



The National Snapshot: Election Outlook and Rehabilitation Issues

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Election Predictions

- Republicans will gain at least 40 seats in the House. – *Cook Report*
- Republicans will gain 37 to 42 seats in the midterm elections now. But as many as 55 are “quite possible.” – *Rothenberg Political Report*
- Republicans will pick up 47 seats in the House. – *Larry Sabato, Director, University of Virginia Center for Politics*
- Of Christine O’Donnell’s win in the Delaware Republican Primary and it’s impact on Senate seats: Republican chances of scoring a net gain of 10 Senate seats and a majority suddenly plummeted, from maybe a 30 percent chance to something more like a single-digit chance. – *Cook Report*
- Republicans will gain 8-9 seats in the Senate. – *Larry Sabato, Director, University of Virginia Center for Politics*

111th Congress: Current Party Divisions

House

- 255 Democrats, 178 Republicans
- All 435 Members up for re-election
- Democrats currently have **79** seats considered a toss up or leaning Democratic
- Republicans currently have **7** seats considered a toss up or leaning Republican
- Republicans must gain **39** net seats to win back Majority
- Reps. Carolyn Kilpatrick (D-MI), Parker Griffith (R-AL), Bob Inglis (R-SC), and Alan Mollohan (D-WV) lost primary bids

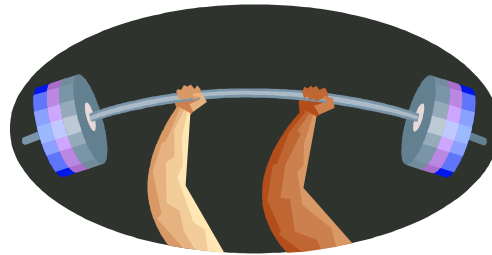
Senate

- 57 Democrats, 2 Independents (caucus with Democrats), 41 Republicans
- Democrats have **8** tight races and Republicans have **4** tight races
- Sens. Arlen Specter (D-PA), Robert Bennett (R-UT), Lisa Murkowski (R-AK) lost primary bids

Source: The Cook Political Report

The Tea Party Factor

- *New York Times*: Tea Party will be a significant factor in 11 of the most competitive Senate races and 48 of the most competitive House races
- The Tea Party could hold 10% of the Senate seats in the Republican caucus

