

September 17, 2010

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NEXT WEEK IN WASHINGTON...

- * The House Energy & Commerce may hold a full Committee markup on several health-related bills and a Health Subcommittee hearing on Medicare & Medicaid waste, fraud, and abuse is set for Tuesday.
- * Comments are due Sept. 21 for the regulation Group Health Plans and Health Insurance Issuers: Internal Claims and Appeals and External Review Processes under the *Affordable Care Act*

1. SENATE REJECTS AMENDMENTS TO PROVIDE 1099 REPORTING RELIEF

The Senate on September 14 rejected two proposals to ease a tax-compliance reporting requirement in the *Affordable Care Act* (PL 111-148). The competing amendments to HR 5298, offered by Senators Mike Johanns (R-NE) and Bill Nelson (D-FL) addressed a provision of health reform that requires businesses, beginning in 2012, to file a 1099 with the IRS for each vendor that they have paid more than \$600 total in a tax year. The AAFP had called on Senators to vote against the Johanns amendment and in favor of the Nelson amendment in a September 10 [letter](#).

The Johanns amendment would have repealed the requirement by limiting the reach of the individual mandate in the health reform law and reducing funding allocated by the law for preventive care programs. It was rejected 46 to 52. Senator Nelson’s proposal, which failed to get cloture on a vote of 56-42, would have exempted businesses with fewer than 25 employees from the requirement, and raised the reporting threshold to \$5,000. Nelson proposed paying for the \$10.1 billion cost of his amendment by preventing the largest oil companies from obtaining a 6 percent tax deduction designed to aid domestic manufacturing.

2. FAMILY MEDICINE COALITION GME COMMENTS SENT TO CMS

On August 31, the AAFP, Association of Family Medicine Residency Directors, Association of Departments of Family Medicine, North American Primary Care Research Group, and Society of Teachers of Family Medicine submitted [comments](#) to CMS regarding the Graduate Medical

Education cost provisions that were part of the CMS [proposed rule](#) concerning Medicare payment system changes. In the letter, the coalition expressed appreciation for implementing the GME provisions included in the Affordable Care Act (ACA), but also requested further clarity in specified sections so that CMS takes a more active role in promoting primary care training.

3. AAFP RECOMMENDS NEW PREVENTATIVE SERVICES TO AHRQ

The AAFP recently sent a formal comment [letter](#) to the Agency for Healthcare Research and Quality (AHRQ) regarding the agency's [request](#) for new clinical preventive services topics for the United States Preventive Services Task Force (USPSTF) to consider. The Academy focused on four topics in our comment letter:

- Screening for Autism in Children
- Screening for Vitamin D Deficiency in All Ages
- Routine Vitamin D Supplementation for Breastfed Infants
- Screening for Vitamin B12 Deficiency in the Elderly

The AAFP will continue to work closely with AHRQ to nominate topics for evidence reports developed by the Evidence-based Practice Centers (EPC), the Effective Healthcare Program (EHC) and the USPSTF.

4. AAFP CALLS ON TREASURY TO DISCOURAGE SPECULATIVE LAWSUITS

The AAFP joined with the AMA and 90 other state medical societies and specialty organizations in a letter to U.S. Treasury Secretary Tim Geithner opposing any effort to reverse tax policy and provide a tax break to trial lawyers. The [letter to Secretary Geithner](#) urges him to maintain the long-standing tax policy which holds that court and other litigation expenses advanced by trial attorneys in contingency fee cases are not deductible as business expenses. A change in that policy could cost taxpayers over \$1.5 billion and act as a financial incentive for trial attorneys to file more speculative lawsuits against physicians.

5. MEDICAL LIABILITY COSTS EQUAL 2.4 PERCENT OF TOTAL HEALTH SPENDING

Health Affairs had a forum on September 7 to highlight articles from the [September 2010 issue](#). Medical liability costs were covered by the first panel and pegged at \$55.6 billion in 2008, or 2.4 percent of health care spending that year, according Michelle Mello, JD, PhD. University of Southern Maine professor Bill Thomas concurred with the Congressional Budget Office estimate that defensive medicine costs are relatively low but called liability reforms are not unwarranted. Physicians' perception of the risk of being sued might not be assuaged by reforms according to Emily Carrier of the Center for Studying Health System Change who found little variation between physicians in states which have enacted reform and those whose states have not.

The second panel addressed avoiding and managing errors. Robert Wachter, UCSF professor, addressed the need for solving the problem of diagnostic errors. A retired naval officer, Philip Boysen and dean of graduate medical education at UNC School of Medicine described the need to adopt a cultural change for patient safety and described AHRQ's TeamSTEPPS program as helpful. U of Washington's Thomas Gallagher said flaws in state apology and disclosure laws diminish their ability to reduce lawsuits.

Emergency and acute care was covered by the third panel at which emergency physician Stephen Pitts of Emory University' wrapped up his presentation by pointing out the need to fix the payment disparity between primary care physicians and specialists. Arthur Kellermann of RAND insisted that emergency department care represented an unmet need more than inappropriate use. RAND's Aveet Mehrotra suggested that retail health clinics and urgent care centers could manage cases now seen in the ED and seemed to favor of expanding their usage for primary care services.

6. AAFP JOINS OTHERS IN SUPPORT FOR CHANGES TO PATIENT VISITATION RIGHTS

In late August, the Academy joined with 38 other physician, patient, and consumer associations in support of the Centers for Medicare & Medicaid Services (CMS) [proposed regulation](#), "Changes to the Hospital and Critical Access Hospital Conditions of Participation to Ensure Equal Visitation Rights for All Patients". In the comment [letter](#), the coalition supported the proposal to increase equality in visitation rights behind legal coupled status.

