Institute on Medicare and Medicaid Payment Issues

March 21-23, 2018 | Baltimore Marriott Waterfront Hotel | Baltimore, MD

Supporting Organization:
Maryland Association of CPAs, Inc.

PYA has provided sponsorship in support of this program.
Planning Committee
Robert L. Roth, Program Co-Chair
Andrew D. Ruskin, Program Co-Chair
Jennifer L. Evans
Susan M. Lyons
Lawrence W. Vernaglia

Learning Objectives
• Regulations and enforcement initiatives related to Medicare and Medicaid reimbursement
• The impact of emerging regulatory trends, recent case law, and legislative developments on health plans and various types of health care providers
• Reimbursement challenges faced by plans and providers

Registration Fees:
Early Registration
Postmarked and paid on or before February 20, 2018
First AHLA/MACPA Member: $890
Each additional AHLA/MACPA Member: $815
Non-Member: $1,140

Registration
Postmarked and paid after February 21, 2018*
First AHLA/MACPA Member: $1,015
Each additional AHLA/MACPA Member: $940
Non-Member: $1,265

* Fees increase $100 after this date

Discounts (cannot be combined)
In-House Counsel and Solo Practitioner: $100 off full applicable rate
AHLA Academician, Government, Public Interest Professional Member: $535
Government/Academician/Public Interest Professional Non-Member: $610
One-Day Attendance AHLA/MACPA Member: $445
One-Day Attendance Non-Member: $570

Practice Group Luncheon(s)
Members of the sponsoring Practice Group(s): $60
Non-Members of the sponsoring Practice Group(s): $70

Exhibitors
DHG Healthcare
GME Solutions, LLC
Government Data Services
Healthcare Payment Specialists LLC
HORNE LLP
Maryland Association of CPAs, Inc.
McKay Consulting Inc.
PYA
If you are interested in exhibiting or sponsorship opportunities at this program, please contact veshleman@healthlawyers.org

Hotel Information
Baltimore Marriott Waterfront Hotel
700 Aliceanna Street
Baltimore, MD
Reservations: (800) 266-9432

Hotel accommodations are not included in the registration fee. AHLA has reserved a block of rooms at the Marriott Waterfront Hotel at a discounted rate of $249. To make reservations, please call the hotel directly at (800) 266-9432. The group rate cutoff is February 20, 2018 and may sell out prior to this date.
**Agenda**

**Tuesday, March 20, 2018**
5:00-7:00 pm
Registration and Information

**Wednesday, March 21, 2018**
7:00 am-5:45 pm
Registration and Information
8:00-10:00 am

A. Fundamentals of Medicare and Medicaid Reimbursement and Compliance (not repeated)
Andrea Treese Berlin
Caroline L. Farrell
Daniel F. Murphy
Rachel Polzin
Jane M. Susott
- History and background of the Medicare and Medicaid Programs encompassing Parts A-D
- Component pieces of the Medicare and Medicaid Programs
- Historical and new payment systems deployed within the Medicare and Medicaid systems
- Key policy and other considerations impacting Medicare and Medicaid payment systems
- Historical building blocks and new payment and policy opportunities for state Medicaid programs
- Oversight and compliance with Medicare and Medicaid fraud and abuse laws

B. The Changing Face of the Medicaid Program: A Review of Recent Trends in State Medicaid Waivers (not repeated)
Leonardo Cuello
Ross D. Margulies

MaryBeth Musumeci
Matt Salo
- The Medicaid waiver process, as well as the current rules and constructs for waiver submissions
- Recent key state waiver requests and CMS approvals
- The implication of recent waiver guidance and waiver approvals for the future of the Medicaid program
- Key policy and legal issues raised in light of recent waiver approvals by CMS, including legal challenges
- How state Medicaid programs are responding—or not responding—to the new waiver flexibility under the Trump Administration

C. A Deep Dive into UC-DSH, Changes to the S-10, and the Effect on Charity Care Policies and IRC 501(r) (not repeated)
Lisa J. Gilden
Christopher L. Keough
Marc C. Lombardi
Deanna Rhodes
Robert L. Roth
- The difference between "Traditional DSH and UC-DSH"
- How UC-DSH payments are calculated
- Operational and compliance issues surrounding the changes to worksheet S-10, including collection of Charity Care and Financial Assistance data
- Operational and compliance issues surrounding Charity Care and Financial Assistance under the IRS Section 501(r) regulations
- UC-DSH litigation update
- Medicare changes to worksheet S-10

**10:00-10:10 am**
Coffee Break, sponsored by PYA

**10:10-10:45 am**

**GENERAL SESSION**

**Welcome and Program Overview**
Marilyn Lamar, AHLA President-Elect
Robert L. Roth, Program Planning Co-Chair
Andrew D. Ruskin, Program Planning Co-Chair

**10:45-11:15**
Overview of Medicaid Issues
Calder Lynch

**11:15-11:50 am**
CMS: The Year Ahead
Kimberly Brandt
- The agency’s burden reduction and regulatory reform efforts
- Updates on CMS investigations, audits and appeals processes
- The agency’s work combating the opioid epidemic

**11:50 am-12:25 pm**

**OIG Update**
Gregory E. Demske

**12:25-1:35 pm**
Lunch on your own or attend the Regulation, Accreditation, and Payment Practice Group and Behavioral Health Task Force Joint Luncheon
Topic: Perspectives from Road to Value-Based Payment
Jeffrey G. Micklos, Executive Director, Health Care Transformation Task Force, Washington, DC

This event is not included in the program registration. Additional fee; limited attendance; pre-registration required.
**Continuing Education Credit Information**

**CLE/MCLE:** AHLA will be applying for 19.7 credits (including 2.0 ethics credit) for 60-minute states and approximately 23.0 credits (including 2.4 ethics credit) for 50-minute states.

**CPE:** AHLA will be applying for 23.0 CPE credits.

AHLA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Ave. North, Suite 700, Nashville, TN 37219-2417. NASBA's website is www.nasba.org.

