The House of Representatives voted today in overwhelming bipartisanship to fully repeal the Medicare Sustainable Growth Rate (SGR). Voting 392-37, the House made a dramatic statement of opposition to the SGR after 18 years of punting the issue to other Congresses.

Many advocates had hoped that the Senate would be able to quickly consider the legislation and send it to President Obama’s desk for signature before Congress adjourns for a two-week “district work period”. Senate Majority Leader Mitch McConnell (R-KY) dashed those hopes when he announced that the Senate would take up the issue after the chamber comes back from its recess. Capitol Hill insiders say the delay seems to be due to a split within the Republican Caucus.

Many advocates had hoped that the Senate would be able to quickly consider the legislation and send it to President Obama’s desk for signature before Congress adjourns for a two-week “district work period”. Senate Majority Leader Mitch McConnell (R-KY) dashed those hopes when he announced that the Senate would take up the issue after the chamber comes back from its recess. Capitol Hill insiders say the delay seems to be due to a split within the Republican Caucus.

Jeff Sessions, the senior Senator from Alabama, has been leading the charge against the legislation in the Republican Caucus, arguing that the legislation’s $141 billion addition to the federal deficit is too much. The Congressional Budget Office says that while the current deal adds to the deficit, it costs the Treasury less than it would to keep the current system in place and saves money after 10 years.

Physician payment cuts are legally required to take effect on Wednesday, April 1, 2015, well before Congress returns from its recess. To avoid immediate implementation of the cuts, the Centers for Medicare and Medicaid Services will hold physician payments for up to 14 days to allow Congress, which returns on April 13th, extra time to pass the legislation and avert the 21 percent cut.

Following the announcement of the delay, McConnell assured reporters that the Senate will vote to pass the repeal and that cuts will not take effect due to the Senate’s failure to act. “They can handle a two-week gap here,” he said of CMS. “I want to reassure everyone who’s interested in this legislation we’ll move to it very quickly when we get back... There’s every reason to believe it’s going to pass the Senate with a very large majority.”
CMS Releases MU Stage III Rule

March 20, 2015

The Centers for Medicare and Medicaid Services released the highly anticipated proposed rule for Stage III of the Meaningful Use program today. The proposed rule contains eight objectives and include:

- **Patient Electronic Access to Information**—Providers must allow patients to view, download, and transmit their online records within 24 hours of a visit.
- **Protect patient health information**—Providers must conduct a risk analysis each year to assess the vulnerabilities of their patients’ information.
- **Electronic prescribing**—80 percent of permissible prescriptions must be in electronic form.
- **Clinical decision support**—Little change from Stage II.
- **Computerized provider order entry**—Medication, labs, and diagnostic images must be digitally documented.
- **Coordination of care through patient engagement**—Requires secure dialogue between providers, care team members and patients about their care, health status, and preventative care planning.
- **Health information exchange**—Requires the creation of a summary of care record to be exchanged for transitions and referrals.
- **Public health and clinical data registry reporting**—Expands current requirements to exchange information with public health departments and data registries.

The proposed rule also eliminates the 90-day reporting period beginning in 2017 for all but new providers. Beginning in 2018, all providers would report on the same definition of meaningful use of electronic health records.

SCOTUS Rules for Pregnant Employee

March 25, 2015

In a 6-3 decision today, the Supreme Court ruled that employers must more readily accommodate pregnant employees than they have in the past. At issue in the case, Young v. United Parcel Service (2014), is the package handler’s treatment of their employee when she became pregnant and was restricted by her physician to light duty.

Under the Court’s ruling today, employers must grant pregnant employees accommodations if they have previously granted the same accommodations to large groups of other employees with similar physical limitations in order to remain in compliance with the Pregnancy Discrimination Act of 1978.

The Court remanded the case back to the lower courts for review under this new standard. A statement by UPS said the company is “pleased that the Supreme Court rejected the argument that UPS’s pregnancy-neutral policy was inherently discriminatory,” and said the company is confident that under review under this new standard, the lower courts “will find that UPS did not discriminate against Ms. Young…”.

Justices Scalia, Thomas, and Kennedy dissented from the majority opinion.

ICD-10 Delay Not Included in SGR Bill

March 25, 2015

A last minute amendment to delay implementation of ICD-10 offered to the SGR repeal legislation by Congressman Gary Palmer (R-AL) was rejected by the House Rules Committee today. The amendment, which would have delayed implementation for two years, was ruled out of order and rejected by the committee.

A spokesman for the freshman representative told Politico that Palmer was concerned the switch would “suck up time and money from doctors, especially for rural or small town doctors, hamstringing their abilities to care for patients. Health information technology has been slow to move to rural and small town areas and fully implementing ICD-10 could cause major disruptions.”

Pete Sessions (R-TX) the Chairman of the House Rules Committee is a supporter of the current ICD-10 transition date of October 1, 2015.
Meaningful Use Reform Not Included in SGR
March 25, 2015

Contrary to the hopes of many medical providers, an overhaul of the Meaningful Use program is not included in the current SGR legislation in front of Congress. Instead, Meaningful Use, Physician Quality Reporting System, and Value-Based Modifier will be rolled into the Merit-Based Incentive Payment System (MIPS) which would score physicians and other eligible providers on how well they meet the combined program measures.

