

Chairman Orrin Hatch (R-UT) asked the witnesses whether there is “sufficient safe space” in the way of waivers from the Stark law to allow for the development of MACRA-authorized alternative payment models (APMs). All the expert witnesses agreed that CMS lacks authority to waive the Stark law for MACRA APMs, which would need to be remedied by Congress. Unlike the Medicare Shared Savings Program (MSSP), and certain other programs defined in statute—which do have explicit corresponding Stark waiver authority—MACRA did not contain any waiver authority for APMs.

## **9. CONGRESS FAILS TO UNDO CUT TO DURABLE MEDICAL EQUIPMENT SUPPLIERS**

As Congress adjourned on Thursday, July 14, it tried but failed to reverse a statutory payment cut to Medicare-participating Durable Medical Equipment (DME) suppliers for home oxygen and certain sleep apnea equipment, in areas of the country not subject to the DME competitive bidding program. CMS had announced the statutory cut of about 40 percent on July 1. Both the House and Senate passed bills that would have delayed the payment reduction by 3 and 12 months, respectively. Rep. Tom Price, MD (R-GA) sponsored the *Patient Access to Durable Medical Equipment Act of 2016* (HR 5210), which passed the House on July 5 by voice vote. Separately, the Senate passed S 2736, also called the *Patient Access to Durable Medical Equipment Act of 2016*, by unanimous consent. Despite wide bipartisan support to avert the cut, the chambers could not reach an agreement on how to pay for a delay.

## **10. HOUSE APPROVED THE CONSCIENCE PROTECTION ACT**

On July 13, the House approved the *Conscience Protection Act* (S 304) by a vote of 245-182. It would increase legal conscience protections for health professionals, hospitals, employers, and insurance companies who refuse to perform or support abortion services. The legislation was written to override the policy of the California’s Department of Managed Health Care that prohibits insurers from limiting or excluding abortion coverage from their health plans. After the policy was enacted in 2014, advocates appealed to the U.S. Department of Civil Rights. The agency found that because insurers voluntarily complied, no laws had been violated. Several physician leaders expressed concern that the policy is in conflict with standard medical ethics.

## **11. ALABAMA CUTS MEDICAID/MEDICARE PARITY**

Due to an \$85 million shortfall in the state’s Medicaid budget, the Alabama Medicaid Agency will end enhanced payments to primary care physicians by August 1. Alabama had extended the higher payment rates, which were set at Medicare levels, after the federal government eliminated the payment bump in 2014. The change is expected to save \$14.7 million. Agency officials have said additional cuts are expected.

## **12. REGULATORY BRIEFS**

- On July 12, CMS released an [analysis](#) indicating that the median individual deductible is \$850 for HealthCare.gov Marketplace policies, and consumers’ plans have an average of seven covered services before the deductible.
- On July 13 CMS [announced](#) that total health care spending growth is expected to average 5.8 percent annually over 2015-2025 and that projected national health spending growth remains lower than the average over previous two decades before 2008 (nearly 8 percent).
- CMS will host the following free educational call, [registration](#) is required:
  - ESRD QIP: Reviewing Your Facility’s PY 2017 Performance Data Call on August 2 at 2:30pm ET
  - PQRS Feedback Reports and the PQRS Informal Review Process for Program Year 2015 on August 10 at 1:30 pm ET