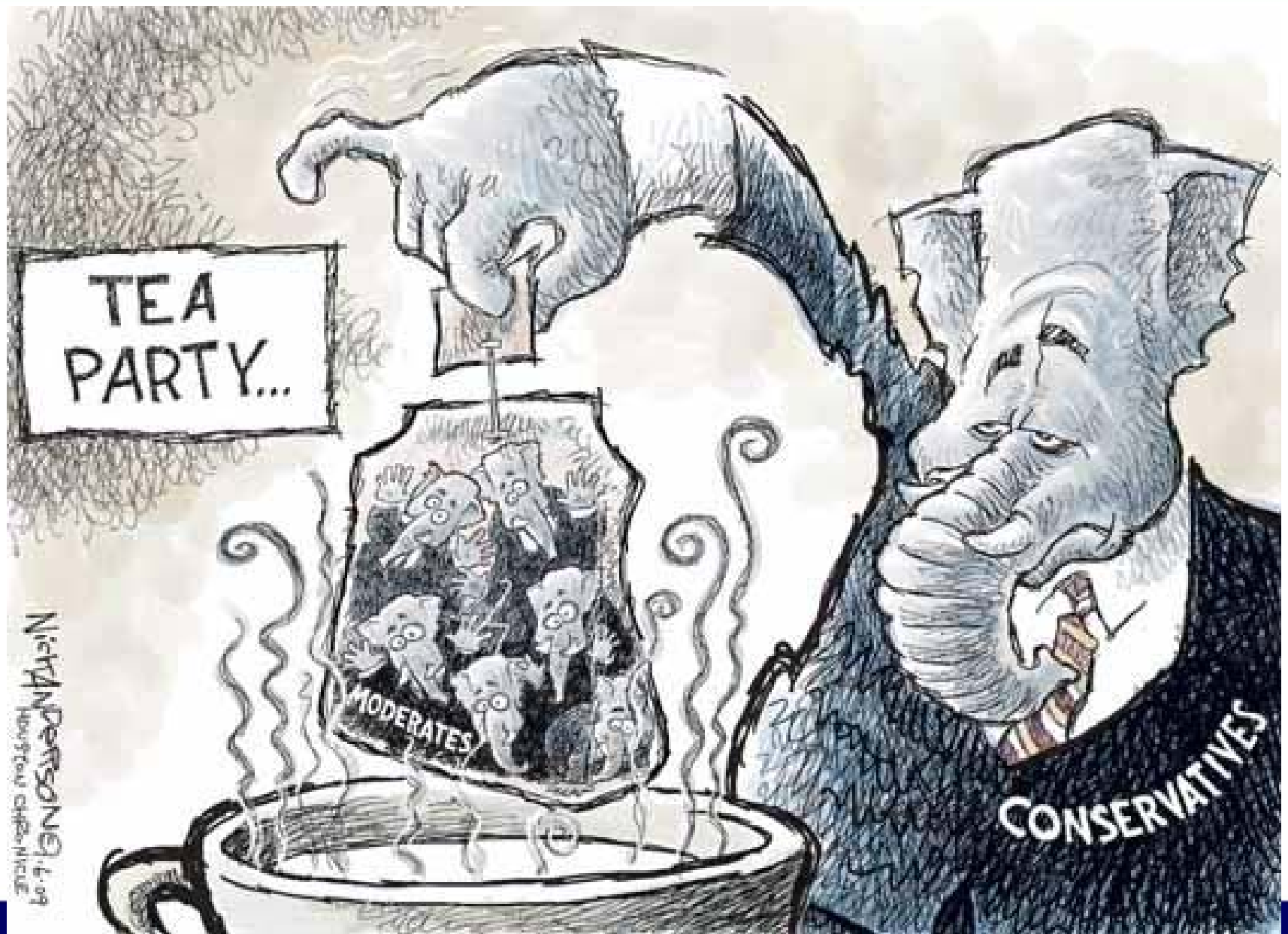


Wins:

- **Mark Rubio** – maintains moderate lead in FL general
- **Mike Lee** defeated Sen. Bennett (R-UT) in primary – favored to win general
- **Sharron Angle** won NV primary – toss up in general
- **Rand Paul** won KY primary – moderate lead in general
- **Ken Buck** won CO primary – toss up in general
- **Joe Miller** defeated Sen. Murkowski (R-AK) – favored to win general
- **Christine O'Donnell's** win in the DE primary

Losses:

- **J.D. Hayworth** lost AZ Senate primary against Sen. McCain
- **Marlin Stutzman** and **John Hostetter** lost IN Senate primary to Dan Coats
- **Pat Hughes** and **Don Lowery** lost the IL Senate primary to Rep. Mark Kirk



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Principal Tea Party Senate Candidates

- **Mark Rubio**

- Attorney; served in the Florida House of Representatives as Majority Whip, Majority Leader and Speaker of the House
- Rubio 40% v. Meek (D) 22% v. Crist (I) 30%



- **Ken Buck**

- Weld County District Attorney
- Buck 49% v. Bennet (D) 45%



- **Sharron Angle**

- Small business manager; former educator, elected to Nye County School Board of Trustees, served in Nevada State Assembly
- Angle 48% v. Reid (D) 48%



- **Rand Paul**

- Ophthalmologist
- Paul 54% v. Jack Conway (D) 39%



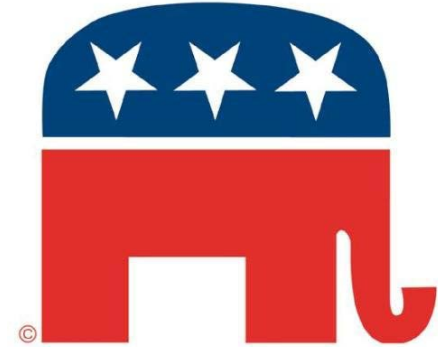
- **Joe Miller**

- Attorney; served in Alaska House of Representatives
- Miller 42% v. Scott McAdams (D) 25% v. Murkowski (I) 27%



