



## Report of the Director of Government Relations

Michael H. Park, March 2019

### 116<sup>th</sup> CONGRESS, 1<sup>st</sup> SESSION ACTIONS

#### Longest Government Shutdown in U.S. History Comes to an End

On January 14, 2019, the partial government shutdown entered its 24<sup>th</sup> day, marking the longest shutdown in U.S. history. The shutdown, which began on December 22, impacted approximately 25 percent of the federal government. Ultimately, Congress agreed and the President signed legislation that funded the federal government for the rest of fiscal year (FY) 2019. The \$328 billion spending bill provided funding for the Department of Health and Human Services (HHS) agencies impacted by the shutdown, including parts of the Indian Health Service and the Food and Drug Administration.

#### Congress Settles In, Legislative Activity Increases

The 116<sup>th</sup> Congress started slowly, with much of the House of Representatives getting organized under a new Democratic majority. Despite a divided Congress, with Republicans maintaining their majority in the Senate, Congress has settled in and activity increased significantly since January. Specifically, both the Senate and House have turned their collective attention to prescription drug costs and ways to reduce overall health care costs. The Senate Health, Education, Labor, and Pensions (HELP) Committee also held a hearing related primary care, with Chairman Lamar Alexander (R-TN) stating his belief that primary care and the direct primary care (DPC) model is an avenue to reduce wasteful and unnecessary health care spending.

In terms of specific legislative activity, several bipartisan bills have been introduced that are relevant to ACOFP's priorities, including legislation related to graduate medical education (GME) funding and one related to Medicare payments. One of the GME bills introduced in the Senate on February 6, the *Resident Physician Shortage Reduction Act*, is intended to address the physician shortage by increasing the number of Medicare-supported GME slots. Specifically, this legislation would increase the number of Medicare-supported GME slots by 3,000 per year from 2021 through 2025 and establish a distribution methodology to allocate these new slots. The distribution of slots would be prioritized as follows:

1. Hospitals in states with new medical schools;
2. Hospitals already training residents in excess of their cap;
3. Hospitals in training partnerships with Veterans Affairs medical centers;
4. Hospitals that emphasize training in community-based settings or hospital outpatient departments;
5. Non-rural hospitals that have a rural area training program (or integrated rural track);
6. All other hospitals.

In addition, under this legislation hospitals would be capped at 75 slots per fiscal year and would have to ensure at least 50 percent of the additional slot be used for a shortage specialty residency program.

Another GME bill, the *Rural Physician Workforce Production Act*, was introduced on January 31. This legislation is intended to address physician shortages in rural areas by providing new federal support for rural residency training. Finally, on January 18, the *Community and Public Health Programs Extension Act* was introduced. This bill would, among other things, renew funding for the teaching health center GME program for five years. Funding for this and several other health care programs are set to expire on September 30, 2019.

On February 7, a bipartisan bill was introduced in the House that would provide direct Medicare payment for services furnished by a physician assistant (PA). Specifically, PAs would be directly paid by Medicare if a facility or other provider does not charge or is not paid any amounts for the service that was provided by the PA.

We expect that Congress will continue its legislative activity regarding prescription drug prices and overall health care costs. In addition, a group of Democrats in both the House and Senate have introduced legislation related to universal health care and Medicare for All. These bills face significant barriers to passage, but indicate the potential direction and focus of the Congress on health care matters.

#### Trump Administration Continues Regulatory Activity

While the Congress begins to take action and make legislative moves, the Trump Administration has continued its efforts through regulatory activity. Specifically, the White House Office of National Drug Control Policy (ONDCP) released its *National Drug Control Strategy*. ONDCP Director James Carroll said that the strategy is intended to educate Americans about the dangers of drug abuse, ensure Americans struggling with addiction can obtain the help they need, and stop the influx of illegal drugs from other countries. The *Strategy* is focused on one overarching objective – build a stronger, healthier, drug free society by preventing drug use initiation, providing treatment services that lead to long-term recovery, and reducing the availability of illicit drugs.

