Congress Returns to Washington
Congress returned to session this week and has a stack of legislative work that must be deliberated during the winter and spring. Perhaps the most pressing of these matters is figuring out how to deal with the unsettled tax law that needs resolution by May 22.

As part of the budget deal that funded the federal government for fiscal year 2020, Congress delayed decisions on some of the health care issues that have vexed them for years. Of particular note, the Disproportionate Share Hospital payments cuts that were supposed to go into effect for FY 2020 pursuant to the Affordable Care Act were delayed by the budget bill until May 22, 2020. This means that Congress now has a few months to either come up with a permanent solution to this problem or allow it to be folded into a larger package of tax code provisions that must be extended on an annual basis. While it's more than likely that there will be a so-called "tax extenders" bill passed sometime before Memorial Day, both the House Ways and Means and the Senate Finance Committees are speaking in hushed terms about proposals to fix the DSH cut quandary permanently.

This forthcoming tax extenders bill may also present opportunities to advance legislation on new models of care for rural hospitals, either through the KHA-endorsed Rural Emergency Medical Center Act, or the yet-to-be-reintroduced Rural Emergency Acute Care Hospital Act. In addition, if action is necessary on the Medicaid Fiscal Accountability Rule or state-based provider taxes, the tax extenders bill may provide a platform for such concerns since they will be germane to the underlying bill.

Another matter that requires Congressional action is surprise billing legislation. In early December, Congress seemed prepared to pass a bill that was not supported by the provider community. This bill drafters' idea was to allow for arbitration only in cases where the medical bill topped $750; otherwise, these bills would be paid at a default price based on in-network insurance charges in the same region. This so-called deal was a win for the insurance industry since they could go ahead and set reimbursement rates for various procedures under $750 and then not actually contract with providers to cover such procedures for their beneficiaries. It would have created a massive deflationary effect and a profound economic disincentive for providers to actually provide certain types of care that would be ripe for this type of abuse. When the deal was announced, hospitals and health care providers got involved and succeeded in scuttling this bill, asking lawmakers to go back to the drawing board in 2020.
In regards to new models of care, the Center for Medicare & Medicaid Innovation appears to have concluded drafting its rural hospital pilot program. According to many reports from those close to the process, Kansas' requests for new model allowances was taken into account. However, the Office of Management and Budget must approve the program in its entirety. As of now, it remains under review. While we have not received a firm date for its release, we continue to work with our partners in Congress and in the administration in anticipation of it going live sometime early in 2020.