

## **MSA Reform Bill May Get Push From California: *Top* [2010-06-15]**

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Supporters of a national overhaul of the Medicare Secondary Payer Act are looking to California state lawmakers for some political leverage to advance the measure.

The Assembly Committee on Health is scheduled today to vote on a proposed joint resolution by Jose Solorio, D–Santa Ana, chairman of the Assembly Insurance Committee, that urges the U.S. Congress to pass and President Barack Obama to sign H.R. 4796, the Medicare Secondary Payer Enhancement Act of 2010. The bill aims to streamline the Centers for Medicare and Medicaid Services process of approving future–medical settlements in workers' compensation and other claims.

The hope for the resolution, if eventually passed by both the Assembly and Senate, is that it would help persuade California's delegation in Washington, including House Speaker Nancy Pelosi, D–San Francisco, to work on passing the federal bill this year.

Mark Webb, vice president of governmental relations for Pacific Compensation Insurance Co., said his company is a member of the Medicare Advocacy Recovery Coalition (MARC), which drafted the federal bill and has been working on all fronts to see it become law.

"What we did as part of that coalition is said, 'Let's get the California Legislature to support this (resolution) and we can deliver that to Nancy Pelosi and Henry Waxman, (D–Los Angeles) chairman of the Energy and Commerce Committee and other important members of the California delegation,'" Webb said. "There will be various high–ranking legislative members that we want to target."

With the Golden State holding 53 seats in Congress, having such support could be decisive for the Medicare reform bill.

"This is going to put this issue on the front burner. I think it is going to make an impact," said Lori Kammerer, a lobbyist for Small Business California, another supporter of the resolution. "Having a resolution will certainly get the attention of Congress that this is an important issue in California."

Both Kammerer and Webb predict passage today of Assembly Joint Resolution 42 by the health committee.

"The fact that Solorio is putting this forward, I don't think it's going to have a problem passing," Kammerer said. "The support is pretty broad based. A lot of employers and insurance companies are behind this."

Among supporters of AJR 42 are the Association of California Insurance Companies, California Association of Joint Powers Authorities, California Manufacturers & Technology Association, California Chamber of Commerce and California Applicants' Attorneys Association and the Workers' Compensation Action Network (WCAN). As of Monday afternoon, no formal opposition had been filed with the health committee.

"When you've got support that's widespread and you're up against the inertia of Congress, any tool that can be deployed is worth using," said Jerry Azevedo, WCAN's spokesman. "California employers and workers' compensation beneficiaries would be better for having a more rational system to Medicare set-asides."

The Medicare Secondary Payer Enhancement Act of 2010 was introduced by U.S. Reps. Patrick Murphy, D-Pa., and Tim Murphy, R-Pa., in March, but so far the House has not held any hearings on the measure.

David Farber, legislative council for MARC, said Monday that support for H.R. 4796 in Congress has grown, with 18 other House members signing on as cosponsors. He added that he expects a companion bill to be introduced in the Senate in the next 30 days.

The measure seeks to give the CMS new deadlines for approving MSAs. It would give insurance carriers the right to first report and pay what they owe. If CMS doesn't dispute the set-aside amount within 90 days it becomes final. Before then, CMS would dispute the amount and resolve the matter through an administrative appeal.

The measure also would establish a three-year limit on the time CMS could review Medicare set-aside agreements (MSAs), exempt MSA provisions for workers' comp settlements valued below \$5,000 and look at setting new penalties for data reporting violations under Section 111, which are now set at \$1,000 a day for late filings.

And the bill would remove the requirement to include Social Security and health insurance card numbers from the data that must be reported to CMS.

Michael E. Westcott, president of the National Alliance of Medicare Set-Aside Professionals, said the federal measure has lots of strong provisions, but may face problems for not fully addressing how to pay for a formal appeals process of disputed claims and the issue of identification numbers.

"How can you argue that you can't ask for Social Security numbers from insurance companies when we'll all agree no one gets admitted into a hospital without providing their Social Security number? It's on all medical claims," Westcott said. "It gives Congress an excuse not to vote for it. Or it gets modified in committee, and once you start amending it, who knows what will happen."

The Assembly health committee will discuss Solario's AJR 42 during a meeting that begins at 1:30 p.m. in Room 4202 of the Capitol in Sacramento.