

April 16, 2010

IN THIS REPORT...

1. President Signs Extension of Medicare SGR Patch
2. HIT Provision Included in Payment Extension Bill
3. AAFP Calls on Congress to Hike Spending on Key HHS Programs
4. Health Reform Regulatory Update:
 - Payment Rates for Medicare Advantage Plans
 - Meaningful Differences in Medicare Health Plans
 - Health Plans' Premium Increases and Medical Loss Ratios
5. Maryland Implements Medical Home, Limits NP Practice
6. Oregon Declines to Give Psychologists Prescriptive Authority
7. States Tackle Health Care Costs and Restrictions

NEXT WEEK IN WASHINGTON...

- * On Tuesday, April 20, the Senate Health, Education, Labor and Pensions Committee will hold a hearing on unjustified insurance premiums.
- * On Wednesday, April 21, the House Appropriations Subcommittee on Labor, HHS and Education will hold a hearing on the funding for these agencies' programs. Secretary Sebelius is scheduled to testify.
- * On Thursday, April 22, the Senate Special Committee on Aging will hold a hearing on broadband and Health Information Technology.
- * Also on Thursday, the House Energy and Commerce Subcommittee on Health will hold a hearing on the Environment and Human Health: The Role of HHS.

1. LAWMAKERS COMPLETE ACTION ON A PHYSICIAN RATE EXTENSION

After a week of debate, on Thursday, April 15, a bill to extend Medicare payments to physicians cleared the Senate, the House and was signed by the President. The Senate had spent the entire week haggling over a delayed program extension bill, the *Continuing Extension Act* (HR 4851), that extended the physician payment rate only into next month. The 21-percent decrease in physician payment technically had begun on April 1 and the original measure had extended the period only until April 30. A Senate substitute amendment adjusted the extension to May 31. Senators adopted the revised measure on Thursday evening by a vote of 59-38, with Senators George Voinovich (R-OH), Olympia Snowe (R-ME) and Susan Collins (R-ME) joining 56 Democrats in voting for the bill. The House approved the bill two hours later. The vote was 289-112 with 49 Republicans voting in favor and one Democrat voting against. The President signed the bill late Thursday evening.

A separate, longer-term extension bill *American Workers, State, and Business Relief Act* (HR 4813), which would continue the current SGR payment rate until September 30, has been approved by both chambers but in different forms and awaits a bicameral conference or

leadership agreement on a final version. The cost of extending relief from the physician rate scheme for one month is pegged at over \$2 billion.

2. PAYMENT EXTENSION BILL INCLUDES INFORMATION TECHNOLOGY PROVISION

The legislation extending the Medicare physician payment rate to May 31 includes a provision that amends the prohibition against incentive payments to hospital-based eligible professionals for use of certified electronic health record (EHR) technology. Essentially, the amendment clarifies a confusing section of the recovery act so that it is clear physicians in outpatient settings can receive these funds.

3. AAFP SUBMITS FY 2011 APPROPRIATIONS PRIORITIES TO CONGRESS

On Monday, April 12, the AAFP submitted written testimony to the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education calling for increased appropriations for Title VII, other key Health Resources and Services Administration programs, and the Agency for Healthcare Research and Quality. Similar testimony was submitted to the House Committee on Friday, April 16.

The testimony pointed out that successful implementation of health reform will require a robust federal investment in our nation's primary care workforce and called for at least \$600 million for all of the Title VII programs. It urged the Committees to provide an FY 2011 appropriation of \$170 million for the Title VII Section 747 Primary Care Training and Enhancement and the Integrative Academic Administrative Units programs authorized by the new health care law.

For the Teaching Health Centers authorized by the new health reform law, the testimony recommended that the Congress appropriate \$50 million for FY 2011. The AAFP requested that the Committees fully fund the National Health Service Corps and the new National Health Care Workforce Commission and, National and State and Regional Centers for Health Care Workforce Analysis.

