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# Washington Health Policy Week in Review

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*Washington Health Policy Week in Review* is a weekly newsletter that offers selected stories from the daily newsletter *CQ HealthBeat*.

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### **Lines Sharpen in Battle over Medicare Part B Drug Pricing Model**

*By Kerry Young, CQ Roll Call*

May 10, 2016 -- Two Republican Senate Finance Committee members on Tuesday said they will look for opportunities to block proposed changes to Medicare's payments for drugs administered by doctors.

In separate interviews, Sens. Richard M. Burr of North Carolina and Charles E. Grassley of Iowa registered deep continued objections to the proposal.

"I am going to do everything in my power" to stop the Centers for Medicare and Medicaid Services (CMS) from putting the payment test into effect, Burr told *CQ HealthBeat*. "The question is do we have any legitimate vehicles" to block CMS.

Burr said CMS should decide on its own to withdraw the proposed test. He joined other Senate Finance Republicans last week in signing a letter to CMS asking the agency to do so. "I am hoping that CMS might rethink what they are doing," Burr said.

In the House, Rep. Larry Bucshon, R-Ind., introduced a bill (HR 5122) to block CMS. The Energy and Commerce Health Subcommittee on May 17 will hold a hearing about the Medicare drug test, including a review of Bucshon's bill. There likely would be significant support for it, Grassley said.

"It would probably pass," Grassley told *CQ HealthBeat*.

In Grassley's view, the CMS proposal could make it more difficult for people in rural communities to get care. Oncology groups have said a plan to lower a premium paid on the reported average sales price of drugs would be difficult for smaller practices, which often don't get the volume discount that larger practices enjoy.

Doctors say they would lose money on some medicines. As a result, some patients might be referred to larger more distant centers to get their medicines.

CMS "isn't taking into consideration the problems of rural America," Grassley said. "If people have to go to the hospital to get their drugs, it is going to cost more."

Medicare advisers and lawmakers have for some years been concerned about increased consolidation of physician practices as part of hospital outpatient departments. Medicare pays more for care provided to the hospital-affiliated doctors than to those in private practices.

Burr raised this point. "It would push everything back into the hospital," where patients might also be at higher risk for infections, he said.

## **Reactions to the Rule**

So far, agency officials have given indications that they plan to proceed, although there likely will be some changes the proposal first unveiled in March.

But Medicare officials face increasingly steep odds as trade associations, medical specialty groups and Republican lawmakers line up to stop the proposal, although it does enjoy the support of AARP and some House Democrats.

The American Hospital Association was among the medical groups recommending that CMS scale back its plan by eliminating cancer treatment from the proposed change and reducing the number of regions in which it would take effect.

The Pharmaceutical Research and Manufacturers of America (PhRMA) and the Federation of American Hospitals asked CMS to scrap the plan. Democrats on the Senate Finance Committee, whose support may be key to the proposal's survival, also had raised questions about the scope of CMS plans.

Backers of the Medicare drug test, including AARP, argue that it's a solid step toward addressing concerns about rising drug prices, particularly for elderly and disabled Americans. The median annual income for people enrolled in Medicare is less than \$25,000, AARP said in a letter supporting CMS.

The CMS program would change how Medicare pays for drugs covered by Part B that are provided in doctors' offices, such as infusions and injections to treat rheumatoid arthritis. The Part B outpatient program pays for more than \$20 billion in drugs annually.

The most expensive Part B drugs include some cancer drugs, such as Yervoy, a medicine that cost about \$93,000 and triggered an out-of-pocket cost for people on Medicare of about \$19,000, the Government Accountability Office said last year.

"For too many Americans, a diagnosis of cancer or other dread disease is a prognosis of financial ruin," said Rep. Lloyd Doggett of Texas, who was one of about 20 House Democrats to sign a letter to CMS supporting the Part B test.

The Medicare Part B test takes a two-part approach. It is designed to move quickly within months to alter how many doctors are paid for drugs across the nation. Some doctors still would be paid through the current approach, in which a premium of about 4.3 percent is added to the reported average sale price. Others would be switched to a roughly 0.9 percent premium and also get a flat fee of about \$16.80.

Advocates for the Part B drug model argue that it would address concerns about the current pricing structure about whether it gives doctors a perhaps unconscious motivation to prescribe more costly drugs. Opponents question whether doctors' actions are driven by these types of financial incentives.

Another part of the Part B test calls for looking at more sweeping changes in how drug prices could be pegged to the results that they deliver for patients. PhRMA argued in its comment to CMS that such an approach may deprive people of needed treatments. It urged CMS to withdraw the proposed model, a demand also made in a letter signed by more than 240 members of the House, including four Democrats.

Lawmakers opposed to the Part B model have several paths for blocking it, including the appropriations process, in which a rider could be used to block the use of federal funds for it.

The Medicare Part B test marks one of the last major fights over health policy that the Obama administration may fight in its final months. At this time, it appears that there would be more than enough support in the House for a move to derail or alter the proposal. While Democrats on the Senate Finance Committee raised

concerns about the program, they stopped short of seeking its immediate withdrawal. If the House moves a bill on the program, Senate Democrats will have to decide whether to back the Obama administration.

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