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ICD-10 compromise shows how policy can advance in gridlocked Washington

By **DAVID PITTMAN** | 07/24/15 05:00 AM EDT

The press release came just before 11 a.m. on a quiet Monday in July. The statements were well-coordinated, a corresponding blog post already written and fact-checked.

Federal health officials had given doctors the relief from ICD-10 they had been clamoring for over several months. CMS would not deny physician-submitted claims during the first year of the medical coding system set to take effect in October if they

resulted from errors or lack of specificity. CMS would also offer advance payments if something went wrong on its end. An ombudsman would be named to help troubleshoot problems.

The CMS-American Medical Association announcement was months in the making. Far removed from press reports or public view, members of Congress, physician lobbyists, on-the-ground doctors and federal health officials worked in tandem to come to a resolution that pleased almost everyone.

Doctors had feared their revenue streams would trickle to a halt as the number of codes required to document their procedures for reimbursement jumped from 17,000 to more than 156,000. They had pressed hard on Congress and the Medicare agency to either stop the transition or soften the blow of moving to it. Physicians rallied to letter-writing campaigns. Their representatives in Congress filed numerous bills. And the doctors, in the nick of time, had their way.

Physicians found a powerful ally in Congress to help guide them, and in the process, created a blueprint for how to win a policy change in a Washington where anything is tough to make happen.

OPENING DOORS

Doctors — about 60 of them — crowded Rep. Pete Sessions' (R-Texas) office on the second floor of the Rayburn office building, standing elbow to elbow just after the Thanksgiving holiday. They were there to voice their concerns about moving to ICD-10.

Hospital groups, health insurers and technology vendors wanted the new coding system. Doctors feared it.

Under ICD-10, the patient is no longer just an asthmatic. His or her asthma must now be described as “mild,” “mild intermittent,” “mild persistent,” “moderate persistent” or “severe” in the record. The “broken finger” is no longer adequate — try “broken left finger with a delay in healing,” and its corresponding code.

In the United States — unlike much of the world where ICD-10 was already adopted — ICD codes are linked to payment. Thus a hiccup in the new coding system could

evaporate cash flow. Not to mention the additional time it would take for doctors to learn the new codes, which are up to seven digits long — a combination of numbers and letters. Already stumbling under mandates to use electronic health records and document health care quality measures, the medical community was sure that ICD-10 would be the straw that broke their backs.

Sessions listened carefully, a sympathetic and influential ear for doctors.

“He was trying to understand why physicians felt so strongly about this,” said Asa Lockhart, an anesthesiologist from Tyler, Texas and a leader in the Texas Medical Association.

A longtime skeptic of ICD-10, Sessions had led the fight a year earlier that delayed implementation until Oct. 1, 2015.

The Texas Republican, now in his 10th term, had urged doctors to write congressional leaders explaining their plight. Now, he used the late-November gathering to convene a meeting with CMS brass, to find out what help was possible.

On a blustery February day in Washington, amid snow flurries and sub-freezing temperatures, Sessions and his staff met with CMS Deputy Administrator Sean Cavanaugh and Jennifer Boulanger, deputy director of CMS’ legislative affairs. The meeting was kept out of public view until recently, but had a dramatic impact on CMS’ view of ICD-10.

“They took the perspective, which was really big, ‘Whoops, we didn’t know this was a problem,’ ” Sessions recalled. “They were very amenable to working with me, taking my calls, open to feedback.”

Two events in the next few days would signal to Sessions and doctors that they couldn’t rely on another congressional delay of ICD-10 enactment.

The Government Accountability Office released a report the day after Sessions’ meeting with the Medicare officials that concluded CMS had undertaken steps to adequately prepare for the move to ICD-10.

The findings led Senate Finance Committee Chairman Orrin Hatch (R-Utah), who had requested the report, to give his blessing: “CMS has kept the agency on track to

upgrade to the next level of health care coding,” he said. At a House Energy and Commerce Committee hearing the next week, leaders on both sides of the aisle followed suit. Only one of the seven witnesses spoke against the new coding system.

After the hearing, CMS shot down the concept of “dual coding” — simultaneously submitting the older ICD-9 codes and the new ICD-10 codes, a popular alternative being kicked around.

The AMA was busy trying to repeal Medicare’s sustainable growth rate formula, a nagging issue that constantly threatened to cut doctors’ Medicare payments. It wasn’t focusing on ICD-10.

Opponents of the code switch realized they had to try a new tack.

IDEA OF A GRACE PERIOD

It came down to this: ICD-10 implementation had been delayed twice; another delay wasn’t an option. Sessions and his allies knew they needed an alternative that still offered relief to doctors terrified by the move.

They came up with the idea of a grace period — a way for doctors to ease into using the more complex coding system.

“Why don’t we develop a process to protect the physician, to protect the small business?” Sessions asked.

The idea gained steam.

By mid-April, Congress had repealed the SGR, and the AMA could turn its attention to ICD-10 relief.

A “mounting chorus” of concerns about ICD-10 arose at hearings chaired by Reps. Tom Price (R-Ga.) and Andy Harris (R-Md.), both doctors. Industry groups published reports about physicians’ lack of readiness.

Rep. Ted Poe (R-Texas) filed a bill in early May to indefinitely delay the move to ICD-10. Rep. Diane Black (R-Tenn.) introduced legislation later that month calling for an 18-month safe harbor from the denial of codes that were unspecified or inaccurate.

Rep. Gary Palmer (R-Ala.) filed something similar in early June.

“I think all that finally convinced CMS that something needed to be done,” said Jeff Terry, an Alabama urologist who worked with Sessions.

There was a “citizen lobby effort,” as Texas’ Lockhart put it, with everyday doctors writing elected officials about ICD-10.

By mid-June, the AMA’s annual policy-setting meeting in Chicago rolled around, and ICD-10 was the talk of the town. Delegates voted to have the organization lobby for a grace period.

“That was a big deal because now the AMA wasn’t going to Congress saying, ‘Delay!’” said Terry, who sponsored the AMA resolution.

The AMA was involved in conversations “at every rung of the ladder” toward the end of the talks, including with CMS Administrator Andy Slavitt and Deputy Administrator Patrick Conway.

By early July, the building pressure enabled CMS and the AMA to come to terms around a policy that offered plenty of help for doctors.

“We want to make sure the ICD-10 implementation is as successful as possible for everyone and value the feedback we hear from stakeholders whether it’s from those that represent the physician community or members of Congress looking out for their constituents,” Slavitt told POLITICO in a statement. “That’s why we worked closely with the American Medical Association to ease the transition for physicians and created resources that help with the transition.”

WORK REMAINS

The Coalition for ICD-10, which accepted the deal, says it still hopes CMS clarifies what it means when it says it will accept codes in the same “family.” The American Health Information Management Association, a strong proponent of ICD-10, said it first learned of the grace period the morning it was announced.

Sessions, the AMA and other go-slow advocates weren’t declaring total victory. They noted the new policy just covers Medicare claims, which account for about a fifth

of national health spending, and does nothing to help with commercial health plans or Medicaid.

Poe, who wants to indefinitely postpone the switch to ICD-10, called the CMS announcement “a good start, but not a long-term answer.”

“I believe the answer is we don’t have ICD-10,” he said.