

December 16, 2015

Memo to: WSHA Member, CEOs
From: John W. Flink, Federal Affairs, WSHA

RE: Omnibus Appropriations Bill

Congressional leaders early this morning filed a 2009-page omnibus appropriations bill that sets funding levels for government programs through September 30, 2016.

Hospital advocates – led by AHA – had sought to also include in the bill a technical correction to the site neutral provisions of the budget deal enacted in early November. This fix would have allowed off-campus provider-based hospital outpatient services “under development” on November 2 to be grandfathered into the current provider-based payment system. Unfortunately, this provision was not included in the final omnibus.

As you know, beginning January 1, 2017, all off-campus, provider-based hospital outpatient services will be reimbursed only according to the physician fee, ambulatory surgery center or clinical laboratory fee schedules – as appropriate. Off-campus, provider-based hospital outpatient services online – i.e. with a Medicare number and seeing patients – as of November 2 will be exempt from this payment change. In other words, they will continue to receive the facility payment.

The hospital site neutral fix was in play right up to the end of the negotiations. However, House Republicans were pushing for a relaxation of the prohibition on physician-owned hospitals that was included in the Affordable Care Act and pushing back the site neutral effective date to sometime in 2016 (rather than November 2, 2015) as the price for “under development” language.

Hospitals and Democrats objected to the Republicans’ position, and the negotiations deadlocked. At this point, there does not appear to be another available vehicle to make the site neutral fix before Congress adjourns for the year.

The House plans to vote on the omnibus Thursday or Friday. The Senate vote will come soon after House action. If all goes according to plan, Congress will adjourn for the year on Friday or maybe Saturday. But, just in case, lawmakers have passed a continuing spending resolution that will keep the government open through December 22.

The omnibus also sets funding levels for important health and human services programs. Details about actual funding levels are sketchy; however, based on a Senate Appropriations Committee summary, here’s what we know as of this writing:

- Overall funding for rural health programs is set at nearly \$150 million, a \$2.1 increase over FY 2015 funding levels.
- Funding for the Rural Hospital Flexibility Grant program is set at \$41,609,000, roughly the same as in FY 2015. Of that amount, \$14,942,000 is appropriated for the Small Hospital Improvement Act.
- \$1 million is set aside to boost telehealth capabilities in rural areas.
- Funding for the Office of Medicare Hearings and Appeals, which handles Recovery Audit Contractor appeals, was set at \$107.4 million, an increase of \$20 million over FY 2015. This

funding increase is to be used to increase the number of administrative law judge teams needed to reduce the substantial backlog of Medicare appeals currently in the office.

- Indian Health Service funding is set at \$4.8 billion, an increase of \$165 million above the FY 2015 level. The bill includes a \$55 million increase for contract health costs.
- Funding for mental health block grants, the primary source of federal mental health funding for state programs, is set at \$532.6 million, an increase of \$50 million over FY 2015. The bill increases the set-aside for serious mental illness activities to 10 percent and fully offsets this increase with additional funds. An additional \$20 million will be provided to states through the formula grant.
- \$414.6 million, an increase of \$36 million over FY 2015, will be provided for “mental health programs of regional and national significance.” These are competitive grant programs supporting mental health services.

The package also makes a number of changes in tax policy, including delaying for two years the so-called Cadillac tax on generous health insurance plans authorized in the ACA and the medical device tax. The tax paid by insurance plans will be suspended for one year.

Watch for a more detailed analysis of the bill as more information becomes available.