The AAFP's statement also recognized that AHRQ has a critical role to play in patient-centered, comparative effectiveness research and asked that the Committees provide \$731 million for AHRQ in FY 2011 to provide for the funding requested by the President's budget request of \$611 million, as well as the new Primary Care Extension program authorized by the health reform law at \$120 million.

4. HEALTH REFORM REGULATORY UPDATE

The start of implementation of provisions of the health care overhaul law has begun.

- The Centers for Medicare and Medicaid Services CMS announced on Monday, April 5, that the per-capita rates paid to Medicare private health plans in 2011 will be the same as in 2010. CMS had proposed raising rates by 1.28 percent in February. However, the new reform law requires Medicare Advantage payments to remain unchanged in 2011 and for reductions to begin in 2012.
- On Tuesday, April 6, CMS announced a new regulation that requires "meaningful differences" in 2011 among health and drug plan choices offered to Medicare beneficiaries. Differences have to be meaningful "with regard to premiums, beneficiary out-of-pocket costs, plan types and formulary offerings," a CMS news release said. Officials say that some plans offered by the same company do not appear to be different, creating confusion among seniors.

CMS said that the final rule is consistent with health reform provisions limiting cost-sharing for three Medicare services to sums no higher than the fee-for-service amount. CMS said it also will conduct further rulemaking on cost-sharing in years after 2011. In

addition to limiting out-of-pocket costs that discriminate against sicker enrollees, the rule aims to lessen confusion when beneficiaries try to compare health plans.

- On Monday, April 12, the Department of Health and Human Services and other agencies released early rulemaking requests for comments on monitoring health insurance premium rate increases and insurance company reporting on medical loss ratios

5. MARYLAND ESTABLISHES MEDICAL HOME PROGRAM, LIMITS NP SCOPE

Maryland Governor Martin O'Malley (D) recently signed legislation into law that includes the establishment of a Patient Centered Medical Home program in which health insurers and HMOs can elect to participate. The Maryland Health Care Commission is charged with establishing the program by January, which will consist of 50 practices and reaching 200,000 residents.

The Governor also signed legislation altering the scope of practice for nurse practitioners in the state by removing "admitting an individual to a hospital or nursing facility and establishing a medical diagnosis for acute health problems" from the statutory definition of practice as a nurse practitioner. The bill explicitly requires nurse practitioners to agree to collaborate and consult with a licensed physician, and once the measure takes effect on October 1, HMOs can no longer require nurse practitioners alone to be available for immediate medical service needs—a physician must also be present.

6. OREGON GOVERNOR REJECTS PSYCHOLOGIST PRESCRIPTIVE AUTHORITY

The Oregon legislature recently passed a bill to allow the state Medical Board to issue a certificate of prescriptive authority to certain licensed psychologists. Governor Ted Kulongoski (D) vetoed the measure, expressing concern over whether the month-long special legislative session gave Oregon citizens ample opportunity to get involved in the development of a major policy change to long-standing state law. New Mexico and Louisiana currently are the only states that have passed such laws.

7. STATES ATTEMPT TO REGULATE HEALTH INSURANCE COSTS, RESTRICTIONS

- Massachusetts – A Superior Court in Massachusetts denied a request to allow six health insurers in the state to impose rate hikes up to 32 percent for tens of thousands of small businesses and individuals. The ruling follows the state Division of Insurance deeming the rate increases as being excessive. Insurers currently are pursuing an appeal.
- Iowa – Governor Chet Culver (D) signed a bill requiring state insurance regulators to hold public hearings when health insurers propose rate increases and issue an annual report about insurance rates. Under the new law, insurers also must give 30 days notice when they plan increases.
- Colorado – Colorado recently joined 12 other states in prohibiting health insurance companies from charging men and women different rates for the same individual policies. The state already bans gender rating for the group market.
- Maine – Governor John Baldacci (D) signed legislation eliminating annual and lifetime caps on all health insurance policies sold in the state after December 2010. The federal health care reform legislation also eliminates such caps but does not go into effect until 2014.