



FEDERAL UPDATE: Funding, Payment Laws Await

Federal Funding Package: The federal government runs out of money to fund programs and operations come September 30, 2016, the end of the current federal fiscal year. This leaves legislators with just about two-weeks to agree on a stop-gap funding bill or risk a government shutdown. Having recently returned from a seven-week summer recess without having first passed any of 12 appropriations bills, Congress is eager to accomplish this task. Agreement on a funding package has been delayed due to differences about the level of Zika funding and family planning funding. President Obama first requested \$1.9 billion in Zika funding from Congress in February. In May, congressional members agreed on a \$1.1 billion level of Zika funding, but the House version sought to block some funding to Planned Parenthood, which the Democrats opposed. It is likely that a stop-gap bill to fund the government through December 9 will emerge.

Legislators will then return post-election season to work on a longer term funding bill during the lame-duck session. The Centers for Disease Control and Prevention's Director Dr. Thomas Frieden has stated that his agency is basically out of money. As of September 7, 2,964 Zika virus cases in the United States were reported to the CDC.

Site-Neutral Law: Hospitals continue their opposition to the Centers for Medicare and Medicaid Services' (CMS) 2017 proposed outpatient prospective payment system rule that eliminates hospital-level payment to hospital-based outpatient departments that began billing for services after the enactment of the 2015 Bipartisan Budget Act on November 2, 2015. The agency seeks to make no facility payments to newer "non-excepted" hospital outpatient departments (those that began billing after November 2, 2015 either due to pending construction or planned expansion) for services they provide to Medicare beneficiaries beginning in 2017. These services could include labs, imaging, and nursing among others; only physician services would be reimbursed under the proposal. The proposal does not allow for flexibility, particularly in regard to relocation and expansion of services of grandfathered sites. Outpatient clinics that were already providing services on November 2, 2015 are considered "excepted" and will continue to receive the hospital-based rate, but according to the proposed rule they will lose their grandfathered status if they relocate and expand. State and federal reform efforts are calling for the expansion of services in community settings and a more coordinated approach to care. The hospital-based outpatient department site-neutral law is a disincentive to do that.

STATE UPDATE: Organ Donation Laws Signed

Governor Cuomo has now signed three laws that will help improve voluntary organ donation in New York. Lauren's Law, which requires individuals who apply for a New York State Driver's License to affirmatively decide whether or not to participate in the state's organ donor registry, was extended for four years. The Organ Donor Registration Opportunity/Health Benefit Exchange law requires applications for insurance coverage through the State's Health Benefit Exchange to include an opportunity for individuals to participate in [New York's Donate Life Registry](#). Another new law lowers the minimum age for organ donation designation to 16 years old. The law, taking effect February 14, 2017, allows individuals age 16 and older to enroll in the New York State Donate for Life Registry and to consent to making lifesaving organ and tissue donations. The vast majority of other states have this law. New York State has the third highest need for donors – with 10,000 residents currently waiting for organ transplants – but the lowest number of registered donors.

**Permission to reprint articles granted. Attribution to this publication required.*