**CCB:** AHLA will be applying for 23.0 Compliance Certification Board (CCB) credits.

Participants will be given Continuing Education Request forms at the program. Forms must be completed and returned to AHLA staff to receive credit. The sessions, unless otherwise designated, are intermediate to advance in level. This program is designed to be an update on developments in the area of reimbursement and compliance. There are no prerequisites or advanced preparations required to register for this group live program. Those seeking accounting credits should be familiar with the basic concepts and terminology associated with health law in order to obtain the full educational benefit of this program.

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**CONCURRENT SESSIONS**

1:45-3:15 pm Extended Sessions

**D. Year in Review** (not repeated)
Blake Adams
Hilary Isacson
Raj Shah
Claire Turcotte

This session will cover the past year’s most important developments in the areas of reimbursement and compliance. It’s been a significant year at HHS, and the topics to be covered will include:
- CMS 340B drug payment cut
- Site-neutrality payments and impact on off-campus provider-based departments
- Cancellation/changes in Bundled Payment Models: Episode Payment Models (EPMs), Cardiac Rehab and Comprehensive Care for Joint Replacement (CCJR)
- Medicare audit and appeal process
- CMS’ “Primarily Engaged In” hospital standard
- Two Midnight Rule and observation status update

**E. Bending the Cost Curve, but in which Direction—How are Bundled Payments and Value Based Purchasing Programs Working with Respect to Reducing Physicians’ and Acute Care Hospitals’ Costs?** (not repeated)
Mark Faccenda
Joseph Geraci
Gregory Russo

- Current Medicare value-based purchasing initiatives including the Hospital Value-Based Purchasing (HVBP) Program, Hospital Readmission Reduction (HRR) Program, Value Modifier (VM) Program, and Hospital Acquired Conditions (HAC) Program, including HVBP changes for 2017 and 2018
- Current Medicare value-based payment policies for physician services under the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) and its implementing regulations
- Medicare’s Comprehensive Care for Joint Replacement and Bundled Payments for Care Improvement programs including the recently announced Bundled Payments for Care Improvement Advanced
- The stated goals of each of the above programs, and the data that exists and what it shows relative to the efficacy of the programs in reaching their goals
- What to expect in the future based on the programs’ success or lack of success

**F. Hot Topics in Provider Enrollment and Advanced Insights**
Emily W.G. Towey
Jeanne L. Vance

- Conceptual framework and enforcement priority for enrollment matters
- Best practices for maintaining compliance
- Preparing for site visits
- Enrollment for purposes of ordering, certifying or prescribing
- Revocations, deactivations, and appeals
- Revenue cycle management through organizational changes

**G. Hot Topics in Fraud and Abuse**
Karen Schandler Glassman
Robert Kaufman
Laura F. Laemmle-Weidenfeld
Benjamin C. Wei

- Program integrity efforts by CMS
- Administrative enforcement efforts by HHS-OIG
- False Claims Act jurisprudence and enforcement by DOJ
- Criminal health care fraud jurisprudence and enforcement by DOJ

**H. What’s Old Is New Again: The Original Medicare DSH Payment**
Bridgette Kaiser
Stephanie Webster

- The Original DSH Payment
- Update on legal issues
- Medicare Part C days
- Ruling 1498-R2
- Medicaid-eligible days
- Days for acute services generally payable under IPPS
- Jurisdictional challenges
- Implications for other reimbursement
- LIP payment for rehabilitation facilities
- 340B drug pricing
- DSH payment for uncompensated care

**J. Report, Return, (Try not to) Repeat: Overpayments and Self-Disclosures**
Roderick T. Chen
Joseph C. Hudzik
Lisa Ohrin Wilson

- The Original DSH Payment
- Update on legal issues
- Medicare Part C days
- Ruling 1498-R2
- Medicaid-eligible days
- Days for acute services generally payable under IPPS
- Jurisdictional challenges
- Implications for other reimbursement
- LIP payment for rehabilitation facilities
- 340B drug pricing
- DSH payment for uncompensated care
• Understanding and applying the 60-Day Overpayment Rule
• Deciding when, how, and to whom to report noncompliance and overpayments
• Distinctions between the OIG, DOJ, and CMS disclosure protocols and processes
• Trends in disclosure protocol statistics and law enforcement activity arising from self-disclosures

3:30-4:30 pm

K. Introduction to Medical Coding for Payment Lawyers (not repeated)
   Kimberly A. Lammers
   Robert A. Pelaia
• The basics of procedural (CPT) and diagnosis (ICD-10) coding
• General guidance on use of the CPT & ICD coding manuals
• How to conduct research on coding issues
• Common legal/compliance issues based on coding manuals

L. When is a Condition of Payment Material? (not repeated)
   Tarra DeShields
   B. Scott McBride
• Conditions of payment and conditions of participation
• Materiality standard under the False Claims Act
• Recent court decisions applying a materiality standard to payment rules
• Practical approach to materiality assessments

M. Beneficiary Inducement Prohibition: What's New and What's Still True
   Timothy P. Blanchard
   Susan A. Edwards
• Elements of a violation
• Arguments and ambiguities
• Common exceptions
• Common challenging circumstances
• Evaluating exposure

N. Clinical Labs
   Joyce E. Gresko
Few providers groups have faced the types of sweeping changes that are currently facing the clinical laboratory industry. Recent developments affecting laboratories, including the following:

•CMS’ implementation of new Clinical Laboratory Fee Schedule rates under the Protecting Access to Medicare Act (PAMA), based on the third party payer fees reported by laboratories
•Recent reimbursement changes for drugs of abuse and molecular pathology testing
•The status of regulation of laboratory developed tests, and possible legislative alternatives under consideration
•Recent fraud and abuse and compliance developments affecting clinical laboratories

   Marjory Cannon
   Jeneen Iwugo
   Mark D. Polston
• An update on the status of the Two Midnight rule and recent written guidances
• How have providers and the QIOs operationalized the so-called “rare and unusual” exception to the Two Midnight rule which allows for inpatient status without a reasonable expectation of a two-midnight stay?
• What lessons have we learned in our experiences with the QIOs who now implement the Two Midnight rule?
• What are the continuing challenges that revenue cycle, case management and utilization review personnel are seeing with the Two Midnight rule?