Likely Republican Wins in House

- VA-5: Robert Hurt (R) +26 over Rep. Tom Perriello (D)
- AZ-1: Rich Crawford (R) +21 over Chad Causey (D)
- PA-7: Patrick Meehan (R) +21 over Bryan Lentz (D)
- IL-11: Adam Kinzinger (R) +20 over Debbie Halvorson (D)
- NH-2: Charlie Bass (R) +17 over Katrina Swett (D)
- AR-2: Tim Griffin (R) +17 over Joyce Elliott (D)
- MI-1: Dan Benishek (R) +16 over Gary McDowell (D)
- OH-16: Jim Renacci (R) +14 over Rep. John Boccieri (D)
- WA-3: Jaime Herrera (R) +13 over Denny Heck (D)
- IN-8: Larry Bucshon (R) +12 over Trent Van Haften (D)
- FL-24: Sandy Adams (R) +12 over Rep. Suzanne Kosmas (D)
- OH-1: Former Rep. Steve Chabot (R) +12 over Rep. Steve Driehaus (D)
- PA-11: Lou Barletta (R) +11 over Rep. Paul Kanjorski (D)
- TN-8: Stephen Fincher (R) +10 over Roy Herron (D)



Likely Republican Wins in Senate

- North Dakota: John Hoeven (R) +43 over Tracy Potter (D)
- Arkansas: Rep. John Boozman (R) +38 over Sen. Blanche Lincoln (D)
- Indiana: Dan Coats (R) +16 over Rep. Brad Ellsworth (D)

As of September 30

Campaign Funds

- Democratic candidates have financial advantage by large margins
 - Rep. Pomeroy \$1.7 million v. Republican opponent Rick Berg \$752,000
 - Rep. Tom Perriello \$1.7 million v. Republican opponent Robert Hurt \$216,000
 - Sen. Lincoln \$1.9 million v. Republican challenger Rep. John Boozman \$484,000
 - Majority Leader Reid \$9 million v. Tea Party candidate Sharron Angle \$1.8 million
- Democratic advantage mitigated by independent committee (mostly center-right groups) spending
- Impact of *Citizens United v. Federal Election Commission*

Is 1994 the Same as 2010?

	1994 Election	2010 Election
Leadership	<ul style="list-style-type: none">▪ Foley surprised by upset▪ Gingrich was inspirational (but also polarizing); offered Contract with America, which included 8 major reforms	<ul style="list-style-type: none">▪ Pelosi knows tide is coming and is fighting▪ Boehner won't mobilize voters for or against Republicans; released Pledge to America, but offers no course of action
Fundraising	Republicans had advantage	Democrats have advantage
Seats	Republicans gained 52 seats	Republicans projected to win 37-55 seats

GOP's A Pledge to America

- **Stop out of Control Spending and Reduce the Size of Government**
 - Cancel unspent stimulus funds
 - Hold weekly votes on spending cuts
 - Root out government waste and sunset outdated and duplicative programs
 - Require full accounting of Social Security, Medicare, and Medicaid, set benchmarks for these programs and review them regularly to prevent expansion of unfunded liabilities
- **Repeal and Replace Health Care Reform**
 - Enact medical liability reform
 - Allow purchase of health insurance across state lines
 - Expand health savings accounts
 - Ensure access for patients with pre-existing conditions – expand state high-risk pools, reinsurance programs and reduce cost of coverage
 - Prohibit taxpayer funding of abortion

Leadership Scenarios

1. Republicans win House, Democrats keep Senate

- Expanded bloc of conservative Republicans with agenda to further tax cuts, repeal/modify health care reform, rollback financial reform regulations, and return unspent stimulus funds

2. Republicans win the House and Senate

- Traditional GOP v. Right wing conservatives; agenda could include repeal of health care reform, return of unspent stimulus funds, and reform of entitlement programs
- Moderate Democratic Senators McCaskill, Pryor, Warner, and Webb gain leverage

3. Republicans win the Senate, Democrats keep the House

- Sen. McConnell seeks to move energy industry incentives and trade deals – must keep Republican bloc together
- Rep. Pelosi more likely to make deals with the Senate and back away from issues like climate change

4. Democrats retain control of the House and Senate

- Unlikely to see an ambitious legislative agenda; narrower margins in the Senate would make it more difficult for the Democrats

Key Members to Watch

- Democratic Leadership
 - Speaker Nancy Pelosi
 - Majority Leader Steny Hoyer
 - Rep. Chris Van Hollen, DCCC Chair
 - Rep. James Clyburn, Majority Whip
- Republican Leadership
 - Rep. John Boehner, Minority Leader
 - Rep. Eric Cantor, Minority Whip
 - Rep. Kevin McCarthy, Chief Deputy Minority Whip
 - Rep. Paul Ryan

