Saul Ewing LLP

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American Taxpayer Relief Act of 2012 – Health Care Highlights

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SUMMARY

"Fiscal cliff" deal fails to provide permanent solution to flaw in Medicare physician reimbursement formula; merely postpones inevitable battles over health care spending between Congress and the White House.

In the first days of 2013, Congress approved and the President signed the American Taxpayer Relief Act of 2012 ("ATRA") [http://www.cbo.gov/publication/43829] to avoid the dreaded consequences of the so-called "fiscal cliff." From a health care perspective, legislators followed a now well-known pattern of using a broader bill to establish yet another temporary fix for Medicare's sustainable growth rate ("SGR") formula for paying physicians. The so-called "doc fix" maintains Medicare reimbursement rates at current levels through December 31, 2013. The Congressional Budget Office estimated the 10-year cost of this "doc fix" at $25.1 billion.

The ATRA offsets the costs associated with the "doc fix" through a series of Medicare offsets and other provisions that are expected to reduce spending by approximately $25.7 billion over this 10-year timeframe. It appears that hospitals will be required to pick up nearly 50 percent of the cost of the "doc fix" through a $10.5 billion recoupment of past overpayments to hospitals that were made as part of the transition from DRGs to Medicare-severity DRGs. Another ATRA provision calls for a reduction in Medicare disproportionate share hospital payments by an additional $4.2 billion over the next 10 years, consistent with the provisions of the Patient Protection and Affordable Care Act.

Critics of the health care provisions of ATRA point out that the legislation failed to correct the SGR problem, which has been in existence for more than 10 years as part of a 1997 law that was meant to cut costs. In addition, ATRA's health care critics acknowledge that all ATRA accomplished was to postpone the inevitable battle between Congress and the White House on how to deal with sequestration, funding the federal government for the remainder of fiscal 2013 and the debt ceiling issue. It is expected that these big dollar issues will cause the government to make additional cuts to providers, including graduate medical education, bad debt and fees for physician office visits.

Hospitals, physicians and other providers should pay close attention to the upcoming fiscal debate because changes in funding for different segments of the health care delivery system may impact consolidation, alignment and integration strategies relating to health reform.

Saul Ewing can help providers keep apprised of changes in federal and state funding for health care services. If you would like more information about this topic or your own unique situation, please contact George W. Bodenger, any member of the Health Practice, or the attorney in the firm with whom you are regularly in contact.

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