

Congress, Our Patients Are Counting on You: *Don't Let the Opportunity for Full SGR-Repeal Slip Away in 2014!*

May 21-22, 2014

Medicare's physician payment system, known as the Sustainable Growth Rate (SGR), is fatally flawed, antiquated, and does not keep pace with the actual cost of providing health care services under Medicare. This year has seen Congress get as close as it ever has to repealing the SGR, and replacing it with a new payment and delivery system based on value to patients. After working steadily throughout 2013, with the input of ACP and others in the physician community — as well as other stakeholders — the chairmen and ranking minority members of all three committees in the Congress with jurisdiction over Medicare, the Senate Finance Committee, House Ways and Means Committee, and House Energy and Commerce Committee, agreed on bicameral and bipartisan SGR-repeal legislation. Identical bills were introduced in the House and Senate on February 6, 2014, the *SGR Repeal and Medicare Provider Payment Modernization Act* (S. 2000 in the Senate and H.R. 4015 in the House). This legislation had, and continues to have, the strong support of virtually all specialty societies as well as state medical societies.

Another significant factor adding to the momentum for SGR-repeal this year is the fact that the Congressional Budget Office's (CBO) estimate of the cost of repeal has dropped dramatically. While, less than two years ago, in August, 2012, it was estimated to cost \$245 billion, CBO's estimate in April, 2014 was \$124 billion. There are no guarantees that the cost will remain this low, however. In fact, in recent weeks, the estimate has increased slightly. Although still at a very low level historically, the estimate of the cost of repeal had been as low as \$116.5 billion in December, 2013. This provides an additional incentive for Congress to move repeal legislation sooner rather than later.

Despite the support for this legislation and the lower price tag, Congress has not yet passed it in a form agreeable to both chambers. Instead, to avert the 24 percent SGR cut that would have taken effect on April 1, 2014, both bodies turned to an approach it had used 16 times before in the last 11 years — a patch which extended the current payment rates for one year, though March 31, 2015 at a cost of \$15.8 billion. The total cost of all the patches is higher than CBO's current estimate of the cost of repeal and, with each additional patch, the cost of permanent repeal increases. Nearly all of medicine, including ACP, was opposed to this patch, strongly urging Congress to instead work out their differences on the budgetary impact of SGR-repeal and pass S. 2000/H.R. 4015, as agreed to by the Medicare committees of jurisdiction and introduced on February 6.

ACP again urges Congress to not let this opportunity for full SGR-repeal slip away in 2014, but rather to put aside partisan differences, find a budgetary solution to SGR-repeal that both chambers can agree to, and pass S. 2000/H.R. 4015 so we can finally be rid of this flawed formula.

What would the *SGR Repeal and Medicare Provider Payment Modernization Act*, S. 2000/H.R. 4015 do?

- It repeals the SGR—permanently and immediately. Future payment updates no longer depend on a flawed SGR formula that has created instability in Medicare payments, contributed to access problems, and hindered real payment reform.
- It guarantees positive baseline updates for five years, versus the 24 percent cut that would have taken effect on 4/1/2014 (and likely be followed by the scheduling of more SGR cuts afterward). Even if Congress were to override ensuing SGR cuts, based on past experience, the Medicare physician fee schedule would be subjected to another multi-year freeze, at best--and quite likely, across-the-board cuts.
- Physicians and other health care practitioners would be given the opportunity to earn higher updates for quality improvement for joining in a Patient-Centered Medical Home or other Alternative Payment Model. Physicians would be empowered to determine their own annual update, above and beyond the baseline updates, based on performance in a new merit-based incentive program or participation an alternative payment model (APM). Under current law, all physicians get the same (negative) scheduled SGR updates.

- S. 2000/H.R. 4015 would add \$128 billion to physician payments over 10 years versus \$120 billion in cuts that would be brought about under current law by the SGR, at a time when fiscal realities are causing across-the-board cuts in many other programs.
- It would cancel the existing Physician Quality Reporting System (PQRS) and EHR Meaningful Use penalties at the end of 2017. These dollars would be added back to physician payments instead of going to the federal government. Under current law, in 2018, physicians could face:
 - ✓ PQRS -2 percent in 2018 and beyond
 - ✓ Meaningful Use -4 percent in 2018, -5 percent in 2019
- It also cancels any potential negative adjustments that physicians may face as part of the Medicare Value-Based Payment Modifier Program in 2018 and beyond.
- It unifies the current PQRS, Meaningful Use, and Medicare Value-Based Payment Modifier program into a single reporting program starting in 2018, creating an opportunity for physicians to work to harmonize measures and streamline reporting.
- Recognizing the strong evidence on their effectiveness in improving quality and lowering costs, Certified Patient-Centered Medical Home (PCMHs) and PCMH subspecialty practices will get the highest possible scores for clinical practice improvement under the new Merit-based Payment Incentive System and will be able to bill and be reimbursed for chronic care management starting in 2015; advanced PCMHs can qualify as an APM and get 5 percent annual bonuses for six years without taking direct financial risk.
- It provides \$40 million per year in technical assistance to small practices.
- It mandates a process to improve the accuracy of Medicare relative value units (RVUs).

Given all this support, what is the holdup on enactment of the bicameral, bipartisan legislation to repeal the SGR once and for all and replace it with a value-based payment and delivery system?

As in years past, a significant challenge remains in identifying a way of paying for the legislation that will be agreeable to both parties in both bodies. Republicans and Democrats in Congress are at loggerheads over how to come up with the estimated \$124 billion dollars to pay for SGR-repeal, or whether to even pay for it at all. While the House did pass the SGR-repeal policy as contained in H.R. 4015, it chose an objectionable offset to pay for the legislation – delay of the current-law individual insurance mandate – that was not realistically going to be considered by the Senate. By extension, the Senate has been unable to find agreement on how to bring this legislation to the floor, despite valiant efforts on the part of several lawmakers. Rather than resolving to work together in a serious way to find common ground on how to address the budgetary impact of SGR repeal in a way that is agreeable to both bodies, the parties remain entrenched in their differing opinions on the matter. The resulting sentiment among physicians and their patients is utter frustration and disappointment because the bipartisan policy reforms contained in H.R. 4015/S. 2000 are being held hostage to partisanship.

There must be a way forward out of this state of brinksmanship. ACP is counting on Congress to get this done this year – we are simply too close to let this slip away – and we continue to stand ready to work with lawmakers, as we have throughout the process, to get this legislation enacted in 2014.

What are ACP members asking Congress to do?

- ✓ Take tangible steps immediately to resolve partisan differences on how to pay for S. 2000/H.R. 4015, as introduced on February 6, that can pass both chambers.
- ✓ Schedule this legislation, with mutually agreed-upon offsets, for consideration on the House and Senate floor with the intention of passage and enactment this year.
- ✓ Oppose any further patches to the SGR and instead focus on full repeal, as agreed to by the House and Senate Medicare committees of jurisdiction.