



## ***KHA's Federal Advocate***

**November 7, 2024**

### **Post-Election Analysis**

As the dust settles on the 2024 election, it is becoming increasingly clear that President-Elect Donald Trump will have smooth sailing in getting his cabinet appointees through the Senate and likely small but relatively stable majorities in both the House and Senate to push his agenda.

As of this moment, it seems likely that Republicans will have at least a 53-47 majority in the Senate pending the outcome of the election in Pennsylvania. Republican Dave McCormick has maintained a small but durable lead over incumbent Democrat Bob Casey throughout the past few days. This should be a comfortable margin through which President-Elect Trump should be able to get all his cabinet and judicial appointees approved. While Robert F. Kennedy, Jr. has publicly said that Trump promised him control over various public health agencies, this does not mean he is slated to be the President-Elect's U.S. Department of Health and Human Services Secretary nominee. White House staff who do not need to be confirmed by the Senate can have enormous influence over the direction of public policy.

Republicans are set to take a small majority in the House of Representatives. The end of the current 118th Congress will see 220 Republicans and 212 Democrats vote on the remainder of this year's legislative business. In January, the 119th Congress will have between 220 and 222 Republicans and between 213 and 215 Democrats. The gap could be even narrower. However, this group of Republicans will likely be more united than in the past couple of years because they will have a party leader in the White House setting the agenda.

For Kansas providers, this alignment means that our congressional delegation will see an increase in their influence on legislative outcomes. For instance, Senator Jerry Moran will now be an appropriations subcommittee chairman and a senior majority member of the Labor, Health and Human Services, Education and Related Agencies subcommittee of the Appropriations Committee. This Congress will likely be more sensitive to the needs of states that have not expanded Medicaid. However, Kansas hospitals may be in a more defensive position on some issues, like Medicare site-neutral payment schemes.

People matter too, and next week, Kansas Hospital Association staff and members will be in Washington, D.C., while both chambers will be going through their process of deciding leadership and members on committees for the next two years. This will set the tone for the issues likely to be reviewed for statutory changes. We will make sure KHA members are a part of the discussion.

### **CMS Releases CY 2025 OPPTS and Medicare Physician Fee Schedule Final Rules**

On Nov. 1, The Centers for Medicare & Medicaid Services released the [Final Rule](#) of the Calendar Year 2025 Outpatient Prospective Payment System and [the Final Rule](#) of the CY 2025 Medicare Physician Fee Schedule . The Kansas Hospital Association has prepared a summary of the major provisions that can be [viewed here](#). Both final rules institute significant updates, including new and updated Conditions of Participation, new quality measures and new codes for various services. These final rules provide substandard payment updates that do not adequately recognize the increasing costs hospitals and providers face on labor and supplies and the battle of emerging cybersecurity threats.

KHA will continue to advocate for critical congressional extenders and payment reforms to ensure Kansas hospitals receive appropriate reimbursement for care provided to Kansas communities while also working to improve the operating environment of providing patient care by removing unnecessary barriers and constraints.

#### **OPPS Key Highlights Include:**

- OPPTS payment increase of 2.9 percent nationally
  - o Payment adjustment of 7.1 percent for sole community hospitals.
- Reducing the time frame for prior authorization requests for outpatient department services from ten business days to seven calendar days for standard reviews.
- Add-on payment for non-opioid treatments for pain relief in the Hospital Outpatient Department.
- Issued obstetrical services Conditions of Participation with phased implementation for hospitals and Critical Access Hospitals that provide obstetrical services
  - o This includes new requirements for maternal quality assessment and performance improvement, as well as baseline standards for the organization, staffing, delivery of care within obstetrical units and staff training on evidence-based best practices every two years.
- Revised the emergency services CoP related to emergency readiness for hospitals and CAHs that provide emergency services.
- Revised the Discharge Planning CoP for all hospitals related to transfer protocols.
- New Medical Clinic Services' Four Walls exceptions for rural and behavioral health clinics
- Quality Updates:
  - o Finalized new measures in Outpatient Quality Reporting, Rural Emergency Hospital Reporting and Ambulatory Surgical Quality Reporting programs.
  - o Removed two measures from the OQR Program

- Will publicly report the Median Time from Emergency Department Arrival to ED Departure for Discharged ED Patients Measure – Psychiatric/Mental Health Patients stratification on Care Compare beginning with CY 2025.
- Narrowing the definition of “custody” in Medicare’s payment exclusion rule and revising the Medicare special enrollment period for formerly incarcerated individuals.

MPFS Key Highlights Include:

- Reduction of average payment rates by 2.93 percent.
- Continuation of various telehealth flexibilities, including:
  - Extending services on the Medicare Telehealth Services List;
  - Allowing the utilization of audio-only technology for telehealth services furnished to beneficiaries in their homes and
  - Direct supervision is permitted through the supervising practitioner, who is immediately available through real-time audio and visual interactive telecommunications.
- Creation of new Advanced Primary Care Management Services codes.
- Establishes new coding and payments for various behavioral health services
- Allows for general supervision of Physical Therapy Assistants and Occupational Therapy Assistants by PTs or OTs in private practice for all applicable physical and occupational therapy services.
- Various updates related to Rural Health Clinics, including new care coordination codes, telehealth flexibilities and payment for preventive vaccine costs.
- CMS will no longer determine or enforce the standard of RHCs being primarily engaged in furnishing primary care services and will no longer consider the total hours of an RHC’s operation and whether a majority that is more than 50 percent of those hours involve the provision of primary care services through the survey process.

Unless otherwise noted, provisions will go into effect on Jan. 1, 2025.

KHA encourages Prospective Payment System hospitals to log in to [Advantage Analytics](#) to view their hospital-specific impact reports. If you need a reminder of your login information, please get in touch with KHA.