P. Understanding the 340B Program and Current Trends
   Sarah Lee
   Barbara Straub Williams
• Statutory requirements of the 340B Program with practical applications to provider settings
• Significance of Medicare policies for 340B, including use of Medicare Cost Report to identify and register 340B eligible sites
• Medicaid duplicate discounts and risk areas, including special considerations for Medicaid Managed Care claims
• Medicaid acquisition cost billing and trends in approved State Plan Amendments
• CMS OPPS rule reducing reimbursement for 340B drugs
• Current legislative efforts that may impact the 340B Program

4:45-5:45 pm

Q. Obamacare Repeal to Entitlement Reform: A Look Back at Medicare and Medicaid Legislative Activity in 2017, and Ahead in 2018 (not repeated)
   Eric Zimmerman
• ACA Repeal and Replace efforts and other relevant legislative activity in 2017
• Possible Medicare and Medicaid reforms and other legislative changes to expect in 2018

R. Current Issues in Medicaid Supplemental Payments and Financing
   Barbara D.A. Eyman
   Charles A. Luband
• Medicaid Disproportionate Share Hospital (DISH) and other Medicaid non-DSH supplemental payments
• Supplemental funding provided through Medicaid managed care systems
• Litigation regarding hospital-specific limits on Medicaid DISH payments
• Medicaid waiver payments, including uncompensated care payments and delivery system reform incentive program payments
• Medicaid financing (IGTs, CPEs, and provider taxes)

S. Advanced Stark Issues
   S. Craig Holden
   David E. Matyas
• Legislative/regulatory developments
• Case law developments
• Voluntary disclosure protocol developments
• Commercial reasonableness issues
• Key issues affecting hospitals and health systems

T. Administrative Enforcement Tools
   Julie Burns
   Laura E. Ellis
   Judith A. Waltz
• Medicare: Billing privileges revocations and denials, enrollment moratoria
• Payment suspensions (recent Medicaid targets as well as Medicare “sweeps”)
• OIG CMPs and Exclusions—finalized rules and new developments
• Medicaid enforcement: CMS-led efforts, reciprocal terminations, enrollment actions
**Membership**

Dues are $235 for those admitted to the Bar/graduated from college within the last four years; $355 for those admitted/graduated between four and seven years ago; and $400 for those admitted/graduated eight or more years ago. Dues are $120 for government employees and full-time academicians; $105 for paralegals, $125 for public interest professionals, and $100 for retired professionals. Include the applicable membership fee with your registration form and take advantage of the program registration fee for members.

**Cancellations/Substitutions**

Cancellations must be received in writing no later than March 9, 2018. Refunds will not be issued for cancellations received after this date. Registration fees, less a $125 administrative fee, will be refunded approximately 3-4 weeks following the program. If you wish to send a substitute or need more information regarding refund, complaint and program cancellation policies, please call (202) 833-1100, prompt #5. Please note that registration fees are based on the AHLA membership status of the individual who actually attends the program.

**U. Provider-Based Status, Under Arrangements, Enrollment, and Related Medicare Requirements**

Andrew D. Ruskin  
Lawrence W. Vernaglia

- Operational Issues faced by entities relating to BBA Section 603 (site neutrality) implementation  
- The recent reimbursement changes for 340B drugs  
- Changes to the reimbursement methodology for non-grandfathered sites  
- Assessment of “mid-build” exception implementation  
- Implications of commingled space in light current CMS policy

**M. Beneficiary Inducement Prohibition: What's New and What's Still True (repeat)**

5:45-7:00 pm

**Networking and Diversity+Inclusion Reception**, hosted by the AHLA Diversity+Inclusion Council, sponsored by PYA

Join AHLA for a Diversity+Inclusion Reception. Learn more about AHLA’s diversity and inclusion initiatives. Network with AHLA leaders and your fellow colleagues. This event is included in the program registration. Attendees, faculty, and registered spouses and guests are welcome.

**Thursday, March 22, 2018**

7:00 am-5:45 pm

**Registration and Information**

7:00-8:15 am

**Continental Breakfast**, sponsored by PYA

This event is included in the program registration. Attendees, faculty, children, and registered spouses and guests welcome.

7:00-8:00 am

**V. Open Door Forum**

Laurence Wilson  
Carol Blackford

**CONCURRENT SESSIONS**

8:15-9:45 am Extended Sessions

**W. The RUG that Doesn’t Really Tie the Room Together? CMS Announces Major Changes to the SNF Prospective Payment System** (not repeated)  
Joe M. Greenman  
Mark E. Reagan

- The background of the SNF PPS payment methodology and the current Resource Utilization Groups, Version 4 (RUG-IV) for paying SNFs per diem rates for resident services  
- New proposed Resident Classification System (RCS-1)  
- Proposed new RCS-1 case-mix components, underlying assessment criteria for each that will affect individual resident reimbursement level determinations, and additional resident data sources used by CMS to produce resident reimbursement  
- How RCS-1 will impact health care fraud and abuse laws such as the False Claims Act  
- Predicted differences between RUGs and RCS-1, assessing how SNF Medicare payments might change based on residents with varying care needs  
- Anticipated impact of reimbursement changes on SNF models of operation, including SNF services provided by vendors under contract with providers

**X. Medicare Claims Appeals–Soup to Nuts** (not repeated)  
Amanda Axeen  
Richelle D. Marting  
Andrew B. Wachler

- Five appeal levels; five sets of rules  
- Procedural fundamentals (RAC, ZPIC, MAC, SMRC, OIG audits, deadlines, content of appeal petitions, evidence, stay of recoupment, obtaining statistical information from auditors, providing evidence missing from record, contractors and CMS as “participants/parties,” AdQIC referral letters to Medicare Appeals Council (MAC), etc.)