Committee Leadership Outlook

- **House Ways and Means Committee**
 - Chairman Sandy Levin (D-MI)
 - Ranking Member Dave Camp (R-MI)
 - Health Subcommittee Ranking Member Wally Herger (R-CA)
 - Rep. Richard Neal (D-MA)
- **House Energy and Commerce Committee**
 - Chairman Henry Waxman (D-CA)
 - Health Subcommittee Chairman Frank Pallone (D-NJ)
 - Ranking Member Joe Barton (R-TX) – GOP term limited
 - Rep. Fred Upton (R-MI), Rep. Cliff Stearns (R-FL), and possibly Rep. John Shimkus (R-IL) to make a play if Rep. Barton cannot change rules to stay on as top ranking Republican
 - Health Subcommittee Ranking Member John Shimkus (R-IL)
- **Senate Finance Committee**
 - Sens. Lincoln and Wyden face election challenges; Sen. Bunning retiring
 - Sen. Baucus to retain position as top Democrat on Committee
 - If Democrats retain control, Sen. Hatch to serve as Ranking Member and Sen. Grassley moves to Judiciary Committee
 - If Republicans gain control, Sen. Grassley will make a claim to stay on as Chairman; but, if Tea Party has presence, Sen. Grassley may not be able to bend the rules

Lame Duck Session Outlook

- Congress reconvenes November 15, but real work likely to begin December 3
- Appropriations – CR expires December 3
- Medicare extenders legislation
- SGR fix
- Food safety legislation
- Consideration of tax-cut extension
 - Speaker Pelosi and other House Democratic leaders have supported President Obama's call to extend the cuts for individuals making less than \$200,000 and married couples making less than \$250,000 -- but not the more upper-income tax cuts
- Approximately 16 other bills competing for floor time

Health Care Reform Recap: Rehab Positives and Negatives

• POSITIVES

- CCH authorized as a bundling pilot (Sec.10308)
- Authority to test CCH through the CMI to be established (no later than Jan. 1, 2011) (Sec. 3021)
- Extension of therapy caps exceptions process through 2010 (Sec. 3103)
- Rehabilitation services included in essential benefits package effective 2014 (Sec. 1302)

• NEGATIVES

- Significant Market Basket Cuts FY10-FY19 (Sec. 3401 & Reconciliation Sec. 1105)
- Productivity Adjustment beginning FY12 (Sec. 3401)

Payment Reforms

- **Payment Cuts (Sec. 3401 & Sec. 1105 of the Reconciliation Act)**
 - Market basket update -0.25 in FY10-11; -0.1 in FY12-13; -0.3 in FY14, -0.2 in FY15 and FY16, and -0.75 in FY17, FY18 and FY19
 - Productivity adjustment effective FY 2012
 - In recent years, productivity has ranged between 0.8% and 1.3%
- **Bundling IRH/U Payments (Sections 3023, 10308)**
 - Directs the Secretary to separately test the CCH model as a bundling pilot no later than Jan. 1, 2013 for 5 years
 - Establishes national, voluntary pilot program encouraging hospitals, doctors, and post-acute care providers through bundled payments no later than Jan. 1, 2013 for 5 years

Payment Reforms

- **LTCH Extenders (Sec. 10312)**
 - Extends two provisions included in Medicare, Medicaid and SCHIP Extension Act of 2007 through December 29, 2012: (1) no application of 25 percent patient threshold payment adjustment to freestanding and grandfathered LTCHs; and (2) moratorium on the establishment of LTCHs, long-term care satellite facilities and on the increase of LTCH beds in existing long-term care hospitals or satellite facilities (Section 10312).
- **Accountable Care Organizations (ACOs) (Sec. 3022)**
 - Secretary is required to establish ACOs by January 1, 2012
 - ACOs that meet quality targets and reduce the costs of their patients by coordinating items and services under Medicare Part A and Part B are rewarded with a share of the savings they achieve
 - Physician groups, hospitals, nurse practitioners and physician assistants, and others can participate in ACOs
 - White House convened the first in a series of private meetings to gather input from stakeholders regarding implementation of ACOs
 - FTC and HHS hosting workshop on October 5 on legal issues related to ACOs

