

CBO Still Slamming Physician Ownership

CBO Attempts Restrictive Physician Ownership of Surgical Hospitals, Attempts Change to Whole Hospital Exemption, Limits Number of Current Beds, Says Cheaper to Feed Business to ASCs

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WASHINGTON — A letter sent on June 6 from Peter R. Orszag, director of the Congressional Budget Office (CBO), to Rep. Joe Barton (R-Texas), ranking member of the Committee on Energy and Commerce spells out the “estimated savings” that restricting physician-owned hospitals would offer the Medicare program, should a recently added provision be accepted.

The provision included in H.R. 1424, the Paul Wellstone Mental Health and Addiction Equity Act of 2008, as passed by the House of Representatives on March 5, would modify the circumstances under which a physician can refer patients to a hospital in which the physician has a financial interest. Section 106 of H.R. 1424 would prohibit new physician-owned hospitals from participating in Medicare, beginning 18 months after the date of enactment.

It also would require existing physician-owned hospitals to meet certain requirements to continue qualifying for an exception from the current prohibition. The new requirements would include specific limits on the percentage of the hospital that physicians may own and on the allocation of financial returns on those investments, and would have the effect of limiting the number and size of physician-owned specialty hospitals. H.R. 1424 also would limit increases in the number of operating rooms and beds at existing physician-owned hospitals.

CBO estimates those changes would reduce Medicare spending by reducing the number of hospital services provided to Medicare beneficiaries and by shifting the provision of some services to settings where payment rates are lower than for services furnished in hospitals.

CBO estimates that enacting section 106 would result in Medicare savings in the fee-for-service sector of \$0.4 billion over the 2009-2013 period and \$1.8 billion over the 2009-2018 period. Changes in spending in the fee-for service sector affect payment rates for Medicare Advantage plans. As a result, the estimated budgetary impact is about 30 percent larger than the estimated change in fee-for-service spending. Thus, CBO estimates the provision would reduce Medicare spending by \$2.4 billion over the 2009-2018 period.

This estimate is lower than an estimate CBO prepared last year for a similar provision of H.R. 1362. Since that previous estimate was prepared, we have obtained additional information about a number of factors that affect the estimated savings. Consequently, the current estimate reflects the following adjustments:

- The CBO anticipates that fewer hospitals would be affected by the prohibition on the participation of new physician-owned hospitals in Medicare because the assumed effective date for the moratorium would be about one year later than that assumed in our estimate for H.R. 1362;
- Based on information provided by representatives of the physician-owned hospitals, we have concluded that such institutions provide few ancillary services and have therefore lowered our estimate of the savings from reduced use of ancillary services; and
- The CBO has estimated savings that would result from a reduction in the number of “index events” (that is, procedures like spinal fusion or cardiac surgery that represents the primary reason someone would go to a hospital). Earlier research by the Medicare Payment Advisory Commission (MedPAC) had suggested that opening physician-owned specialty hospitals is associated with an increase in the number of index events.

Although the CBO considered that MedPAC analysis in preparing last year's estimate, that estimate did not assume a change in the number of index events because we did not have sufficient empirical evidence to support such a judgment, the letter reads. However, more recent research has corroborated the finding that opening physician-owned specialty hospitals is associated with an increase in the number of index events.

Based on the accumulation of similar findings, the CBO now expects that the reduction in the number of physician-owned specialty hospitals that would result from enacting this provision would decrease the number of index events by 20 percent in orthopedic or surgical specialty hospitals and by 6 percent in other hospitals (primarily cardiac hospitals).

CBO's projections of the number of physician-owned hospitals and the amount of Medicare payments to those hospitals were based on information reported in several studies by the Government Accountability Office, agencies of the Department of Health and Human Services, and RTI International.

Under current law, CBO estimates that Medicare payments to hospitals that would not participate in Medicare as a result of the new requirements will total \$17 billion over the 2009-2018 period. (That amount includes payments to existing hospitals for services that, under current law, will be furnished to patients who will be treated in beds or operating rooms that would not be added as a result of the legislation.) Orthopedic or surgical specialty hospitals account for about \$6 billion of that total. Cardiac and other hospitals account for the remaining \$11 billion.

CBO estimates that implementing the legislation would reduce Medicare payments by \$1.1 billion over the 2009-2018 period for patients who will be treated under current law at physician-owned orthopedic or surgical specialty hospitals. A reduction in the number of index events accounts for \$0.4 billion of that total, reflecting CBO's estimate that there would be a 20 percent reduction in such events.

Lower use of ancillary services for patients who would instead be treated in community hospitals accounts for less than \$50 million of that total, while lower prices for outpatient surgical services that would be furnished in ambulatory surgical centers or other non-hospital settings account for nearly \$0.7 billion in savings. The CBO estimates that the price differential would be about 20 percent.

CBO estimates that implementing the legislation would reduce Medicare payments by \$0.7 billion over the 2009-2018 period for patients who will be treated under current law at cardiac and other physician-owned hospitals. A reduction in the number of index events accounts for \$0.6 billion of that total, reflecting CBO's estimate that there would be a 6 percent reduction in such events.

Lower use of ancillary services for patients who would instead be treated in community hospitals accounts for the remaining \$0.1 billion. We estimate that there would not be significant savings for outpatient services for cardiac patients who would be treated in ambulatory surgical centers or other non-hospital settings.

In summary, the CBO estimates that savings over the 2009-2018 period would total:

- \$1.0 billion from a reduction in the number of index events, • \$0.1 billion from lower use of ancillary services for patients who would be treated in community hospitals instead of physician-owned facilities, and • \$0.7 billion from lower prices for outpatient services that would instead be furnished in ambulatory surgical centers and other non-hospital settings.

Source: Congressional Budget Office