The Heritage Foundation

ISSUE BRIEF

No. 4303 | NOVEMBER 20, 2014

Medicare's SGR: Fixing It the Right Way, Not in a Lame Duck Session

Robert E. Moffit, PhD

Congress needs to junk the sustainable growth rate (SGR) formula that governs Medicare physician payment. Under the formula, if Medicare physicians' payments in any given year increase by more than the economy's growth, an automatic and proportionate reduction in their reimbursements is imposed the following year. Conceptually flawed and practically draconian, the formula mandates a 21 percent Medicare payment cut in 2015. Congress routinely circumvents the SGR—its own handiwork—by making a series of temporary adjustments preventing the SGR's reductions from taking effect, a practice known as the "doc fix." Professional medical organizations are pressuring Congress to enact a permanent Medicare SGR doc fix in the lame duck session. Worse, some Members of Congress are prepared to go along with this lame duck ploy, and enact a permanent Medicare doc fix without offsetting savings to the taxpayer.[1]

Congress enacted a "temporary doc fix" this past year to block the cut, and has until April 1, 2015, to prevent next year's projected 21 percent cut.[2] It should use this time to find sound Medicare savings to offset the reforms and to make further improvements to the 2014 compromise.

This paper, in its entirety, can be found at **http://report.heritage.org/ib4303**

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

The Situation

Despite bipartisan support for a comprehensive Medicare physician payment reform bill (H.R. 4015/S. 2000), introduced on February 6, 2014, House and Senate negotiators could not agree on how to finance a permanent fix. So on April 1, 2014, Congress enacted The Protecting Access to Medicare Act[3] to avert a Medicare fee cut of 24 percent. That temporary doc fix provided an extension of the 0.5 percent update to the Medicare physician fee schedule through March 31, 2015. That *temporary* "fix" cost $20 billion.[4]

The Congressional Budget Office (CBO) has several different projections of the cost of a doc fix over the next 10 years. If Congress simply extended the 0.5 percent update each year through 2024, the 10-year cost would be $140.2 billion.[5] If Congress increased Medicare physician payment rates on the basis of the updates in the compromise legislation, the 10-year cost would be $144 billion.[6] Of course, the cumulative costs of an unfunded Medicare doc fix over time would be enormous, and aggravate the already serious long-term financial problems of the Medicare program. That is why it is critical for Congress to find sound offsets to finance a permanent reform.

Funding an SGR Repeal

An SGR replacement should be fully funded in a fiscally responsible way. A change is likely to cost over $140 billion over the first 10 years alone. Congress must also make sure that it does not impose hundreds of billions of costs on already overburdened American taxpayers by ignoring the accumulation of the costs of the fix outside the CBO's normal 10-year budget window.

Congress has temporarily "fixed" the SGR 17 times. In most cases, Congress offset the additional costs of the doc fix with health care savings, mostly in Medicare. Admittedly, a number of these offsets were undesirable as policy, such as tightening Medicare's complex system of price controls, or shifting costs from one part of the Medicare program to the other. Nonetheless, Congress made an attempt to act in a fiscally responsible fashion.

In 2015, the newly elected Congress should repeal and replace the Medicare SGR based on a simple principle: *Any permanent Medicare "doc fix" must be financed with permanent Medicare savings.* Permanent Medicare savings should be based on structural reforms that have attracted bipartisan support, and would result in a superior program. Those savings should be crafted to improve Medicare's long-term fiscal outlook, particularly in light of the enormous demographic pressures that millions of retiring baby boomers are imposing on the program.[7]

For example, Congress should combine Medicare Parts A and B, create a single deductible, streamline the cost sharing, reform Medigap, and give seniors the benefit of catastrophic coverage. In effect, Congress should fulfill President Ronald Reagan's original promise of Medicare catastrophic protection—a promise derailed in 1988 by a Congress bent on excessive spending. Other areas of potential bipartisan agreement include the need to reduce taxpayer subsidies for wealthy Medicare recipients and gradually increase Medicare's age of eligibility.[8] These changes would secure enormous savings—more than enough to offset the cost of an SGR repeal—and they would improve the solvency of the financially troubled Medicare program.[9]

These limited structural reforms would build on the success of the Medicare Advantage program and the Medicare Part D drug program, and would help prepare the way for a defined-contribution financing system in Medicare that gives beneficiaries more direct control over how their health care dollars are spent.

Improving the 2014 Compromise

After more than three years of effort by Members and staff of the House Energy and Commerce and Ways and Means Committees and the Senate Finance Committee, the bipartisan compromise (H.R. 4015/S. 2000) on permanent SGR replacement was an impressive accomplishment. The new Congress can make even greater progress.