Independent Payment Advisory Board

- **Establishment of Independent Payment Advisory Board (Sec. 3403)**
 - 15-member board makes recommendations to Congress to reduce excess cost growth and improve quality of care for Medicare beneficiaries
 - If Medicare costs are projected to be unsustainable in any given year, the Board's recommendations will take effect unless Congress passes an alternative measure that achieves the same level of savings
 - Appropriations authorized beginning in FY12

Center for Medicare and Medicaid Innovation

Establishes Center for Medicare and Medicaid Innovation no later than Jan. 1, 2011 (Sections 3021, 10306)

- Allows the Secretary to test the CCH model through the Center for Medicare and Medicaid Innovation, which will be established in 2011
 - The Secretary shall select models to be tested where there is evidence that the model addresses a defined population for which there are deficits in care leading to poor clinical outcomes or potentially avoidable expenditures
 - The Secretary shall focus on models expected to reduce program costs under the applicable title while preserving or enhancing the quality of care
 - The Secretary shall give preference to models that also improve the coordination, quality, and efficiency of health care services

- Requires the Secretary to select a number of payment and service delivery models to test, including:
 - Improving post-acute care through continuing care hospitals that offer inpatient rehabilitation, long-term care hospitals, and home health or skilled nursing care during an inpatient stay and the 30 days immediately following discharge
 - Patient-centered medical home models
 - Innovative care delivery models, such as risk-based comprehensive payment or salary-based payment
 - Geriatric assessments and comprehensive care plans to coordinate care of individuals with multiple chronic conditions
 - Medication therapy management services
 - Paying providers and suppliers for using patient decision-support tools
 - Allowing States to fully integrate care for dual eligible individuals

Center for Medicare and Medicaid Innovation

- Richard Gilfillan named Acting Director
 - Physician who ran the Geisinger Health Plan in Pennsylvania from 2005 to 2009
 - Experienced in developing accountable care organizations, patient-centered medical homes, and bundled payment systems



Quality and Value-Based Purchasing

- **Quality reporting for IRH/Us (Sec. 3004)**
 - Pay for reporting first step to value-based purchasing for rehab hospitals
 - Beginning in FY 2014, IRH/Us that do not report quality data will have payments reduced by 2 percent – may result in payment rate less than 0
 - Quality measures on which to report will be determined by the Secretary to be published no later than October 1, 2012
 - Quality data will be publically reported
- **Authorizes value-based purchasing pilot for IRH/Us and others no later than Jan. 1, 2016 (Sec. 10326)**
 - The Secretary may expand pilot after January 1, 2018 if:
 - The Secretary finds that expansion will reduce spending without reducing quality or improve the quality of care and reduce spending;
 - The CMS Chief Actuary certifies that an expansion would reduce program spending; and
 - The Secretary finds that an expansion would not deny or limit the coverage or provision of benefits

Hospital Reform

- **Payment adjustment for conditions acquired in hospitals (Sec. 3008)**
 - Starting in FY2015, hospitals in the top 25th percentile of rates of hospital acquired conditions for certain high-cost and common conditions would be subject to a payment penalty under Medicare
 - Requires Secretary to submit report to Congress by January 1, 2012 regarding appropriateness of establishing such a policy for IRH/Us and LTCHs, among other providers

ACA Grants

- HHS awarded grants to states, territories and tribal organizations to help seniors, disabled navigate care options
 - \$68 million to help seniors and disabled people understand their Medicare and Medicaid benefits, navigate options for long-term care, and transition home from nursing or rehabilitation facilities

“Big Picture” Outlook

- **Not a Static Environment – Debate is Ongoing**
 - 43% of U.S. adults think they will be “worse off” (Deloitte survey)
 - Laws may be revisited after elections
 - Congress unlikely to resist urge to tinker
 - Pay-go statute requires offsets for tax cuts or spending increases
 - National Fiscal Responsibility and Reform Commission may recommend additional measures
- **Political Fight Moving to States with Mixed Results**
 - 21 have sued to overturn, joined by NFIB
 - 25 States have rejected health reform repeal bills
 - 4 States passed laws to restrict implementation
 - 30 States will operate high-risk pools
 - Potential shift in post-election control by governors and insurance commissioners

“Big Picture” Outlook (cont’d)

