

CBO Should Revisit Cost Estimate of The Helping Ensure Life- and Limb-Saving Access to Podiatric Physicians (HELLPP) Act

The Congressional Budget Office (CBO) prepared a cost estimate of S. 1871, the “SGR Repeal and Medicare Beneficiary Improvement Act of 2013”, as reported by the Senate Finance Committee on January 16, 2014 which included two provisions related to podiatric physicians (Sec. 254). The American Podiatric Medical Association (APMA) takes strong exception to CBO’s budgetary impact estimate of Section 254, provisions from the Helping Ensure Life- and Limb-Saving Access to Podiatric Physicians (HELLPP) Act, and urges CBO to review the provisions and APMA’s supporting documentation.

The CBO estimate states that:

“Section 254 would promote Medicaid beneficiary access to podiatrists and expand Medicare coverage of therapeutic shoes for beneficiaries with diabetes. CBO estimates that those changes would increase direct spending by about \$1 billion between 2014 and 2023.”

CBO acknowledges that:

“Because Medicaid provides states with significant flexibility to make programmatic adjustments in response to such changes in requirements, the [requirement to include podiatrists as physicians under the Medicaid program] would not be [an] intergovernmental mandate as defined in UMRA [the Unfunded Mandates Reform Act].”

APMA believes the HELLPP Act provisions warrant a closer look by the CBO. *The estimate incorrectly describes the Medicare provision as expanding coverage.* On the contrary, the Medicare provision of the HELLPP Act is a paperwork clarification of the current Medicare benefit to better account for how medical professionals certify, prescribe, dispense services, and maintain records under the Medicare diabetic shoe benefit. Underscoring this point, a rule of construction has been incorporated into the current version of the HELLPP Act clarifying that the legislative language should not be construed as expanding coverage under the Medicare diabetic shoe program.

APMA also believes the federal budgetary impact of defining podiatrists as physicians under Medicaid should be significantly lower than what CBO recently estimated. In fact, in 2009, CBO reviewed the very same provision in the context of a much broader Medicaid expansion proposal and estimated it would cost \$200 million over 10 years. However CBO’s recent estimate inexplicably inflated its previous estimate even in light of the following changes to the Medicaid landscape since then:

- Medicaid expansion population is smaller. The Affordable Care Act (ACA) expands coverage to only 133% of the Federal Poverty Level (FPL), while the 2009 legislation CBO was analyzing called for Medicaid expansion for a larger population of up to 150% FPL.
- Medicaid expansion under the ACA is optional as determined by Supreme Court ruling. CBO estimated that the ruling would cause 6 million fewer people to be enrolled in Medicaid and would reduce overall Medicaid spending by \$289 billion over 10 years.
- Numerous peer-reviewed studies demonstrate that care by podiatrists improves patient outcomes and reduces hospitalizations, saving the health-care system from significant unnecessary costs.

Understanding CBO may not revisit and revise its estimate, the HELLPP Act includes a provision to offset any increased spending by closing a loophole so that Medicaid payments to tax-delinquent Medicaid providers would be reduced by the amount of federal taxes that are owed. Such a mechanism already exists in Medicare and is supported by a Government Accountability Office (GAO) study highlighting this irregularity, released July, 2012 (GAO-12-857): “Providers in Three States with Unpaid Federal Taxes Received over \$6 Billion in Medicaid Reimbursements.”