

Gail R. Wilensky

next steps for health care

The second term of the Bush presidency is under way, a new secretary for HHS has been chosen, and many are now wondering what will be in store for HHS in the next four years. The short answer is: HHS will be even busier than usual, but there won't be a lot of new legislation by Congress, at least not the kind that costs a lot of money.

"I look forward . . . to the implementation of the Medicare prescription drug program in 2006, medical liability reform, and finding ways to reduce the cost of health care. I'm persuaded that we can use technology and innovation to meet our most noble aspirations, and not compromise our other values that we hold so dear."

—Michael O. Leavitt,
on receiving the nomination as
HHS Secretary, Dec. 13, 2004

That's not to say that the president and Congress won't be introducing *any* important initiatives that affect the healthcare sector. But costly new healthcare legislation is unlikely because there is little money available for any new domestic initiatives. The president has repeatedly committed to halving the deficit over the next five years. While some skeptics have questioned whether this goal can be accomplished without painful and politically difficult reductions in spending, the president's pledge makes it difficult to imagine costly new legislation being enacted.

But lack of money is not the only barrier to significant new healthcare legislation. The president has also made clear that his two domestic initiatives for his second terms are social security reform and tax simplification. Not only are these difficult political issues, but they are also both under the jurisdiction of the House Ways and Means Committee and the Senate Finance Committee—the same committees that have jurisdiction over most new healthcare legislation. It is difficult to imagine additional major new healthcare initiatives being directed to these committees.

What's in Store for the MMA?

The president and the Republican-dominated Congress expended a lot of political capital in

passing the Medicare Prescription Drug, Improvement, and Modernization Act. Attention has now turned to the not-so-simple task of getting this complicated legislation implemented "right" and "on time."

With the continuation of a Republican Congress, no one is likely to make a serious attempt to derail the MMA with crippling changes before it is implemented. But one or more bills designed to "clean up" the legislation can be expected. These types of bills typically follow every piece of major new legislation. And they are not necessarily small nor do they always involve only technical changes, as is evidenced by the 1999 Balanced Budget Refinement Act and the 2000 Benefits Improvement and Protection Act, examples of follow-on legislation for the 1997 Balanced Budget Act. If Congress is concerned about getting the MMA implemented on time, these "clean-up" bills won't begin until at least 2007, the minimum time required for most of the new legislation to be implemented.

Target: Medicare Payment

The most likely new healthcare legislation to be passed within the next calendar year is a reconsideration of Medicare payments, particularly those modified by the MMA. In general, the fiscal year beginning in October should be regarded as the "year of living dangerously" for most providers of Medicare services. All Medicare service providers are potentially at risk of being adversely affected by changes in Medicare, although the risk is greater for some than for others.

Physicians are the least likely to see a reduction in payment relative to the MMA. Physicians received temporary relief from the reduction in

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fees that otherwise would have been imposed by provisions of the BBA. Congress has expressed concern about the repeated reductions in the physician fee schedule that were dictated by the BBA, but it has been unable to find a solution to the problem with an acceptable price tag. Several congressional groups have been working on solutions, but there is no clear end in sight, and the problem is likely to rear its head again in FY06 unless countervailing legislation is introduced in the interim.

Private plans participating in Medicare Advantage are not likely to see their Medicare payment reduced in the near term because of the strong interest by the Bush administration and portions of the Congress in rebuilding private plan participation in Medicare. The special MMA provisions that favored rural providers also are not likely to be changed for the very reason they were introduced in the first place—the strong political power wielded by these groups, particularly in the Senate.

Hospitals are among the Medicare service providers that are at greater risk to having their Medicare payments reduced. Under current law, to receive a full market-basket update, hospitals will need to continue providing specified indicators of quality, but whether that will continue is uncertain. Nursing homes and home care providers may also face payment reductions. Nursing homes are scheduled to lose part of their special add-ons, and home care providers are at risk, in part, because of their perceived profitability.

Sectors that have received no updates or that have already taken substantial reductions in payment, such as clinical laboratories and durable medical equipment, are not so vulnerable as hospitals, nursing homes, and home care providers, but they do remain at some risk for future payment reductions.

Target: Federal Medicaid Spending

The Bush administration has shown some interest in reforming, or at least reducing, federal spending on Medicaid by changing some dimensions of the program. Changing Medicaid will be very difficult, however, without the explicit support of a majority of the governors—and garnering such support seems highly unlikely. A recent statement by the National Governors Association reaffirmed that the continued existence of Medicaid as an open-ended entitlement is one concern that unites governors across the political spectrum.

Other Possible Targets

Several other areas may receive attention in the next four years. There is continued interest in passing a medical liability bill, but at present, it is unclear whether any such legislation could garner the 60 votes required for passage in the Senate. Improved patient safety also remains an area of bipartisan interest, and there will be a continuing push for federal leadership in the health IT arena. Although there is no obvious consensus on defining the appropriate federal role in health IT, it is possible to imagine both administration initiatives and legislation in this area during a second Bush term.

In a Nutshell . . .

In sum, the second Bush term is likely to focus on implementing and refining the MMA, reducing some Medicare payments, and moving forward with other healthcare initiatives, such as health IT and medical liability, as long as they don't cost too much. ●

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