- Advanced substantive defenses (statistical sampling, medical necessity, provider without fault, waiver of liability, good cause re-openings for fraud or recently discovered material evidence, dealing with contractor and CMS participation in hearings, federal court challenges, remands, settlement with DOJ, etc.)
• Dealing with OMHA and AC backlogs, overview of reforms
• Practical tips for special problems (initiating post-ruling “effectuation recalculations,” “Section 935 Interest,” extended repayment plans, repetitive denials, parallel proceedings, getting help from CMS on contractor problems, pre-hearing briefs and conferences, packaging the evidence, dealing with ALJ “neutral” experts, etc.)
• Impact of revocation regulations and 60-day overpayment rule

Y. Medical Necessity–What It Means and 2018 Update
Denise J. Hall-Gaulin
Michael Spake
• Medical necessity–what it means and what it affects
• 2018 Update on CMS medical necessity determinations and new initiatives
• Detail regarding the types of medical necessity determinations and the criteria for determining medical necessity
• Admission criteria to include the Skilled Nursing Facilities (SNFs) and Inpatient Rehabilitation Facilities (IRFs), as well as the use of Advanced Beneficiary Notification (ABN) and Hospital Issued Notice of Non-Coverage (HINN), including the outcomes and penalties for not using ABNs or HINNs

Z. Hospital Inpatient PPS Update
Marc Hartstein
Alyssa Keefe
• FFY 2018 IPPS Final Rule and a look ahead to FFY 2019
• FFY 2018 final payment and policy changes
• Changes to operating and capital rates, Market Basket update, ACA adjustments, etc.
• Status of hospital specific adjustments including low volume, Medicare Dependent Hospital and updates on the Medicare DSH Uncompensated Care Methodology (Use of Worksheet S-10)
• Changes to the Medicare and Medicaid EHR incentive programs, Hospital Value Based Purchasing, Readmissions Reduction Program and the Hospital Acquired Conditions Payment Penalty program

G. Hot Topics in Fraud and Abuse (repeat)

J. Report, Return, (Try not to) Repeat: Overpayments and Self-Disclosures (repeat)

10:00-11:00 am
AA. PRRB Appeals–The View from the Board Chair (not repeated)
L. Sue Andersen
• Introduction of Board members
• Board decisions
• Jurisdiction
• Hearings
• Case inventory
• Board initiatives
• Electronic case tracking and filing
• Evaluation of decision process
• Observations from the Board

BB. Best in Show: A Presentation on CHOWs (Changes of Ownership)—A Unique Breed (not repeated)
Jan Lundelius
Nesrin G. Tift
• CHOW situations and non-CHOWs
• Menu options: Two-course and half-course selections
• Hypothetical transactions
• Benefits and burdens of accepting vs. rejecting automatic assignment of Medicare provider agreement
• Successor liability vs. revenue gaps
• Reimbursement impacts
• Caution: Can’t have your cake and eat it too
• CHOWs and the site neutrality rules

CC. Enforcing State Medicaid Entitlement (Section 1902)
Thomas R. Barker
Sara Rosenbaum
• State Medicaid plans “must” comply with 83 separate requirements set forth in the Social Security Act
• State plans must make medical assistance available “with reasonable promptness”
• Benefits must be available in the same “amount, duration, and scope” to all Medicaid beneficiaries
• Benefits must be available “statewide”
• Payments must be “sufficient to enlist enough providers”

• But what if a state fails to comply with any of these requirements? What rights might an aggrieved beneficiary or provider have if a state violates these requirements?
• Over the past 28 years, the federal courts have gradually cut back on the ability to challenge state failures to comply with Medicaid program requirements. Some lower courts have recently concluded that the Medicaid entitlement and these 83 separate requirements simply may not be redressed via the federal court system
• The 28-year long saga of judicial enforcement of the Medicaid entitlement. Speakers will address relevant judicial opinions and the CMS response to those opinions, with an update on recent lower court opinions

DD. 2017 Home Health and Hospice Update
Jason E. Bring
William A. Dombi
• Medicare home health and hospice payment changes
• Face-to-face physician encounters
• Value-based purchasing and home health
• Pre-payment review
• Conditions of participation
• Hospice cap update


P. Understanding the 340B Program and Current Trends (repeat)

11:15 am-12:15 pm
EE. Primer on Researching Medicare, Medicaid, and ACA Issues: Sources and Techniques (not repeated)
Mimi H. Brouillette
Jessica Talati
• Strategies for developing a research plan and tips for effectively and efficiently conducting research
• Key primary and secondary sources for researching Medicare, Medicaid, and ACA eligibility and payment issues
• Research tips for avoiding pitfalls
• Real-life examples
FF. Medicare Advantage: Key Issues and Recent Developments (not repeated)
Anthony H. Choe
Mark E. Hamelburg
• Expansion and evolution of the program
• CMS policy updates (e.g., rulemaking, draft rate notice and call letter, other guidance)
• Plan-provider trends (e.g., reimbursement, contracting)
• CMS oversight
• Potential for further changes

GG. Medicaid Fraud and Abuse Enforcement Update
Josh Lichtblau (invited)
Jack Wenik
• Recent developments in Medicaid fraud enforcement at the state level
• Issues of emphasis for home health, adult day care, and the screening of Medicaid providers
• The government and defense perspectives for addressing state Medicaid fraud and abuse investigations
• Strategies for compliance to prepare for enforcement activities

HH. It Don’t Mean a Thing if It Ain’t Got Jurisdiction: Jurisdictional Principles and Issues for Appeals Before the PRRB and Federal Courts
Jocelyn Beer
Kenneth R. Marcus
• Requirements for PRRB jurisdiction
• Requirements for federal court jurisdiction
• Update on legal developments
• Recurring jurisdiction issues

T. Administrative Enforcement Tools (repeat)

CC. Enforcing State Medicaid Entitlement (Section 1902) (repeat)

12:15-1:35 pm
Lunch on your own

1:45-2:45 pm
JJ. Value-Based Contracting: Challenges and Opportunities (not repeated)
Christine M. Clements
Lisa A. Hathaway
• Value-based contracting—farewell to fee-for-service or just a fad?
• Are state and federal regulatory frameworks ready for VBC?
• Impact of network adequacy requirements, tiered networks, and Medicare opt-outs
• New programs and proposed changes that suggest the opportunities are real

