



McDermottPlus Check-Up: April 2, 2021

McDermott+Consulting is pleased to provide the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.



This Week's Dose: The Centers for Medicare and Medicaid Services (CMS) announced that it will hold Medicare claims for a short period to give Congress time to delay the 2% sequester cut that took effect April 1. The White House unveiled a \$2 trillion infrastructure proposal, which could include additional funding for healthcare projects.

Administration

- + **CMS Announced Payment Hold Awaiting Medicare Sequester Delay.** CMS issued a directive to Medicare Administrative Contractors (MACs) this week to hold all claims with dates of service on or after April 1, 2021, for a short, unspecified period of time. The move gives Congress additional time to pass legislation to suspend the 2% sequester cut that resumed April 1. Last week, the Senate passed [legislation](#) that would delay a restart of the Medicare sequester through the end of 2021. However, the House is not expected to advance the legislation until it reconvenes the week of April 12. Since under current law, clean electronic claims are not paid sooner than 14 calendar days, CMS' decision to hold claims is not expected to have a meaningful impact on provider cash flow. For Medicare Advantage, Programs of All-Inclusive Care for the Elderly, Medicare-Medicaid Plans, section 1876 and 1833 cost-based Managed Care Organizations and Part D, CMS has stated that it intends to proceed with standard 2% sequestration cuts in payments beginning April 1. If legislation is subsequently passed that extends the sequestration delay, the agency will make retroactive adjustments in future payments as appropriate.
- + **Biden's Infrastructure Plan Would Expand Home- or Community-Based Care.** The President's \$2 trillion infrastructure proposal, titled the [American Jobs Plan](#), calls on Congress to provide \$400 billion to expand access to home- or community-based care under Medicaid. The plan also includes a provision to expand the Money Follows the Person program, which provides funding for states to help seniors and those with disabilities move from institutions to community-based care. In addition to the Medicaid provisions, Biden's proposal includes \$30 billion to invest in pandemic preparedness, including by strengthening the Strategic National Stockpile and developing prototype vaccines for future outbreaks. Congressional Democrats may include some of these infrastructure measures in another reconciliation package, but the timing is unclear. Reconciliation can typically only be used once per budget cycle, meaning that Democrats could only pursue one more reconciliation package later this year, for fiscal year 2022. However, Senate Democrats have asked the Senate Parliamentarian to allow a second reconciliation measure for fiscal year 2021, giving them an extra opportunity to pass pieces of the American Jobs Plan with a simple majority. The Senate Parliamentarian may rule on this issue as early as today.
- + **CMS Began AAP Recoupment.** CMS expanded the [accelerated and advance payment \(AAP\) program](#) during the COVID-19 pandemic to give providers and suppliers increased financial stability. Recoupment of AAP loans began this week, but a provider's repayment start date and schedule will depend on each individual provider's first payment issue date. Repayment begins one year after the payment was issued, and payments are recouped at a rate of 25% for the first 11 months and then at



a rate of 50% for another six months. After the six months end, CMS will issue a letter for any remaining balance. A provider or supplier may repay their AAP in full at any time by contacting their MAC. Because this process is largely run by the different MACs, checking balances or additional information may vary by carrier. Stakeholders lobbied Congress to further delay AAP recovery in the [American Rescue Plan](#), but Congress did not include relief in that package.

Quick Hits

- + President Biden [signed](#) the Paycheck Protection Program Extension Act of 2021 ([H.R. 1799](#)), extending the application deadline for small businesses to apply for the program from March 31 to May 31, 2021.
- + The US Department of Health and Human Services published the [Spring 2021 Regulatory Agenda](#), which provides an inventory of rulemaking actions under development at the Department.
- + CMS delayed the [Community Health Access and Rural Transformation Model](#) Accountable Care Organization Transformation Track Request for Applications from spring 2021 to spring 2022.
- + The Food and Drug Administration [issued](#) Emergency Use Authorization for two new rapid at-home COVID-19 tests.
- + The Medicare Payment Advisory Commission held its virtual [April public meeting](#) on April 1 and 2, 2021.

NEXT WEEK'S DIAGNOSIS: The House and Senate are in recess for one more week. Expect Congress to begin work on a legislative package including the President's infrastructure proposals when they return.

For more information, contact [Mara McDermott](#), [Kristen O'Brien](#), [Katie Waldo](#) and [Emma Zimmerman](#).

To subscribe to the McDermottPlus Check-Up, [click here](#).



McDermott+Consulting LLC is an affiliate of the law firm of McDermott Will & Emery LLP. McDermott+Consulting LLC does not provide legal advice or services and communications between McDermott+Consulting LLC and our clients are not protected by the attorney-client relationship, including attorney-client privilege. The MCDERMOTT trademark and other trademarks containing the MCDERMOTT name are the property of McDermott Will & Emery LLP and are used under license.