

# Bush Administration Proposes Medicare Reforms

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In response to a warning that the Medicare trust fund is in financial trouble, the Bush administration recently proposed legislation that would tie physician payments to quality, cap medical liability damages, and encourage nationwide adoption of electronic health records.

Health and Human Services Secretary Mike Leavitt submitted the proposed legislation to Congress last month, in response to the Medicare Trustees' warning for the second year in a row that general federal revenue would be needed to pay for more than 45% of program expenditures. Mr. Leavitt was required to submit the proposal under a cost-saving measure included in the Medicare Modernization Act of 2003.



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MR. LEAVITT

"The Medicare program is on an unsustainable path, driven by two principal factors: projected growth in its per-capita costs, and increases in the beneficiary population as a result of population aging," Mr. Leavitt said in a letter to House Speaker Nancy Pelosi (D-Calif.). "Excess cost growth will not be brought under control until there is comprehensive reform changing Medicare's underlying structure."

Under the proposal, the HHS secretary would design and implement a system to tie a portion of the Medicare payment to providers to performance on quality and efficiency measures. Implementation would start in areas with well-accepted measures such as hospitals, physician offices, home health agencies, skilled nursing facilities, and renal dialysis facilities.

The legislation also would limit the length of time that individuals have to sue for medical malpractice, would cap noneconomic damages at \$250,000 and punitive damages at \$250,000 or twice the economic damages (whichever is greater), and would limit contingency fees paid to plaintiffs' attorneys. The HHS estimates that defensive medicine raises the cost of care in federal programs including Medicare, Medicaid, and Veterans Affairs, by about \$28 billion a year.

Starting in 2009, the administration's proposal would also increase beneficiary premiums for Part D prescription drug coverage for single beneficiaries earning more than \$82,000 a year and couples earning more than \$164,000. The HHS estimates that the change would save more than \$900 million in 2009 and nearly \$3.2 billion over 5 years.

The legislative proposal also requires the HHS secretary to develop a system to encourage the nationwide adoption and use of interoperable electronic health records and to make personal health records available to Medicare beneficiaries.

Mr. Leavitt urged Congress to adopt the proposed changes in conjunction with the administration's fiscal year 2009 budget proposal, which includes legislative and administrative proposals that would cut \$12.8 billion from the Medicare program in fiscal year 2009 and about \$183 billion over the next 5 years.

But the administration may encounter some trouble getting its proposals through Congress.

Sen. Edward Kennedy (D-Mass.), chair

of the Senate Health, Education, Labor, and Pensions Committee, said the administration's proposed Medicare cuts were dead on arrival. "The administration has trumped up a phony crisis in Medicare to justify proposing deep cuts in quality health care for seniors while giving massive subsidies to HMOs and other insurance companies," he said in a statement.

Physicians' groups were also critical of the plan. Dr. James King, president of the American Academy of Family Physicians,

said they were disappointed that the Medicare proposal failed to address the approximate 10% Medicare payment cut facing physicians this summer.

Dr. King also questioned the administration's proposal to move ahead with "value-based" payments to physicians under a plan that appears not to include additional money for incentives. Any pay-for-performance system should use a bonus payment, not withhold payments to some physicians, he said. ■



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