

Bill would lift Stark barriers to APMs

Legislation would help with care coordination, supporters say

New legislation to modify the Stark antitrust law to remove barriers so independent physicians can take advantage of advanced payment model (APM) opportunities provided to accountable care organizations (ACOs) in the Affordable Care Act has been introduced with the backing of the major organizations representing urology.

Sponsored by Reps. Larry Buchson, MD (R-IN), Raul Ruiz, MD (D-CA), Kenny Marchant (R-TX), and Ron Kind (D-WI) in the House of Representatives, the Medicare Care Coordination Improvement Act also was introduced in the Senate in early November by Sens. Rob Portman (R-OH) and Michael F. Bennet (D-CO).

According to Dr. Buchson, the legislation would reduce legal barriers for physicians to enter into agreements with other health care providers "to better coordinate patient care and more efficiently use Medicare dollars." The measure would give the Centers for Medicare & Medicaid Services (CMS) the regulatory authority to modernize the Stark Law by creating exceptions for APMs and removing barriers to the development and operation of those arrangements.

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NEAL D. SHORE, MD
LUGPA PRESIDENT

"As a physician, I know first-hand that patients can have medical issues requiring a coordinated team of physicians and other health care professionals to be on the case for effective treatment," Dr. Buchson said. "The Medicare Care Coordination Improvement Act would remove legal barriers that currently prevent physicians from entering into innovative payment models that can lead to better outcomes for patients, while also saving Medicare money."

The legislation has the support of the AUA, LUGPA, and the AACU.

'A critical milestone'

"The introduction of Stark modernization legislation is a critical milestone in our efforts to improve the ability of independent practices to deliver quality, accessible care," said LUGPA President Neal D. Shore, MD.

"Large health systems were granted waivers from Stark laws to establish ACOs years ago, but those protections were not extended to physicians in independent practice, which excluded the most cost-effective site of service from participating in value-based care models," Dr. Shore said. "This legislation is an important step in the right direction to leveling the playing field and allowing patients the ability to access high-quality care at the location of their choosing."

Key provisions of the legislation would:

- provide CMS the same authority to waive prohibitions in the Stark Law and anti-kickback statute for physicians seeking to develop and operate APMs as was provided to ACOs in the ACA
- remove the "volume or value" prohibition in the Stark Law for physician practices that are developing or operating APMs, allowing them to align incentives for their physicians to abide by best practices and succeed in the new value-based APMs
- ensure that CMS's use of its current administrative authority promotes care coordination, quality improvement, and resource conservation.

LUGPA Health Policy Chair **Deepak A. Kapoor, MD**, said the 30-year-old Stark Law self-referral prohibitions effectively block coordination of care by physicians.

"I've been working closely with the bill's sponsors in both the House and Senate," he told *Urology Times*. "Stark was designed for fee-for-service, not value-based care. If I am assuming risk for performance of a service and not paid on a fee-for-service basis, there is no incentive for me because the law prohibits us from gainsharing arrangements when it comes to volume or value."

Further, Dr. Kapoor said Stark prohibitions "stifle care delivery innovation by inhibiting practices from incentivizing their physicians to deliver patient care more effectively and efficiently because they cannot use resources from designated health services, such as pathology, advanced imaging, radiation therapy, and physical therapy in rewarding or penalizing adherence to clinical guidelines and treatment pathways."

Bob Gatty UT Washington Correspondent



Bob Gatty, a former congressional aide, covers news from Washington for *Urology Times*.

Introduction of the legislation is an important step, but the road to final passage is a long and bumpy one. However, the new bill is now before lawmakers for consideration and perhaps could find its way to passage as an amendment to broader health-related legislation.

House approves IPAB repeal

Meanwhile, urology organizations experienced a significant victory in November when the House of Representatives approved legislation to eliminate the Independent Payment Advisory Board (IPAB) by a vote of 307-111.

Authored by Reps. Phil Roe (R-TN) and Raul Ruiz (D-CA), the bill, if passed by the Senate and signed by President Trump, would repeal the provision of the ACA that created the IPAB as an effort to identifying Medicare savings. Physician organizations, such as those representing urology, argued that the IPAB would target Medicare reimbursement and that they would have little recourse to combat those cuts.

"Today, the House acted yet again to repeal this board and its unconstitutional relinquishment of Congressional authority," said House Health Subcommittee Chairman Michael C. Burgess, MD (R-TX). "I urge the Senate to follow suit so we can return oversight of the future of the Medicare program where it belongs. We must prevent potential cuts from being implemented by this unelected board once and for all."

While the IPAB was created by the ACA, its members have never been appointed because the trigger for it to be implemented was never reached. [U1](#)

Fast Facts

The Medicare Care Coordination Improvement Act:

- » would modify the Stark antitrust law to remove barriers so independent physicians can take advantage of advanced payment model opportunities provided to accountable care organizations
- » would ensure that CMS's use of its current administrative authority promotes care coordination, quality improvement, and resource conservation
- » is supported by the AUA, LUGPA, and the AACU

