Site-neutral Medicare pay eyed to fund Trump tax cuts

Michael McAuliff

Sen. Dr. Bill Cassidy (R-La.), Rep. Jodey Arrington (R-Texas) and Rep. Chip Roy (R-Texas).

While congressional Republicans hunt for hundreds of billions of dollars in healthcare cuts, an old, bipartisan idea seems poised for a comeback: "site-neutral" Medicare reimbursements for outpatient care.

This policy, which the hospital sector opposes and health insurers endorse, would require health systems to charge the same prices for services whether they are performed in a hospital or another location. Lawmakers advanced numerous proposals in 2023 and 2024 that would have implemented some version of site-neutral payment rules, such as barring hospitals from adding facility fees to claims or setting higher prices for services such as telehealth services or off-site drug injections.

Related: What is Medicaid waste, fraud and abuse? Depends who you ask

The more aggressive ideas could save the government more than $200 billion over 10 years, according to various estimates.

Figures like that could certainly help the GOP-led Congress find ways to cut $880 billion in healthcare spending over the next decade, which they are trying to do in through the partisan "budget reconciliation" process aimed at extending the tax cuts from President Donald Trump's first term.

Yet site-neutral payments, which attracted so much attention in recent years, so far haven't gained traction this year while Congress scours the budget.

"There hasn't been much talk about it lately," said Sen. Dr. Roger Marshall (R-Kan), who co-sponsored legislation two years ago with Sen. Bernie Sanders (I-Vt.) designed to grow the primary care workforce and impose site-neutral payments.

"You mean, just because Medicare reimburses $11,000 for a hip replacement in an outpatient center versus $40,000 in the hospital, you think that matters or could save some money?" Marshall said. "We haven't talked about it. Sorry."

Similarly, Sen. Dr. Bill Cassidy (R-La.) who chairs the Health, Education, Labor and Pensions Committee and sits on the Finance Committee, said even "preliminary negotiation" hasn't begun in the upper chamber over budget cuts, let alone on specific policies such as site-neutral payments, despite bipartisan interest.

But Cassidy said the prospect of using site-neutral policies to save money is more than hypothetical, and could come into play once the Senate passes a budget resolution to match what the House approved last month.

"We've got to get to the budget resolution, [then] you put the pieces together," Cassidy said. "Very theoretical — I think of particle physics. So it's more tangible than particle physics."

Like particle physics, Congress has its own uncertainty principle, in that no one there can really nail down when or how legislation is going to move. Congress already is likely to miss the May target for the tax and spending cuts bill that House Speaker Mike Johnson (R-La.) envisioned.

The uncertainty could buy more time for site neutrality to move more to the center of the table. And there are plenty of options already on the menu the House Budget Committee assembled in January. Legislation that advanced to some extent in the last Congress also offer hints, although all unpassed bills expire and must be restarted at the beginning of each new Congress every two years.

The measures that got the most traction and came closest to passing were relatively modest.

The House-passed Lower Costs, More Transparency Act of 2023 would have barred charging hospital rates in outpatient clinics for drug injections and required Medicare provider identification numbers for off-campus outpatient departments. The measure would have saved a little more than $4 billion over 10 years, according to the Congressional Budget Office.

A provision similar to the identifier rule was part of a year-end health package that failed to pass in December because then-President-elect Donald Trump and Elon Musk sank the government funding bill for unrelated reasons.

The HELP Committee approved the Bipartisan Primary Care and Health Workforce Act of 2023, which would have banned facility fees for certain outpatient and telehealth services and also mandated identifiers. CBO estimated the savings at around $5 billion.

The House Education and Workforce Committee passed the Transparent Telehealth Bills Act of 2024 to bar facility fees in telehealth, which would have had similar impacts on government spending but also applied to commercial insurance.

More ambitious efforts failed to get out of committees. For example, Sens. Mike Braun (R-Ind.) and Maggie Hassan (D-N.H.) authored the Site-based Invoicing and Transparency Enhancement Act of 2023, or SITE Act, that they estimated would save $40 billion. The bill would have ended the

exemptions most hospitals have from existing Medicare site-neutrality rules for off-campus outpatient departments.

The bill never got a vote amid concerns that smaller rural hospitals would suffer, but the idea remains popular, and Hassan and Cassidy released a framework this year to redirect some of the savings to distressed hospitals.

House Budget Committee Chair Jodey Arrington (R-Texas) floated a bill that would have equalized payments for services that are commonly performed safely in off-campus locations whether they are done in a hospital or elsewhere. In January, the committee estimated this legislation would save $146 billion.

While such policies remain somewhere between theoretical and under serious consideration, there are two forces pushing them to the fore.

One is math. Republicans' goal of cutting $880 billion from programs overseen by the House Energy and Commerce Committee would require close to 80% of it to come from Medicaid, according to the CBO. Such a figure would be hard to reach without breaking promises to not harm "deserving" beneficiaries and rural hospitals.

While Trump and congressional Republican leaders have declared Medicare cuts to be off the table, Cassidy argued enacting site-neutral policies would not count.

"It's not really touching Medicare. When people talk about touching Medicare, I think the definition is decreasing the benefits of the average senior," Cassidy said. "I can argue the degree to which we shore up the Medicare program is a degree to which we are benefiting future seniors."

Another push for site-neutral legislation is coming from insurers.

"There's certainly a robust conversation happening around something like site-neutral," said David Merritt, senior vice president of external affairs at the Blue Cross Blue Shield Association. "It is part of the conversation that we've had over the last couple of years, and I think now is a timely opportunity to really drive that in a serious way."

In January, the Blue Cross Blue Shield Association estimated that site-neutral policies would save nearly $500 billion overall, with about $272 billion accruing to the federal government.

Kris Haltmeyer, Blue Cross Blue Shield Association's vice president for legislative and regulatory policy, said site neutrality was one of two major objectives his team is pushing with lawmakers now, with the other being speeding up access to generic drugs. "Our folks are having conversations about both of these provisions," he said.

At least some House members are listening.

Rep. Dr. Andy Harris (R-Md.), who chairs the conservative Freedom Caucus, and GOP Reps. Chip Roy (Texas) and Eric Burlison (Mo.) cited the Blue Cross Blue Shield Association estimates in an op-ed published on the Fox News website last Monday, which calls for site-neutral payments and other policies.

Hospital representatives, however, are also making the case against site-neutral payments to lawmakers, and they have been successful in fending off such efforts since Congress passed a site-neutrality law in 2015 that left out most hospitals.

Their argument is that hospitals provide greater levels of safety than off-site facilities and must support much greater overhead costs, including round-the-clock staffing and advanced medical equipment.

Jason Kleinman, director of federal relations at the American Hospital Association, highlighted some of those points in a statement that mirrors the trade group's pitch to Congress.

"The AHA and the hospital field continue to educate policymakers on the indispensable and unique role hospitals and health systems play in delivering 24/7, complex, critical care," Kleinman said. "So-called 'site-neutral' policies fail to recognize the many important differences between hospital-based care and other care settings and would result in reduced access to care for many patients, including in rural and other underserved communities."

Kleinman also cited the insurance industry as a bigger motivator for such policies than members of Congress. "The primary proponents of site-neutral payments are commercial insurers seeking to increase their bottom line at the expense of seniors whose access to care would be jeopardized," he said.