KK. Medicaid: The Largest Coverage Source in the United States (not repeated)
Jennifer L. Evans
Craig H. Smith
• The evolution of Medicaid and key program components
• Medicaid expansion: Is your state in or out?
• Innovative state approaches to reforming Medicaid
• Federal and state Medicaid Program Integrity efforts
• Representing clients facing Medicaid program recoupments and sanctions

LL. Legal Ethics: It’s a Jungle Out There: The Collision between Social Media and Professional Responsibility
Andrew Demetriou
• Issues of competence in the use of social media
• Ethical problems and unintended consequences from the use of social media by lawyers, including client confidentiality, advertising and solicitation, communication with represented parties and conflicts of interest
• Lawyer “rating services” and ethical issues concerning the use of ratings for self-promotion
• Concerns about internet-based referral services, such as Legal Zoom, Rocket Lawyer and AVVO
MM. Medicare Litigation Update
Sven C. Collins
Andrew Tsui

- Past year’s significant Medicare reimbursement decisions issued by the federal courts as well as review of the relevant agency decisions at issue
- Jurisdiction; the administrative record; substantive and procedural challenges (e.g., notice and opportunity to comment, contrary to law, and arbitrary and capricious); and remedies (e.g., remand orders and injunctions)
- Potential areas of future Medicare litigation implicated by the past years developments
- Practical examples of how courts and the agency have addressed the full spectrum of issues that might be applicable in Medicare litigation, thus giving attendees a strategic toolkit to evaluate the strengths and weaknesses of future reimbursement issues of all kinds

N. Clinical Labs

U. Provider-Based Status, Under Arrangements, Enrollment, and Related Medicare Requirements

3:00-4:00 pm

NN. Legal Ethics–Internal Investigations and Multiple Party Representations
Michael H. Cook

- A hypothetical situation in which an outside firm undertakes an internal investigation for one of its large clients and other officers of the client, where it also had previously represented both the company and its corporate officers, and the situation quickly spirals out of control
- Considerations in whether the firm should accept the engagement in the first place, conducting the investigation itself, reporting to the client, terminating the representation, and joint defense agreements, and the ethical issues that arise
- Representing multiple clients, loyalty to current clients, the duty of competence, personal interests, loyalty to past clients, waiver of conflicts, questioning the client, including the Upjohn Warning, the attorney client privilege, and obstruction of an internal investigation
- Real cases where these issues arose and provide guidance on avoiding these pitfalls

OO. The 2018 OPPS Update
Valerie Rinkle

- Annual financial updates
- The 340B payment reduction and modifiers
- Laboratory Date of Service Change for Outpatient Molecular Pathology and ADLTs
- Packaging of Drug Administration Services
- Impact of monthly billing on payment for radiology and chemotherapy services

PP. The Medicare Wage Index–New Adventures and Added Complexities
Daniel J. Hettich
Michael Polito

- Medicare wage index including why it is important and an overview of reclassification options
- Wage data reporting: Common audit focuses and areas of difficulty; best practices, and enforcement
- New developments in wage index reclassifications including effect of urban to rural reclassifications, mergers, and changes affecting deadlines and timing
- Looking towards the future: What the data suggests trends will be for 2019 and various reform proposals

QQ. Medicaid Litigation Update
Alan S. Dorn
Felicia Y. Sze

- Alternates theories of private actions to challenge State rate decisions and CMS approvals post-Armstrong
- Level of deference owed to State decisions and CMS approvals
- Challenges to CMS policy on determination of DSH hospital-specific limits

RR. PRRB Appeals: Current Challenges
Christine M. Blowers
Leslie Demaree Goldsmith
Lisa Ogilvie-Barr
Linda D. Uzzle

- Jurisdictional, procedural, and case management concerns
- Avoiding pitfalls and applying best practices before the Board
- Emerging trends

SS. Latest Policy and Regulatory Changes to the Medicare Appeals Process
Nancy J. Griswold
Erin Diesel Roumayah

- Significant reforms to the Medicare appeals process, including recent HHS rulemaking aimed at reducing the backlog of pending appeals and encouraging resolution of cases earlier in the appeals process
- Key OMHA initiatives taking place at the ALJ appeal level, including the new Statistical Sampling Initiative, expansions to the Settlement Conference Facilitation program, and Low Volume Appeals Settlement
- The impact these new regulations and OMHA initiatives will have on providers’ Medicare audit appeals
- Strategic approaches and practical tips to consider and implement when appealing overpayment demands and claim denials through the changing Medicare appeals process
- The interplay between audits, provider enrollment, and False Claims Act liability in today’s legal landscape

TT. Graduate Medical Education Finance: Medicare Regulations and Policy Considerations
Tim Johnson
Lori K. Minalich-Levin

- Payment for medical education
- Proposals to restructure Medicare GME payments
- New programs and CMS restrictions
- Litigation/compliance issues
H. What’s Old Is New Again: The Original Medicare DSH Payment
(repeat)

F. Hot Topics in Provider Enrollment and Advanced Insights
(repeat)

5:45-6:45 pm
Networking Reception, sponsored by PYA
This event is included in the program registration. Attendees, faculty, children, and registered spouses and guests welcome.

Friday, March 23, 2018
7:00 am-1:00 pm
Registration and Information
7:00-8:00 am
Continental Breakfast, sponsored by PYA
This event is included in the program registration. Attendees, faculty, children and registered spouses and guests welcome.

7:00-7:50 am
Networking Breakfast, hosted by the Women’s Leadership Council
This event is included in the program registration. Attendees and faculty welcome; limited attendance; pre-registration required.

