

CalPERS April Board Update

Bipartisan Physician Payment Reform Legislation:

On April 16th, the President signed H.R.2, the Medicare Access and CHIP Reauthorization Act of 2015, into law. This bipartisan legislation will shift payment incentives away from volume to value – a vision embraced and led by ongoing work by CalPERS. By repealing the annual cut in Medicare physician payments and embracing and encouraging the concept of alternative payment models to alter health care delivery, this law will ensure continued movement away from fee-for-service and will better align Medicare payment with the approaches CalPERS has advocated for and implemented.

CalPERS Actions:

- Prior to passage, consultants facilitated meetings for CalPERS staff with majority and minority staff of relevant committees to urge our support.
- Consultants also worked with CalPERS staff to craft a [letter](#) of strong support of this rare but encouraging bipartisan agreement to the majority and minority leadership in both the House and Senate. The letter acknowledged the legislation's imperfections, such as its exclusion of pharmaceutical manufacturers from any contributions to its costs but underscored the imperative of passing an otherwise strong bill.
- The Administration will now begin work on implementation of H.R. 2. CalPERS will need to engage with the Administration to ensure that payers, not just physician specialty societies, have input into the process and development of the alternative payment models and that implementation is consistent with ongoing efforts to transform the delivery system. We will continue to facilitate communications and other advocacy efforts with policymakers on this issue.

Executive Branch Delivery System Reforms

- The alternative payment models in H.R. 2 are also consistent and align with ongoing Executive Branch efforts in this area to have a greater percentage of Medicare services be value-based.
- In that regard, President Obama and HHS Secretary Sylvia Mathews Burwell recently launched a health care learning network that aims to bring public and private groups together to help speed a shift toward rewarding the quality and value of care Americans receive over the quantity. The Health Care Payment Learning and Action Network will provide a forum for payers, providers and key partners to exchange ideas about transitioning the nation's system to alternative payment models. More than 2,800 companies, advocacy and trade organizations and other groups are signed up for the new effort. Some have already committed to adopting practices in line with its quality and value goals.

CalPERS Actions:

- Reflecting the reputation and history of CalPERS' commitment in this area, Ann Boynton was invited to represent the system at this high level meeting.

Transparency:

The Medicare legislation (H.R. 2) signed by the President includes a transparency initiative which expands a provision of the ACA allowing “qualified entities” to access Medicare fee-for-service claims data. The new proposal would allow these entities to use that data for private uses, such as helping insurers design provide networks or providers assess quality metrics.

CalPERS Implications:

- The provision defines qualified entity as a public or private entity that is qualified to use claims data to evaluate the performance of service providers and suppliers on measures of quality, efficiency, effectiveness and resource use, and that agrees to meet specified requirements, such as ensuring data security.
- It authorizes qualified entities to use claims data combined with data not from claims the entity has received, as well as information derived from evaluation of service provider and supplier performance, to conduct additional private analyses and provide or sell them to authorized users for private use, including to assist service providers and suppliers to develop and participate in quality and patient-care improvement activities, including new models of care. Authorized users could include healthcare providers, suppliers, employers, insurers, medical or hospital associations, or other entities approved by the HHS secretary.

CalPERS Next Steps: Now that access to Medicare claims data has been expanded by H.R. 2, CalPERS should continue their efforts to ensure that this data is useable and accessible for patients and consumers.

Prescription Drug Costs:

On March 6th, the Food and Drug Administration announced approval of the first biosimilar product to be approved in the United States. Shortly thereafter, CMS released its first guidance on biosimilars related to Medicare and Medicaid. The guidance outlined coverage, management, and payment practices that Medicare will follow when dealing with biosimilars. It is worth noting that it appears that the part D guidance will allow plans to change a formulary mid-year when the biosimilar is approved. Allowing for this possibility will secure a greater likelihood for more successful negotiations with the drug manufacturer. Under any scenario, though, there will likely continue to be consumer protections that ensure access to affordable medications on any part D authorized formulary. The Medicaid guidance provides direction to states on the classification of biosimilar biological products for rebate purposes and on strategies for states to use these products to reduce costs.

CalPERS Implications: CMS will play a critical role in establishing the correct incentives for the production and use of biosimilars and interchangeable biologics through their reimbursement policies. The fact that the agency has acted early to acknowledge their role in securing access to these drugs and to begin establishing reimbursement protocols is a positive development for CalPERS given the magnitude of the agency’s expected drug spend for specialty drugs.

