ML Strategies Health Care Preview Week of October 15th

Last week concluded the Senate's time in Washington prior to the lame duck session. With both the House and the Senate back home and focused on campaigning, we turn our attention to action from the Administration. As of October 15, 2018 there are 21 pending Health and Human Services regulations pending approval from the Office of Management and Budget (OMB). We are watching as regulation move onto and off of the OMB radar and how each regulation can affect the health care system. The regulation to watch this week focuses on <u>drug pricing transparency</u>.

Drug Pricing Transparency Regulation

On August 21, 2018 the proposed rule "<u>Medicare and Medicaid Programs;</u> <u>Regulation to Require Drug Pricing Transparency</u>" was published to the Office of Information and Regulatory Affairs' website. (As we have <u>previously discussed</u>, the <u>OIRA website</u> lists all regulations pending OMB review.) Although the actual text of the regulation is not published, it is expected that this regulation will require pharmaceutical manufacturers to include prescription drug list prices in direct-to-consumer advertisements. Does that mean the list price will be included in the fine print or auctioneer like talking at the end of prescription drugs advertisements? Details should be out soon.

However, this is not the first or only time we have heard of this concept. In August, Senators Grassley (R-IA) and Durbin (D-IL) had introduced legislation to require pharmaceutical companies to list prices of their prescription drugs in direct-to-consumer advertisements. It passed the Senate as an amendment to the Defense-Labor-HHS-Education appropriations "minibus" package. However, this provision was ultimately removed during the joint conference committee of the House and Senate when finalizing the appropriation package.

The constitutionality of a regulation like this will most certainly be questioned. And the effects of the suggested regulation is already in question. Critics of the regulation note that most people do not pay the list price of drugs and this could confuse patients. However, proponents argue it will that promote transparency and lead to lower prescription drug costs.

As of today, the United States and New Zealand are the only countries allowing direct to consumer advertising of prescriptions drugs. With drug pricing continuing as a top political issue, the role advertising plays in utilization and pricing will continue to come under increased scrutiny.





THIS WEEK IN THE HOUSE

No hearings in the House this week. (House is on recess.)

THIS WEEK IN THE SENATE

No hearings in the Senate this week. (Senate is on recess.)

SIGN UP

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