CONCURRENT SESSIONS

8:00-9:30 am Extended Sessions
UU. Emerging and Innovative Rural Care Delivery and Payment Models (not repeated)
Carol Blackford
Emily J. Cook
Paul Moore
• Traditional rural provider types and reimbursement methodologies and recent updates/changes to rural provider payments
• Why rural providers and the policies that apply to them have implications for a broader audience
• Regulatory issues as they relate to rural health care providers
• New emerging and innovative care delivery and payment models taking place in rural communities

V. Risk Adjustment Coding and Clinical Documentation Improvement Programs for Medicare Advantage and MACRA Quality and Cost Performance Measures (not repeated)
Ellis “Mac” Knight
R. Barrett Richards
• The risk adjustment methodology used by Medicare Advantage plans and MACRA
• How to set up a compliant clinical documentation program in the ambulatory space around risk adjustment coding
• Physicians and other providers in a compliant fashion around ambulatory CDI activities

VV. Risk Adjustment Coding and Clinical Documentation Improvement Programs for Medicare Advantage and MACRA Quality and Cost Performance Measures (not repeated)
Ellis “Mac” Knight
R. Barrett Richards
• The risk adjustment methodology used by Medicare Advantage plans and MACRA
• How to set up a compliant clinical documentation program in the ambulatory space around risk adjustment coding
• Physicians and other providers in a compliant fashion around ambulatory CDI activities

Y. Medical Necessity—What It Means and 2018 Update (repeat)
Z. Hospital Inpatient PPS Update (repeat)
SS. Latest Policy and Regulatory Changes to the Medicare Appeals Process (repeat)
TT. Graduate Medical Education Finance: Medicare Regulations and Policy Considerations (repeat)

9:45-10:45 am
WW. What’s New and Now in Part B: Updates to the Medicare Physician Fee Schedule and Quality Payment Program (not repeated)
David W. Hilgers
Kristen McDermott Woodrum
• Implications of the Final Physician Fee Schedule for 2018 and anticipated changes for 2019
• The fundamental elements of calculation of physician reimbursement
• Quality Payment Program updates and MACRA amendments in the Bipartisan Budget Act of 2018
• Other new developments in and operational realities of the MPFS

R. Current Issues in Medicaid Supplemental Payments and Financing (repeat)
GG. Medicaid Fraud and Abuse Enforcement Update (repeat)
LL. Legal Ethics: It’s a Jungle Out There: The Collision between Social Media and Professional Responsibility (repeat)
MM. Medicare Litigation Update (repeat)
PP. The Medicare Wage Index—New Adventures and Added Complexities (repeat)

11:00-11:30 am
XX. Diagnostic Imaging Services
Thomas W. Greeson
• The latest in the “slow walk” by CMS toward mandating that physicians consult clinical decision support mechanisms (CDSMs) to determine appropriateness when ordering advanced diagnostic imaging studies for Medicare patients
• Low dose lung cancer screening payments and the ongoing confusion from CMS and the MACs on whether IDTFs can perform these services
• Impact and likelihood of becoming more widespread of Anthem’s announcement that it will no longer pay for advanced imaging services in hospital-based facilities
• Compliance issues relating to proper supervision of diagnostic tests and use of mid-level physician extenders (Physician Assistants, Nurse Practitioners, and Radiologist Assistants)
• Value-based imaging services and MACRA implementation—requiring more IT and administrative capability—driving radiology group practice integration/merger activity

YY. Long Term Care Hospitals FY 2018 Final Rule-Update
Stephen M. Sullivan
• Information practitioners need to know regarding LTCH payment in FY 2018
• New LTCH payment criteria, site neutral payments, and quality reporting for 2018
• Med Pac Report to Congress on LTCH transition to Post Acute Care-Bundled Payment and Congressional response to date
• LTCH industry concerns and initiatives
ZZ. Ensuring the Legal Rights of Children under the Medicaid Early and Periodic Screening, Diagnostic, and Treatment Benefit
Wayne Turner

- What is EPSDT?
- How does it differ from Medicaid for adults?
- What have courts said about EPSDT over the years?
- What are the current legal issues that courts are reviewing?

AAA. Mental Health and Addiction Treatment: What Is Changing?
Scott Dziengelski

BBB. Responding to Audits and Investigations: Implementation of Legal and Compliance Functions
Kathy Ghiladi
Sheila Henson

- Preparation from both a proactive and reactive perspective
- Steps to take during the course of the audit/investigation
- Resolution/potential adverse outcomes and consequences

11:45 am-12:15 pm CCC. Secondary Campus
David M. Johnston

- Bipartisan Budget Act impact on non-grandfathered off-campus provider-based departments
- Potential solutions for acquiring OPPS reimbursement following the Bipartisan Budget Act—remote locations, i.e., second campuses
- 250 yard rule of a remote location rule
- Provider-based compliance
- Application of the “primarily engaged in” standard for hospitals under the CMS definition
- Enrollment, accreditation, and survey issues with opening a remote location (life safety code, state licensure, etc.)
- Successor liability
- Multiple surveys
- Timing and billing
- CHOW rules of the Bipartisan Budget Act and preclusion of “cherry-picking”
- Potential issues with non-IPPS second campuses
- Potential issues with JVs opening second campuses, use of a JV for the second campus

XX. Diagnostic Imaging Services (repeat)

YY. Long Term Care Hospitals FY 2018 Final Rule-Update (repeat)


12:30-1:00 pm

ZZ. Ensuring the Legal Rights of Children under the Medicaid Early and Periodic Screening, Diagnostic, and Treatment Benefit (repeat)

BBB. Responding to Audits and Investigations: Implementation of Legal and Compliance Functions (repeat)

CCC. Secondary Campus (repeat)

Adjournment

Live Tweet the Program Using #AHLA18
Will you be in Baltimore for the Institute on Medicare and Medicaid Payment Issues? We encourage you to live tweet @healthlawyers so that attendees can learn from more than one session at once, and so that members unable to attend still feel plugged in.
## Program Schedule

### Tuesday, March 20, 2018

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>5:00-7:00 pm</td>
<td>Registration and Information</td>
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### Wednesday, March 21, 2018