CalPERS Next Steps:

- **Biosimilars:** CalPERS should continue efforts to urge a unified approach to biosimilars and interchangeable biologics by the Administration.
- **21st Century Cures:** In Congress, efforts continue on the 21st Century Cures legislation with a new draft expected shortly and negotiations ongoing between the minority and majority. CalPERS should continue work in both the House and Senate to ensure that this legislation considers affordability while striving to improve innovation and does not include any unnecessary extensions of market exclusivity for pharmaceutical manufacturers that create new barriers for competition.

Looking Ahead: The Cadillac Tax:

Next month, comments are due to the Treasury Department on the interpretation and administration of the so-called Cadillac Tax.

CalPERS Implications:

- Some of CalPERS plan offerings will likely be subject to the tax because of the relative generosity of the benefit and the unrealistically low indexing mechanism provided under the law.
- Recognizing the impact of this tax on a range of health care plans, a relatively diverse coalition of stakeholders ranging from the AFL-CIO to the US Chamber of Commerce is signaling their support for the repeal of this provision of the Affordable Care Act. It is likely that there will be bipartisan interest in Congress supporting legislation to achieve this outcome. CalPERS will need to consider how to position itself on this issue going forward.
- Moreover, a recently released score by the Congressional Budget Office on the cost of repealing the Cadillac Tax has lowered its projection of how much revenue would be lost with the elimination of this provision. The estimate was downwardly adjusted because of lower than expected health care cost growth and a reduction in the projected number of health plans expected to hit the law's tax threshold. Notwithstanding this finding, the cost of repealing this provision of the ACA will only increase with time due to the indexing mechanism which virtually guarantees a steep increase in the number of plans that will be subject to the tax in the out years.

Next Steps: CalPERS is planning to submit comments that will inform the guidance while being carefully constructed not to convey any implicit support of the tax and should continue consideration of participating in a coalition of partners that are similarly impacted by the Cadillac tax.

AVENUE SOLUTIONS

JPS

Jennings Policy Strategies Inc.
1301 Pennsylvania Avenue NW
Suite 500



California Public Employees' Retirement System
Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (877) 249-7442
(916) 795-3818 phone • (916) 795-3410 fax
www.calpers.ca.gov

April 14, 2015

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Harry Reid
Senate Minority Leader
United States Senate
Washington, DC 20510

Dear Leader McConnell and Leader Reid:

The California Public Employees' Retirement System (CalPERS) commends you for your bipartisan collaboration and leadership on taking action on H.R. 2, the Medicare Access and CHIP Reauthorization Act. While this legislation is not without shortcomings, its long overdue passage will send an important signal to physicians that the Medicare program will prioritize and reward health care value and quality over excessive volume. It will also provide certainty to the approximately 49 million Medicare beneficiaries who have had to worry about losing access to their physician on an annual basis for more than a decade.

As the nation's largest non-federal purchaser of health care benefits, CalPERS will spend over \$8 billion for health care benefits for over 1.4 million active members, retirees and their families this year. In recent years, CalPERS has been proud to aggressively embrace innovative value-purchasing techniques. During this period, we have been able to secure higher quality health care while constraining cost growth. We believe your work – and that of the bipartisan, bicameral Committees of jurisdiction in the House and the Senate – will make a major and positive contribution toward a greater level of quality, accountability, and transparency, all the while lowering cost growth, providing more predictability, and aligning Medicare with other best practice purchasers.

As you know, we have long supported Congressional action to permanently address the Medicare physician payment reform system. We recognize that compromises have to be forged to achieve needed policy objectives. However, we believe the omission of

AVENUE SOLUTIONS

JPS

Jennings Policy Strategies Inc.
1301 Pennsylvania Avenue NW
Suite 500

The Honorable Mitch McConnell
The Honorable Harry Reid
April 14, 2015
Page 2

any pharmaceutical cost containment provision does reflect a shortcoming of this package, particularly at a time when prescription drug costs are driving up both Medicare Parts B and D costs. Nonetheless, the more positive elements of H.R. 2 far outweigh the negatives and, taken together, fully justify our endorsement of and strong support for the Senate's passing this important legislation and moving it on to President Obama for signature. Again, thank you for your leadership on this and many other important health care reform initiatives.

Sincerely,



ANNE STAUSBOLL
Chief Executive Officer

cc: The CalPERS Board of Administration
The Honorable Dianne Feinstein
The Honorable Barbara Boxer