The Center for Medicare & Medicaid Innovation (CMMI or the CMS Innovation Center) has also been more active. CMMI announced new models including the Medicare Advantage Value-Based Insurance Design Model, the Part D Payment Modernization Model, and the Emergency Triage, Treat, and Transport (ET3) Model. Additional models are expected, including models related to primary care and specific to rural areas.

The Trump Administration has also increased regulatory activity on health information technology (IT). Specifically, HHS and CMS both released proposed rules on February 11. The HHS proposed rule is intended to improve interoperability of electronic health information and prevent information blocking or impeding the free exchange of patient data across various parts of the health care system. The CMS proposed rule is intended to make patient data more useful and transferable by improving interoperability. In addition, the Department of Veterans Affairs announced that it will be providing its patients with access to their health data on Apple iPhones. More information on this effort is expected sometime in the summer.

## **LEGISLATIVE AND REGULATORY ACTIVITY TO DATE**

Below is a compilation of key legislative, regulatory, and other lobbying work performed since mid-January. These activities highlight ACOFP's key legislative priorities including: (1) payment reform; (2) protecting and incentivizing primary care; (3) health information technology; and (4) protecting solo, small and rural practices.

### **Advocacy**

We have performed advocacy work on ACOFP's priority areas. Since the last update in January, we have drafted five comment letters and responses to requests for information (RFI). Specifically, we have submitted comment letters on:

- Health IT and Electronic Health Record (EHR) Burden Reduction
- Medicare Advantage and Part D Drug Prices
- HHS RFI on HIPAA
- Senate HELP RFI on Ways to Address Rising Health Care Costs
- Calendar Year 2020 Draft Call Letter Part II

### **Monitoring Regulatory and Legislative Activity**

We have provided written weekly federal regulatory and legislative updates to ACOFP and attended and provided summaries of a broad array of hearings and sessions. These include congressional hearings and sessions of both congressional and federal agency advisory bodies (*e.g.*, Medicare Payment Advisory Commission (MedPAC), Medicaid and CHIP Payment and Access Commission (MACPAC), and the Physician-Focused Payment Model Technical Advisory Committee (PTAC)).

We have reviewed, provided summaries and/or background information, and when appropriate drafted comments and/or written testimony to the following:

- CMS Proposed Annual Notice of Benefit and Payment Parameters for the 2020 Benefit Year
- HHS Proposed Rule, *Fraud and Abuse; Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Service Fees*
- S. 289, *the Rural Physician Workforce Production Act of 2019*
- Calendar Year 2020 Draft Call Letter Part II
- H.R. 1384, *Medicare for All Act of 2019*

Below is a list of hearings and sessions covered and, when appropriate, summarized for ACOFP.

### ***Senate Activity***

- Senate Finance Committee hearings:
  - Drug Pricing in America: A Prescription for Change, Part I (January 30, 2019)
  - Drug Pricing in America: A Prescription for Change, Part II (February 26, 2019)
- Senate HELP Committee hearings:
  - Access to Care: Health Centers and Providers in Underserved Communities (January 29, 2019)
  - How Primary Care Affects Health Care Costs and Outcomes (February 5, 2019)
  - Managing Pain During the Opioid Crisis (February 12, 2019)

### ***House Activity***

- Energy and Commerce Committee hearing:

- Texas v. U.S.: The Republican Lawsuit and Its Impacts on Americans with Pre-Existing Conditions (February 6, 2019)
- Ways and Means Committee hearings:
  - The Cost of Rising Prescription Drug Prices (February 12, 2019)
- Oversight and Reform Committee hearings:
  - Examining the Actions of Drug Companies in Raising Prescription Drug Prices (January 30, 2019)

***Advisory Committees Activity***

- MedPAC: January 2019 meeting (January 17-18, 2019)
- MACPAC: January 2019 meeting (January 24-25, 2019)