- **Future Appropriations Still Needed to Fund Implementation**
 - More than \$110 billion in 2010-2019 according to CBO
 - Administration seeking 5% reduction in non-security discretionary spending in FY 2012
- **Dueling Estimates of Impact of Health Reform on Federal Budget Deficit**
 - CBO: \$143 billion savings/10 years
 - Harvard economist David Cutler: \$580 billion savings/10 years
 - Commonwealth Fund: \$400 billion savings/10 years
 - Former CBO Director Douglas Holtz-Eakin: \$554 billion cost/10 years

Physician Fee Schedule Proposed Rule

- Misvalued Codes Under The Physician Fee Schedule
 - CMS believes that therapy services are misvalued for PFS payment when multiple services are furnished to a patient in a single session because duplicate clinical labor and supplies are included in the PE of the services furnished
 - For CY 2011 CMS is proposing an MPPR policy for the separately payable “always therapy” services that are only paid by Medicare when furnished under a therapy plan of care – in addition to the proposed reduction associated with the SGR formula
 - CMS is proposing to apply a 50 percent payment reduction to the PE component of the second and subsequent therapy services for multiple “always therapy” services furnished to a single patient in a single day
- July 2009 GAO Report: “Medicare Physician Payments: Fees Could Better Reflect Efficiencies Achieved when Services are Provided Together”
 - GAO proposed reducing reimbursement by a factor of 25 percent for certain therapy services

AMRPA Advocacy

- In summary...CMS proposes a damaging MPPR policy that would **cut payment by 50 percent** for a second and subsequent procedures or unit of service provided to the same patient during the same day – **in addition to the proposed reduction associated with the SGR formula**
- AMRPA has participated in meetings with key House and Senate staff and with CMS Deputy Administrator Marilyn Tavenner
- AMRPA members contacting their House and Senate Members and asking them to contact Secretary Sebelius and the White House Office of Health Care Reform to rescind MPPR policy

Status of Medicare Physician Payments

Health Care Reform

- House-Tri Committee, Senate HELP Committee, and Senate legislation proposed to revise the SGR formula or provide a one-year increase in physician payments to prevent 21% cut
- Leadership decision to move SGR fix legislation separately from health care reform legislation
- House passed H.R. 3961 in November to provide a permanent SGR fix
- Senate did not have 60 votes to move to consideration of S. 1776 to freeze physician payments at a 0 percent update and sunset the SGR formula

Preservation of Access to Care for Medicare Beneficiaries and Pension

Relief Act of 2010 (P.L. 111-192)

- Extended the Medicare physician fee fix through November 30, 2010
- Without further Congressional action, physician payments would be cut by 23 percent beginning on December 1 and reduced by an additional 6.1 percent beginning January 1, 2011

AMA request for 13 month extension

Health IT Update – Meaningful Use

- **Final HIT regulations released on July 13, 2010:**
 - Office of the National Coordinator of Health Information Technology's (ONCHIT) Interim Final Rule on standards, implementation specifications and certification criteria for electronic health records (EHRs), and
 - Center for Medicare and Medicaid Services' (CMS) Proposed Rule on Medicare and Medicaid EHR Incentive Programs (Meaningful Use)
 - Effective date September 27, 2010
- **Key Changes in Final Rules include:**
 - Greater flexibility for eligible professionals (EPs) and hospitals in meeting and reporting certain objectives for demonstrating “meaningful use”
 - An objective of providing condition-specific patient education resources for both EPs and eligible hospitals and the objective of recording advance directives for eligible hospitals
 - A definition of a hospital-based EP as one who performs substantially all of his or her services in an inpatient hospital setting or emergency room only, which conforms to the Continuing Extension Act of 2010
 - Critical Access Hospitals (CAHs) within the definition of acute care hospital for the purpose of incentive program eligibility under Medicaid
- HHS issued a final rule to establish a temporary certification program for electronic health record technology on June 18

Rehabilitation Issues for 112th Congress

- Benefits Implementation
 - NAIC
 - States
- CCH Implementation
- Cuts to IRH/Us included in ACA
- Therapy caps
- Multiple procedure payment reductions – if finalized in the PFS Final Rule
- ACA Implementation
 - Value-based purchasing
 - Quality
 - Accountable Care Organizations
 - Medical Homes
 - Prevention

Questions?

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