

June 17, 2010

To: HBMA Membership
From: The HBMA Government Relations Committee
Re: SGR Update

Former Senator Howard Baker (R-TN), at the height of the Watergate Impeachment hearings asked of a Nixon Administration official, "What did you know and when did you know it?"

When it comes to giving out information on enactment of a legislative fix to the SGR problem, the question could be slightly rephrased as "What do you know" and "When did you know it?"

Unfortunately, what we "know" is scant and "when" we know it is constantly changing.

Here's the SGR situation as of Thursday afternoon (6/17):

The Senate has been unable to muster enough votes to pass an SGR "fix". Although broad bi-partisan support for fixing the SGR problems remains, finding enough votes around a single solution has been elusive. For some, support for fixing the SGR problem is predicated on paying for the fix. Other Senators argue that the SGR problem is an emergency and paying for the "fix" through deficit spending is appropriate.

The end result is a stalemate.

The latest proposal put forward in the Senate by Finance Committee Chairman Max Baucus (D-MT) would provide a 2.2 percent increase in the physician fee schedule Conversion Factor between June 1, 2010 and November 30, 2010. Effective December 1, 2010, this increase would be rescinded and the 21.3 percent SGR cut would take effect. This would then be followed by another cut (on top of the 21.3 percent cut) in the Medicare physician fee schedule Conversion Factor that is slated to take effect on January 1, 2011.

At this time, there are not enough votes to pass this latest proposal. There has also been nothing out of CMS indicating that Contractors will continue to hold

claims. Therefore, providers and billing companies should expect Contractors to begin making providers payments reflecting the the 21.3% SGR cut.

Adopting this particular Baucus proposal, would require some Congressional intervention in November, 2010 to prevent both the 21.3% cut on December 1, as well as another cut on January 1. This would have to occur during a lame duck session of Congress that would be convened AFTER the November Congressional elections.

While no one can predict with any degree of certainty the outcome of the November Congressional elections, it is widely expected that the number of Republicans serving in Congress will be going up and the number of Democrats in Congress will go down. Whether Republican gains in the House and Senate will be sufficient to change control of one or both houses is an open question. But the fact that the make-up of the Congress will be different after the election than it is before the election means that getting anything to pass in a lame duck session except the most non-controversial pieces of legislation means that passing a long-term SGR fix during the lame duck is unlikely.