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Provisions of Interest to Labs in the Protecting Access to Medicare Act of 2014

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The Protecting Access to Medicare Act of 2014 (HR 4302), signed by President Obama yesterday, contains a number of provisions that are important to clinical laboratories, and they include:

- **Section 101**, which extends current **Medicare reimbursement services** for **physician services** (also known as the "doc fix"). Passage of this provision is of particular interest to laboratories that rely on reimbursement for anatomic pathology and other physician services, especially in light of previous cuts to Medicare rates paid for these services.

- **Section 212**, which delays the implementation of ICD-10 code sets by one year, until October 1, 2015. ICD-10 consists of over 140,000 diagnosis codes, and each code consists of three to seven digits, which means that the new codes will require more time and effort to assign. Many laboratories – which heavily rely on physicians to furnish the diagnosis codes necessary to bill for the testing they perform – are struggling with ICD-10 implementation issues and undobubtedly will welcome the reprieve.

- **Section 216**, which enacts an entirely new process for adjusting Medicare Clinical Laboratory Fee Schedule (MCLFS) rates. Beginning on January 1, 2016, and every three years thereafter (or annually with respect to an "advanced diagnostic laboratory test," which are subject to a different process), most laboratories will report to the Centers for Medicare & Medicaid Services (CMS) the payment rates paid by each private payor (including Medicare managed care plans) for the test during the previous twelve months. Reporting would reflect all discounts or other price reductions, but would not include tests capitated payments. All information would be deemed confidential. On or after January 1, 2017, MCLFS rates will be based on a weighted median, and any reductions to payments will be phased in over time. Passage of Section 216 means that CMS no longer has the authority to revise MCLFS rates based on technological changes. That process is described in a previous post.

The American Clinical Laboratory Association supported these provisions (and likely played a key role in their passage) while the College of American Pathologists opposed the legislation. According to a press release issued by CAP, it "oppose[d] HR 4302 as it fails to repeal the [sustainable growth rate] permanently and neglects critical Medicare reforms such as closing the self-referral loophole.

HR 4302?s patch legislation does not provide stability for physician payments, does not address pathologists' specific concerns with participation in the current pay-for-performance program, and would drastically alter the payment system for clinical laboratories[.]" The Pathology Blawg provides some interesting commentary on why Congress passed a temporary fix rather a repeal of the sustainable growth rate.

Laboratories that will be subject to the new reporting requirements should keep an eye out for CMS regulations that will provide additional detail about the reporting process. Compliance with all applicable rules and regulations will be important because the legislation authorizes imposition of civil monetary penalties of $10,000 per day for each failure to report or each "misrepresentation or omission" and also requires an officer to certify to the filing's "accuracy and completeness."

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