The legislation was originally drafted in 2013 before Stage II of the program with all of its problems hit in 2014, according to Politico. The bill does not respond to physician calls to change meaningful use’s all-or-nothing approach or other ways to make meeting the definition of meaningful use easier to achieve.

Under the new MIPS, the best performing physicians would receive incentive payments while the poorest performing physicians could receive penalties of up to 9 percent of their Medicare payments. The legislation does sunset Meaningful Use penalties in 2018, when penalties and incentives would start for MIPS.

“Is it a perfect bill? We’d say no, particularly in regard to meaningful use,” Robert Wergin, President of the American Academy of Family Physicians, told Politico. AAFP will continue to push for changes but like many other groups, does not want to hold up the repeal of the SGR.

Senate Rejects Medicaid Funding Restoration
March 26, 2015

The Senate today rejected an amendment to the Republican budget plan to restore $1.2 trillion to the Medicaid program during the Senate’s marathon “vote-a-rama” today. The amendment, sponsored by Senator Ron Wyden (D-OR) failed 47—53 in the upper chamber. Senator Susan Collins (R-ME) broke ranks with Republicans and voted to support the measure.

The amendment would have rolled back more than $1.2 trillion in cuts to Medicaid included in the budget plan. Before the vote, Wyden urged his colleagues to support the amendment, saying that their support would “be consistent with our Medicaid vote that was cast earlier this week” in which the Senate voted to approve a budget amendment from Senator Bernie Sanders (I-VT) that opposes cuts to Medicaid.

Republican senators disagreed with Wyden with Senator Mike Enzi (R-WY) saying that the budget did not cut Medicaid it instead “slows its growth rate.” This in turn protects the program for future beneficiaries Enzi argued.

MU Modification Sent to OMB
March 25, 2015

The Department of Health and Human Services has sent its rule modifying the Meaningful Use program to allow reporting for any 90 day period in 2015 to the Office of Management and Budget for review. The rule, announced by the Centers for Medicare and Medicaid Services in late January, would shorten the reporting period in 2015, align the hospital reporting period to the calendar year, and reduce the complexity and burdens of the program.

“These intended changes would help to reduce the reporting burden on providers, while supporting the long term goals of the program,” Patrick Conway, CMS acting Deputy Administrator wrote earlier this year. The American Hospital Association complained following the release of the Stage III proposed rule that these changes were not published along with this rule.

It’s not clear when this rule will be published.
House GOP Break Out Rules to Pass Budget

House Budget Committee, an identical budget with $2 billion extra for “Overseas Contingency Operations” (defense), a leaner Republican Study Committee budget, a House Democratic budget, a budget from the Progressive Caucus, and one from the Congressional Black Caucus.

The budget with the additional defense spending is the one that leadership wants to see chosen, according to Roll Call. To do this, House leadership dusted off a rarely used rule that allows votes on all of the budgets and the one with the most votes will become the House budget proposal. The rule, known as the “Queen of the Hill” rule allows leadership to thread the needle in the hopes that conservatives wanting other budgets will support the budget they want passed (subverting the will of the conservative committee chair Tom Price (R-GA)) while showing their willingness to entertain other proposals, albeit not seriously.

Reid Retiring From Senate

In a surprising announcement this morning, Senate Minority Leader Harry Reid announced that he will not be seeking re-election in 2016, a decision that has the potential to dampen Democratic hopes of taking back control of the Senate. In the video announcing his retirement, Reid stated that his eye injury from an exercise related accident earlier this year forced him to reevaluate his life and think about his career.

The announcement ends a three decade plus career in Washington, D.C. that started in 1983. Reid will continue to serve as Minority Leader until the end of 2016 when the 114th Congress adjourns.

Reid has even gone so far as to endorse a potential replacement, Senator Chuck Schumer (D-NY) the number three Democrat in the Senate. It is unclear if Senator Dick Durbin (D-IL), the number two Democrat in the Senate, has any interest in running for the top caucus spot or if he could even mount a serious challenge to Schumer. Senator Patty Murray (D-WA) the number four, is considered a strong challenger.

Cruz Declares Presidential Candidacy

Tea Party firebrand and Texas Senator Ted Cruz formally announced his candidacy for President of the United States in the gymnasium of Liberty University in Lynchburg, VA. The socially conservative school started by televangelist Jerry Falwell served as the backdrop for Cruz to challenge the more moderate frontrunners that are likely to announce in the coming weeks.

The announcement makes Cruz the first Republican to formally announce his candidacy, a method that worked well for him in Texas in 2012 when he was elected to replace retiring Senator Kay Bailey Hutchison (R-TX). Cruz is perhaps best known to many Americans for filibustering a spending bill to protest the Affordable Care Act resulting in a shutdown of the federal government.