and AAHKS advocacy as a leading factor in this decision.

Every year, CMS makes changes to the RVUs for procedures, including orthopaedic procedures, within the fee schedule. This year, the following four high-volume lower extremity orthopaedic procedures were reviewed and the RVUs either revised or left at their current value:

- 27130—Arthroplasty, acetabular and proximal femoral prosthetic replacement (total hip arthroplasty [THA]), with or without autograft or allograft. The work RVU has been changed from 21.79 to 20.72, a decrease of 5 percent.
- 27236—Open treatment of femoral fracture, proximal end, neck, internal fixation or prosthetic replacement. The work RVU remains the same at 17.60.
- 27446—Arthroplasty, knee, condyle and plateau; medial OR lateral compartment. The work RVU has been changed from 16.38 to 17.48, an increase of 6.7 percent.
- 27447—Arthroplasty, knee, condyle and plateau; medial AND lateral compartments with or without patella resurfacing (total knee arthroplasty [TKA]). The work RVU has been changed from 23.25 to 20.72, a decrease of 11 percent.

AAOS and AAHKS recommended that CMS and the RUC make no change in work RVUs for THA (27130) and a small (4 percent) decrease in work RVUS for TKA. Although the RUC rejected these recommendations and proposed significant cuts in the work RVUs for both TKA and THA, CMS acknowledged the input from specialty societies and moderated the RUC's recommendations, resulting in a far smaller decrease. There is a January 27<sup>th</sup> deadline to submit comments on this proposed change.

- **HHS: Two Million Enrolled in ACA**

Last Tuesday, HHS announced that 2.1 million people have signed up so far for health coverage under the Affordable Care Act. HHS Secretary Kathleen Sebelius said that another 3.9 million people were eligible for coverage through expanded Medicaid and CHIP. Notably, however, Secretary Sebelius was unable to say how many of the 2.1 million ACA enrollees have paid their first premium to ensure their policies took effect on January 1<sup>st</sup>, when ACA implementation began in earnest. Most uninsured Americans have until March 31 to buy private insurance and avoid paying a penalty for not having health insurance. ([USA Today](#))

- **Badger State Barrister**

Sen. Ron Johnson (R-WI) filed a lawsuit on Monday against the White House Office of Personnel Management, arguing that the agency's decision to allow the government to subsidize lawmakers' health coverage on the insurance exchanges violates the Affordable Care Act as well as the rules surrounding the Federal Employee Health Benefits Plan. Senator Johnson's fellow Wisconsin Republican Rep. Jim Sensenbrenner slammed the lawsuit, calling it a "political stunt" that will be damaging to the GOP. ([Milwaukee Journal Sentinel](#))