



Insights

Health Care Regulatory and Legislative Update

Chapman Insights
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Amid Deep Program Cuts, President's Budget Blueprint Increases Health Care Fraud and Abuse Enforcement Spending by 10 Percent

Despite making deep cuts to many government programs, including U.S. Department of Health and Human Services (“HHS”) programs, the President’s 2018 “America First” Budget Blueprint proposes an increase in federal spending for health care fraud and abuse enforcement programs. The Budget Blueprint specifically requests \$69 billion for HHS — a 17.9 percent decrease from 2017. In highlighting the administration’s spending priorities, the Budget Blueprint explains that the proposed HHS funding level includes \$70 million in additional funds to combat fraud and abuse in the Medicare and Medicaid programs:

“[The President’s 2018 Budget] [s]trengthens the integrity and sustainability of Medicare and Medicaid by investing in activities to prevent fraud, waste, and abuse and promote high quality and efficient health care. Additional funding for the Health Care Fraud and Abuse Control (“HCFAC”) program has allowed the Centers for Medicare & Medicaid Services in recent years to shift away from a ‘pay-and-chase’ model toward identifying and preventing fraudulent or improper payments from being paid in the first place. The return on investment for the HCFAC account was \$5 returned for every \$1 expended from 2014-2016. The Budget proposes HCFAC discretionary funding of \$751 million in 2018, which is \$70 million higher than the 2017 annualized CR level.”

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The more than 10 percent proposed increase in HCFA spending clearly demonstrates for providers and health care investors that health care fraud and enforcement will likely continue to be a majority priority for government regulators and prosecutors. While any proposed budget inevitably evolves before becoming law, shaping effective compliance programs should continue to be a key priority for health care providers.

[CMS Rolls Out New Stark Law Self-Disclosure Form](#)

On March 27, 2017, the Centers for Medicare & Medicaid Services (“CMS”) released a new Voluntary Self-Referral Disclosure Protocol (“SRDP”) form. The SRDP is intended to facilitate the resolution of matters that, in a disclosing party's reasonable assessment, are actual or potential violations of the physician self-referral law (“Stark Law”). The new form, available through the CMS website, specifically requires that for disclosures of noncompliant financial relationships involving more than one physician, the disclosing entity must submit a separate “Physician Information Form” for each physician. Although the new SRDP form is not required to be used until June 1, 2017, providers and supplier are encouraged to use the new form effective immediately. For calendar year 2016, CMS reports that 102 SRDP matters, totaling \$6.9 million were settled, with individual settlements ranging from \$80 to nearly \$1.2 million.

[Kansas Governor Vetoes Medicaid Expansion; Legislature Fails to Override](#)

As predicted by many and discussed in last week's Health Care Regulatory and Legislative Update, Kansas Governor Sam Brownback vetoed the state legislature's bill to expand the state's Medicaid program in accordance with the Affordable Care Act. The state legislature fell 3 votes short of overriding the veto. In his veto message, the governor explained that he was vetoing the bill because “it fails to serve the truly vulnerable before the able-bodied, lacks work requirements to help able-bodied Kansans escape poverty, and burdens the state budget with unrestrainable entitlement costs.” The Kansas Hospital Association, which strongly supported the bill issued a statement of disappointment, asserting that expansion would have “provided important health care coverage for more than 150,000 of our most vulnerable citizens” and “brought hundreds of millions of tax dollars back to Kansas.” Given the increased flexibility for Medicaid expansion programs signaled by the Trump administration, it is likely that more states will pursue Medicaid expansion. We will continue to monitor and report on those, and other, health care reform efforts.