1. Melissa Attias, "Republicans Weight Passing 'Doc Fix' Without Offsets," *Roll Call*, November 17, 2014.
2. Centers for Medicare and Medicaid Services, "Projected Medicare Expenditures Under Current Law, the Projected Baseline, and an Illustrative Alternative Scenario," August 28, 2014, http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/2014TRAlternativeScenario.pdf (accessed November 18, 2014).
3. Public Law 133–93.
4. Congressional Budget Office, "Cost Estimate for the Protecting Access to Medicare Act of 2014," March 26, 2014, http://www.cbo.gov/sites/default/files/House%20introduced%20Protecting%20Access%20to%20Medicare%20Act%20of%202014%2C%20March%2026%2C%202014.pdf (accessed November 18, 2014).
5. Congressional Budget Office, "Medicare's Payment to Physicians: The Budgetary Effects of Alternative Policies Relative to CBO's April 2014 Baseline Updated for the Final Physician Fee Schedule Rule," November 14, 2014, http://www.cbo.gov/publication/49770 (accessed November 18, 2014).
6. Ibid.
7. Robert E. Moffit and Alyene Senger, "Medicare's Demographic Challenge and the Urgent Need for Reform," Heritage Foundation *Backgrounder* No. 2778, March 21, 2013, http://www.heritage.org/research/reports/2013/03/medicares-demographic-challenge-and-the-urgent-need-for-reform.
8. Chris Jacobs, "Medicare's Sustainable Growth Rate: Principles for Reform," Heritage Foundation *Backgrounder* No. 2827, July 18, 2013, http://www.heritage.org/research/reports/2013/07/medicares-sustainable-growth-rate-principles-for-reform?ac=1, and Mark McClellan, "Medicare Physician Payment Reform: The Bipartisan Congressional Proposal and How to Strengthen It," *Health Affairs* blog, November 12, 2013, http://healthaffairs.org/blog/2013/11/12/medicare-physician-payment-reform-the-bipartisan-congressional-proposal-and-how-to-strengthen-it/ (accessed November 28, 2014).
9. Robert E. Moffit and Rea S. Hederman, Jr., "Medicare Savings: Five Steps to a Down Payment on Structural Reform," Heritage Foundation *Issue Brief* No. 3908, April 11, 2013, http://www.heritage.org/research/reports/2013/04/medicare-savings-5-steps-to-a-downpayment-on-structural-reform.

As a basis for reform, the compromise bill forged last year is clearly superior to the status quo. It provides for the permanent repeal of SGR and a period of payment stability. Physicians would receive 0.5 percent annual payment updates for the first five years, with the fifth-year payments extended through the remainder of the 10-year window.

It also offers a choice for physicians. They could continue to be paid in Medicare's modified fee-for-service (FFS) system, or they could participate in one or more alternative payment models (APMs). For physicians who remain in Medicare FFS, the legislation creates a Merit-based Incentive Payment System (MIPS). While this is a Medicare "pay-for-performance" mechanism—which The Heritage Foundation, among others, has criticized in the past for its "gaming" potential[10]—it is more flexible than most such schemes because physicians would be able to choose the quality and efficiency metrics for which they will be held accountable. It also reduces physicians' administrative burden by replacing three Medicare incentive programs mandated by the Affordable Care Act.

But, there is still plenty of room for improvement. For example, the bill still does not allow physicians to contract freely with patients and accept the Medicare base payment and forgo the new Medicare pay-for-performance bonuses. The bill also grants the Medicare bureaucracy too much power to determine appropriate use criteria (AUC) for certain advanced radiologic testing and possibly other physician services.[11]

Conclusion

The new Congress should improve upon the compromise bill that House and Senate negotiators produced last year, and enact a permanent Medicare doc fix that is permanently funded with Medicare savings.

A lame duck session of Congress is not the venue to address such complex policy issues, especially when the American people have clearly and decisively repudiated Washington's routine style of business, particularly the congressional passion for crazy spending. Instead, Congress should revisit the issue in the new Congress under regular order, and spare taxpayers another rushed legislative product dressed up with tiresome budget gimmicks (such as projected "war savings") or an unfunded doc fix that will add to the country's deficits.[12]

*—**Robert E. Moffit, PhD,** is Senior Fellow in the Center for Health Policy Studies, of the Institute for Family, Community, and Opportunity, at The Heritage Foundation.*

10. Richard Dolinar and S. Luke Leininger, "Pay for Performance or Compliance? A Second Opinion on Medicare Reimbursement," Heritage Foundation *Backgrounder* No. 1882, October 5, 2005, http://www.heritage.org/research/reports/2005/10/pay-for-performance-or-compliance-a-second-opinion-on-medicare-reimbursement..
11. Scott Gottlieb, "This 'Doc Fix' Would Be Bad for Your Health," *The Wall Street Journal*, December 11, 2013.
12. Robert E. Moffit, "Replacing the Medicare SGR: Getting the Policy and Financing Right," Heritage Foundation *Issue Brief* No. 4134, January 24, 2014, http://www.heritage.org/research/reports/2014/01/medicare-sgr-getting-the-policy-and-financing-right..