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Insights

Passing of Bi-Partisan Budget Act Affects Medicaid Payments

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On February 9, 2018, both the House and the Senate voted to pass, and President Trump signed into law, the Bi-Partisan Budget Act of 2018 (the "Act", House Resolution 1892). Most notably this Act extends federal appropriations through March 23, 2018, preventing government shutdown for another month. The Act also makes numerous healthcare related changes for both Medicare and Medicaid, one being that it delays the cut in Medicaid payments to Disproportionate Share Hospitals ("DSH") for two more years.

The Affordable Care Act ("ACA") originally required aggregate reductions to state Medicaid DSH allotments annually beginning in fiscal year ("FY") 2014 through FY 2020. The original intent behind the DSH reductions starting in 2014, was that the mandatory expansion of Medicaid under the ACA starting in 2014 would lower the number of uninsured patients treated by DSH hospitals and therefore lower the amount of the hospitals uncompensated care costs.

However, in 2012 the U.S. Supreme Court made the expansion of Medicaid optional rather than mandatory for States (NFIB v. Sebelius 567 US 519 (2012)). Therefore, the states that chose not to expand would have still lost a portion of their DSH funding under the DSH reduction, without benefiting from an increase in Medicaid patients due to expansion.

Congress has been gradually delaying the DSH reductions over the past few years, beginning with the Bipartisan Budget Act of 2013 (wherein Congress delayed the DSH reductions from FY 2014-2020 to FY 2016-2020), and then again more recently a delay to FY 2018 through FY 2025 (see Soc. Security Act 1923(f)(7)(A)). The Act again delays the DSH reduction for FY 2018 and FY 2019, with the reductions starting in FY 2020 at $4 billion, and then sharply increasing the cuts to $8 billion for fiscal years 2021 through 2025 to make up for the most recent 2 year delay (Sect. 53101 of the Act).

House Resolution 1892 is available here.

If you have any questions related to planned DSH payment reductions and its impact on your facility, please contact Leah S. Mannweiler at lmannweiler@kdlegal.com, Meghan M. Linvill McNab at mmcnab@kdlegal.com, or your regular Krieg DeVault attorney.