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THE RUNDOWN

HHS hints at major changes to Medicare that could mean higher costs for patients

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Secretary of Health and Human Services Tom Price testifies on Fiscal Year 2018 Budget Blueprint before the Committee on Appropriations at the U.S. Capitol in Washington, D.C. Photo by Joshua Roberts/Reuters

WASHINGTON — The Trump administration is signaling it will pursue significant changes to Medicare that could put beneficiaries on the hook for higher costs.

In an informal proposal on Wednesday, federal health officials hinted at several new pilot programs it may implement in the months ahead. One idea would give doctors more latitude to enter into so-called private contracts to charge Medicare beneficiaries more for certain services, if the patients were willing to pay. Elsewhere in the document, **officials indicated they might offer more incentives to encourage beneficiaries to join private Medicare plans, known as Medicare Advantage plans.** Democrats and other experts said the language suggested interest in the controversial "premium support" model long favored by Republican policymakers.

For now, the proposals are only hints of what the Trump administration hopes to pursue in its Medicare and, potentially, its Medicaid policy making. There are no formal rules for the new ideas, nor is there any clear timeline for when they might be detailed. The suggestions came as part of a broader request, asking doctors, hospitals, and other parties to weigh in on ways that the administration could use an Obama-era policy center to make it easier for the industry to work with Medicare.

The policy center, known as the Centers for Medicare and Medicaid Innovation, or CMMI, has sweeping authority to steer about $1 billion annually toward almost any new program or initiative that agency officials believe will help reduce costs in Medicare and improve the quality of its services. The Obama administration deployed it for a wide array of pilot programs touching everything from hip surgery payments to cardiovascular care improvements.

Until now, the Health and Human Services Department under Secretary Tom Price has mostly made changes to Medicare by unwinding Obama-era initiatives. It has canceled pilot programs that would have penalized some doctors and hospitals and made others voluntary, among other changes.

Wednesday's request includes, for the first time since Trump's inauguration, clear signals about the conservative policies that the Republican officials want to achieve in the Medicare and Medicaid programs. Many of the changes reflect policies outlined by Speaker Paul Ryan and other Republicans in the "A Better Way" plan that, unlike efforts to repeal the Affordable Care Act, can be achieved without legislation. And Democrats caution that the proposals could have serious ramifications for patients.

"Beginning down this treacherous path is a clear sign that Secretary Price is betraying Donald Trump's campaign promise not to touch Medicare or Medicaid and instead pursue his ideological goals at the expense of vulnerable Americans," said Sen. Ron Wyden of Oregon, the top Democrat on the Senate Finance Committee, which has jurisdiction over Medicare.

One of the policies most clearly outlined in the document is a longstanding favorite of Price's: so-called private contracting. Price, who introduced legislation on the topic when he was a Georgia congressman, wants to let doctors who feel Medicare's prices are too low contract directly with beneficiaries to charge them more. Now Price may be able to achieve something similar via regulation.

The practice is actually legal right now, but any doctor who engages in it is barred from accepting some Medicare payments for two years. And beneficiaries must pay the whole price for any service a doctor provides through private contracting — Medicare doesn't pick up its part of the tab. About 96 percent of physicians who work with Medicare avoid private contracts.

But Price might be able to use the CMMI authority to waive the current rules, making it more attractive for doctors to try private contracting. It could also allow the doctors to start "balance billing" patients — essentially, putting them on the hook for any price they want to charge beyond what Medicare is willing to pay.

"There have been all of these stories about emergency room surprise billing, out-of-network balance billing — none of that's a problem in Medicare," said Tim Gronniger, a nonresident fellow at the Brookings Institution and a former CMS official under President Obama. "There's opportunities for really significant new costs for Medicare patients."

"I have never met a Medicare patient who wants to take on the job of contracting with his physician, as his or her own responsibility, instead of having the government or Medicare Advantage plans do it for them," he added. "It's obviously a situation that's ripe for abuse, to put seniors and people with disabilities into that situation."

The new proposal also includes language that suggests HHS wants to help private Medicare Advantage plans "compete with traditional Medicare." The language is vague, but it resembles Republican talking points on so-called premium support — a way to encourage Medicare beneficiaries to enroll in a private plan when that option is less expensive. On a follow-up call Wednesday about the proposal, administration officials confirmed that the language was meant to signal an interest in premium support, according to a congressional aide.

For Republicans, premium support is a way to reduce federal spending on Medicare and encourage competition among private insurance plans. But Democrats and consumer advocates warn that major differences exist between private Medicare plans and the traditional one. For example, beneficiaries in a private plan pay higher prices when they go out of their plan network, compared to those enrolled in traditional Medicare.

"The main intent of a lot of premium support programs is to save money," said David Lipschutz, a senior policy attorney at the Center for Medicare Advocacy. "If you limit the payments to the plans and at the same time, make the rules more flexible for the plans, water down some of the consumer protections, you could be paying, as a beneficiary, more for less. You'd be getting fewer services but paying more money."

Lipschutz also suggested that if healthy enrollees all choose the cheaper private plans, while sicker enrollees stay in traditional Medicare, it could lead to a so-called death spiral for the traditional Medicare program, further jeopardizing the federal program.

The new HHS proposal also hints at other key Republican health policy ideas, like pushing Medicare toward "value-based purchasing" contracts for prescription drugs. Another phrase in the section on prescription drug benefits, pushing programs that would "engage beneficiaries as consumers of their care," suggests another comparison-shopping idea that could also lead to higher costs for consumers.

Stacy Sanders, federal policy director at the Medicare Rights Center, said she had another concern about the proposals: whether or not they fit the requirements laid out in the statute authorizing CMMI. A model has to either save money and maintain the same or better level of care quality, or keep spending neutral and improve quality, she said.

"It's hard for me to see how private contracting or premium support fits that," she said. "That would obviously be something that CMS would have to prove before they could move forward with a model."

Right now, the proposal is just that. Much of the document seeks input from hospitals, doctors, and others in health care about exactly what kind of models might improve the way they work with the Medicare and Medicaid programs. And for the most part, those industry officials are pleased to have been asked.

"Give credit where credit is due. [The proposal] is a fairly open-ended request for information on improving Medicare delivery models. That's a bit of a change from the past where CMS was relatively prescriptive when requesting comments on Medicare programs and demonstrations," said Chet Speed, vice president of public policy for the American Medical Group Association.

The American Hospital Association, too, said it's encouraged by the effort and eager to work with the administration to find more "flexibility" for its members.

Anders Gilberg, the senior vice president of government affairs for the Medical Group Management Association, said he's hopeful that the new administration will look to build on or try some of the new ideas industry is already implementing in the private sector, rather than developing its own from scratch.

Industry has until Nov. 20 to submit its comments. The informal nature of the proposal, however, means that unlike other requests for industry input, HHS won't be legally required to publicize the comments and ideas it gets in response.

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