7. AAFP JOINS COMMENT LETTER TO CMS ON PROPOSED HOME HEALTH RULE

On September 14, the American Academy of Family Physicians and 5 other physicians, nurse practitioners, and physician assistants organizations submitted [comments](#) to the Centers for Medicare & Medicaid Services (CMS) that includes 8 specific recommendations that would improve the agency's proposed face-to-face requirement for home health certification.

8. FAMMEDPAC

FamMedPAC sent checks to AAFP members this week for local fundraising events.

- **Sen. Patty Murray (D-WA):** Dr. Steve Albrecht organized a reception in Seattle for Sen. Murray, who faces a tough reelection campaign this year. Sen. Murray serves on the HELP and Appropriations Committees and is a strong supporter of primary care.
- **Dr. Manan Trivedi, D-PA-6, candidate:** Pennsylvania Chapter President Dr. Michael Baxter attended a reception for Dr. Trivedi, an internist making his first bid for office. Dr. Baxter urged the PAC Board to approve a contribution to Dr. Trivedi, who has received support from several physician PACs.

FamMedPAC also participated in events in Washington, D.C. this week.

- **Rep. Eric Cantor (R-VA)**, who serves on the Ways and Means Committee and as Minority Whip in the House, the number two leadership position for the Republicans, held a health care fundraising event this week. More than 15 physician groups participated. Rep. Cantor focused on the upcoming election in which he is confident that the Republicans will become the majority. He promised that the Republicans will take up the Medicare physician fee schedule in the next Congress.
- **Rep. Chris Van Hollen (D-MD)**, who serves on the Ways and Means Committee and is the Chair of the Democrat Congressional Campaign Committee, held a health care fundraiser this week. Rep. Van Hollen predicted that the Democrats would retain control of the House after the mid-term election, but that the success of the tea-party "extremists" would harden the stance of Republican legislators. He said that the cuts in the SGR will be dealt with after the election during a lame-duck session.
- **Rep. John Dingell (D-MI)**, who serves on the House Energy and Commerce Committee, held a general fundraising reception this week. Rep. Dingell, the longest serving Member of Congress, is a strong supporter of primary care and is facing his most challenging reelection campaign in years.

9. HHS AND EDUCATION SECRETARIES PUSH FOR KIDS' COVERAGE

On Friday, September 3, HHS Secretary Kathleen Sebelius, Education Secretary Arne Duncan, Center for Medicaid and State Operations director Cindy Mann hosted a children's coverage event to coincide with back to school week. The event also provided a forum for the release of new data on children's participation in Medicaid and the Children's Health Insurance Program (CHIP) published in [Health Affairs](#). Attendees were encouraged to spread the word about children's enrollment, particularly the [healthcare.gov](#) and [insurekidsnow.gov](#) web sites.

Secretaries Sebelius and Duncan recognized the organizations taking part in the "Connecting Kids to Coverage Challenge." They noted that a disproportionate share of the 5 million eligible but not enrolled children are in California, Florida and Texas. Both mentioned that these would

be states for particular attention moving forward. Ms. Mann discussed promising activities states and non-profit organizations are undertaking to help enroll children, particularly since the enactment of CHIPRA and ACA.

10. NEW JERSEY TO ESTABLISH PCMH DEMO UNDER MEDICAID

Governor Chris Christie (R) signed a measure ([AB 226](#)) to create a three-year Medicaid medical home demonstration project. The new law directs the state's Medicaid program to consider payment methodologies that support various components of the patient-centered medical home, including care coordination through multidisciplinary teams, payment for the care of the chronically ill and elderly patients, and payments for telephone consultations and home-based services. At a minimum, the medical home model should be able to employ a multidisciplinary team that provides patient-centered care coordination using health information technology and chronic disease registries. State Medicaid officials will develop the project in consultation with managed care organizations and other entities that provide care to Medicaid beneficiaries.

11. WISCONSIN TAKES NEW APPROACH TO CUTTING MEDICAID BUDGET

Last year Governor Jim Doyle (D) proposed to slash \$400 million from the state's health-care system, one of the country's most comprehensive. Rather than itemize the cuts to be made, he and the legislature allowed Medicaid officials to determine how to trim the program's budget—most of which recently took effect this summer. The new approach included a mix of new contracts and cost-effective procedures. For example, the state provided incentives for natural birth that will save \$4 million by limiting the use of C-sections. Avoiding tough votes by lawmakers limited influence of special interest groups and allowed for informed decision-making, which ultimately left voters satisfied with the process. In addition to saving millions, Wisconsin also was able to expand Medicaid enrollment.

12. LOUISIANA MEDICAID CUTS DELAYED, PHYSICIANS MUST REPAY

The Louisiana Department of Health and Hospitals failed for the second time in a year to timely implement Medicaid budget cuts. As a result of the failure, thousands of physicians throughout the state must return \$17 million in overpayments received during the last year. The antiquated system used to make Medicaid payments to providers can take months to update the thousands of payment codes to reflect budget adjustments and is to blame for the delay. During the months of reprogramming, physicians received the higher, pre-budget cut reimbursement and now the state must recoup the money needed to balance the state budget. The state agency will work with physicians on claims adjustments; physicians can either pay the amount owed lump sum or spread out the repayment by getting reduced Medicaid reimbursement for the next six to eight months. According to a recent Louisiana State Medical Society physician survey, 72 percent of respondents either have started limiting or no longer accept Medicaid patients.