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>7:00 am-5:45 pm</td>
<td>Registration and Information</td>
</tr>
</tbody>
</table>
| 8:00-10:00 am | A. Fundamentals of Medicare and Medicaid Reimbursement and Compliance (not repeated) Berlin Farrell Murphy Polzin Susott  
C. A Deep Dive into UC-DSH, Changes to the S-10, and the Effect on Charity Care Policies and IRC 501(r) (not repeated) Gilden Keough Lombardi Rhodes Roth  |
| 10:00-10:10 am | Coffee Break, sponsored by PYA            |
| 10:10 am-12:25 pm | GENERAL SESSION                          |
| 10:10-10:45 am | Welcome and Program Overview             Lamar, Roth, Ruskin  
10:45-11:15 | Overview of Medicaid Issues              Lynch  
11:15-11:50 am | CMS: The Year Ahead                     Brandt  
11:50 am-12:25 pm | OIG Update                               Demske  |
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
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</table>
| 12:25-1:35 pm| Lunch on your own or attend the Regulation, Accreditation, and Payment Practice Group and Behavioral Health Task Force Joint Luncheon Topic: Perspectives from Road to Value-Based Payment  
(This event is not included in the program registration. Additional fee; limited attendance; pre-registration required) |
| 1:45-3:15 pm | D. Year in Review  (not repeated)  
Adams  
Isacson  
Shah  
Turcotte  
E. Bending the Cost Curve, but in which Direction—How are Bundled Payments and Value Based Purchasing Programs Working with Respect to Reducing Physicians’ and Acute Care Hospitals’ Costs?  (not repeated)  
Facenda  
Geraci  
Russo  
F. Hot Topics in Provider Enrollment and Advanced Insights  
Tovey  
Vance  
G. Hot Topics in Fraud and Abuse  
Glassman  
Kaufman  
Laemmle-Weidenfeld  
Wei  
H. What’s Old Is New Again: The Original Medicare DSH Payment  
Kaiser  
Webster  
J. Report, Return, (Try not to) Repeat: Overpayments and Self-Disclosures  
Chen  
Hudzik  
L. O. Wilson |
| 3:30-4:30 pm | K. Introduction to Medical Coding for Payment Lawyers  (not repeated)  
Lammers  
Pelaia  
L. When is a Condition of Payment Material?  (not repeated)  
DeShields  
McBride  
M. Beneficiary Inducement Prohibition: What’s New and What’s Still True  
Blanchard  
Edwards  
N. Clinical Labs  
Gresko  
Cannon  
Iwugo  
Polston  
P. Understanding the 340B Program and Current Trends  
Lee  
Williams |
| 4:45-5:45 pm | Q. Obamacare Repeal to Entitlement Reform: A Look Back at Medicare and Medicaid Legislative Activity in 2017, and Ahead in 2018  (not repeated)  
Zimmerman  
R. Current Issues in Medicaid Supplemental Payments and Financing  
Eyman  
Luband  
S. Advanced Stark Issues  
Holden  
Matyas  
T. Administrative Enforcement Tools  
Burns  
Ellis  
Waltz  
U. Provider-Based Status, Under Arrangements, Enrollment, and Related Medicare Requirements  
Ruskin  
Vernaglia  
M. Beneficiary Inducement Prohibition: What’s New and What’s Still True  (repeat)  
Blanchard  
Edwards |
| 5:45-7:00 pm | Networking and Diversity+Inclusion Reception, hosted by the AHLA Diversity+Inclusion Council, sponsored by PYA  
(This event is included in the program registration. Attendees, faculty, children, and registered spouses and guests welcome) |
### Thursday, March 22, 2018

#### 7:00 am-5:45 pm

**Registration and Information**

#### 7:00-8:15 am

**Continental Breakfast, sponsored by PYA**

(This event is included in the program registration. Attendees, faculty, children, and registered spouses and guests welcome)

#### 7:00-8:00 am

**V. Open Door Forum**

L. Wilson, Blackford

#### 8:15-9:45 am Extended Sessions

<table>
<thead>
<tr>
<th>Session</th>
<th>Topic</th>
<th>Speakers</th>
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<tbody>
<tr>
<td>W.</td>
<td>The RUG that Doesn't Really Tie the Room Together? CMS Announces Major Changes to the SNF Prospective Payment System (not repeated)</td>
<td>Greenman, Reagan</td>
</tr>
<tr>
<td>X.</td>
<td>Medicare Claims Appeals—Soup to Nuts (not repeated)</td>
<td>Axeen, Marting, Wachler</td>
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<tr>
<td>Y.</td>
<td>Medical Necessity—What It Means and 2018 Update</td>
<td>Hall-Gaulin, Spake</td>
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<td>Z.</td>
<td>Hospital Inpatient PPS Update</td>
<td>Hartstein, Keefe</td>
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<tr>
<td>G.</td>
<td>Hot Topics in Fraud and Abuse (repeat)</td>
<td>Glassman, Kaufman, Laemmle-Weidenfeld, Wei</td>
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<tr>
<td>J.</td>
<td>Report, Return, (Try not to) Repeat: Overpayments and Self-Disclosures (repeat)</td>
<td>Chen, Hudzik, L. O. Wilson</td>
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#### 10:00-11:00 am

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<thead>
<tr>
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<th>Topic</th>
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<tbody>
<tr>
<td>AA.</td>
<td>PRRB Appeals—The View from the Board Chair (not repeated)</td>
<td>Andersen</td>
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<tr>
<td>BB.</td>
<td>Best in Show: A Presentation on CHOWs (Changes of Ownership)—A Unique Breed (not repeated)</td>
<td>Lundelius, Tift</td>
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<tr>
<td>CC.</td>
<td>Enforcing State Medicaid Entitlement (Section 1902)</td>
<td>Barker, Rosenbaum</td>
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<tr>
<td>DD.</td>
<td>2017 Home Health and Hospice Update</td>
<td>Bring, Dombi</td>
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<tr>
<td>P.</td>
<td>Understanding the 340B Program and Current Trends (repeat)</td>
<td>Lee, Williams</td>
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</table>

#### 11:15 am-12:15 pm

<table>
<thead>
<tr>
<th>Session</th>
<th>Topic</th>
<th>Speakers</th>
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<tbody>
<tr>
<td>EE.</td>
<td>Primer on Researching Medicare, Medicaid, and ACA Issues: Sources and Techniques (not repeated)</td>
<td>Brouillette, Talati</td>
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<tr>
<td>FF.</td>
<td>Medicare Advantage: Key Issues and Recent Developments (not repeated)</td>
<td>Choe, Hamelburg</td>
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<tr>
<td>GG.</td>
<td>Medicaid Fraud and Abuse Enforcement Update</td>
<td>Lichtblau (invited), Wenik</td>
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<tr>
<td>HH.</td>
<td>It Don't Mean a Thing if It Ain't Got Jurisdiction: Jurisdictional Principles And Issues For Appeals Before The PRRB And Federal Courts</td>
<td>Beer, Marcus</td>
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<tr>
<td>T.</td>
<td>Administrative Enforcement Tools (repeat)</td>
<td>Burns, Ellis, Waltz</td>
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<td>CC.</td>
<td>Enforcing State Medicaid Entitlement (section 1902) (repeat)</td>
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<td>12:15-1:35 pm</td>
<td>Lunch on your own</td>
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<td>1:45-2:45 pm</td>
<td>J.J. Value-Based Contracting: Challenges and Opportunities (not repeated)</td>
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<td>KK. Medicaid: The Largest Coverage Source in the United States (not repeated)</td>
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<td>LL. Legal Ethics: It's a Jungle Out There: The Collision between Social Media and Professional Responsibility</td>
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<td>N. Clinical Labs (repeat)</td>
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<td>U. Provider-Based Status, Under Arrangements, Enrollment, and Related Medicare Requirements (repeat)</td>
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<td>Clements Hathaway</td>
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<td>Ruskin Vernaglia</td>
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<td>3:00-4:00 pm</td>
<td>NN. Legal Ethics–Internal Investigations and Multiple Party Representations (not repeated)</td>
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<td>OO. The 2018 OPPS Update (not repeated)</td>
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<td>PP. The Medicare Wage Index–New Adventures and Added Complexities (repeat)</td>
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<td>4:15-5:45 pm</td>
<td>QQ. Medicaid Litigation Update (not repeated)</td>
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<td>RR. PRRB Appeals: Current Challenges (not repeated)</td>
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<td>Vance</td>
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<td>5:45-6:45 pm</td>
<td>Networking Reception, sponsored by PYA</td>
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<td>(This event is included in the program registration. Attendees, faculty, children, and registered spouses and guests welcome)</td>
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<tr>
<td>7:00 am-1:00 pm</td>
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<tr>
<td>7:00-7:50 am</td>
<td>Networking Breakfast, hosted by the Women’s Leadership Council</td>
<td>(Event is included in the program registration. Attendees and faculty welcome; limited attendance; pre-registration required)</td>
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<tr>
<td>8:00-9:30 am</td>
<td>Extended Sessions</td>
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<tr>
<td>UU. Emerging and Innovative Rural Care Delivery and Payment Models (not repeated)</td>
<td>Blackford, E. Cook, Moore</td>
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<tr>
<td>VV. Risk Adjustment Coding and Clinical Documentation Improvement Programs for Medicare Advantage and MACRA Quality and Cost Performance Measures (not repeated)</td>
<td>Knight, Richards, Hall-Gaulin, Speake, Hartstein, Keefe, Griswold, Roumayah, Johnson, Mihalich-Levin</td>
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<td>WW. What’s New and Now in Part B: Updates to the Medicare Physician Fee Schedule and Quality Payment Program (not repeated)</td>
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### Friday, March 23, 2018 continued

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<td>Henson</td>
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<td>11:45 am-12:15 pm</td>
<td>CCC. Secondary Campus</td>
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<td>12:30-1:00 pm</td>
<td>ZZ. Ensuring the Legal Rights of Children under the Medicaid Early and Periodic Screening, Diagnostic, and Treatment Benefit (repeat)</td>
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<td>CCC. Secondary Campus (repeat)</td>
<td>Johnston</td>
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**DOWNLOAD THE AHLA APP!**

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The App will include the agenda, attendee list, and access to the PowerPoint presentations.
Faculty

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Hooper Lundy & Bookman PC
Washington, DC

Andrew D. Ruskin, Program Co-Chair
Morgan Lewis & Bockius LLP
Washington, DC

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Foley Hoag LLP
Washington, DC

Jennifer L. Evans
Polsinelli PC
Denver, CO

Susan Maxson Lyons
Office of the General Counsel, US Department of Health and Human Services
Washington, DC

Lawrence W. Vernaglia
Foley & Lardner LLP
Boston, MA

Christine M. Blowers
Director
Division of Systems & Case Management
Centers for Medicare and Medicaid Services
Windsor Mill, MD

Kimberly Brandt
Chief Oversight Counsel
US Senate Finance Committee
Washington, DC

Jason E. Bring
Arnall Golden Gregory LLP
Atlanta, GA

Mimi H. Brouillette
Squire Patton Boggs
Denver, CO

Julie Burns
Office of the General Counsel, CMS Division
US Department of Health and Human Services
Baltimore, MD

Marjory Cannon
Medical Officer, Division of Beneficiary Healthcare Improvement and Safety
Quality Improvement and Innovation Group
Center for Clinical Standards and Quality
Centers for Medicare and Medicaid Services
Baltimore, MD

Roderick T. Chen
Vice President and Deputy General Counsel
MedStar Health
Columbia, MD

Anthony H. Choe
Polsinelli PC
Washington, DC

Christine M. Clements
Crowell & Moring LLP
Washington, DC

Sven C. Collins
Squire Patton Boggs
Denver, CO

Emily J. Cook
McDermott Will & Emery LLP
Los Angeles, CA

Michael H. Cook
Liles Parker PLLC
Washington, DC

Leonardo Cuello
Director, Health Policy
National Health Law Program
Washington, DC

Andrew Demetriou
Lamb & Kawakami LLP
Los Angeles, CA

Blake Adams
Phelps Dunbar LLP
 Tupelo, MS

L. Sue Andersen
PRRB Chairperson
CMS Office of Hearings
Windsor Mill, MD

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