GOVERNMENT AFFAIRS WEEKLY

AAFP Division of Government Relations — 2021 Massachusetts Avenue, NW — Washington, DC 20036

June 17, 2011

IN THIS REPORT…

NEXT WEEK IN WASHINGTON…

* On June 21, the House Energy and Commerce Subcommittee on Health will hold a hearing on Medicare/Medicaid Dual Eligibles.

* On June 21 at 1:30pm ET, the Centers for Medicare & Medicaid Services will host a conference call on Proposed Changes to the 2011 Electronic Prescribing Incentive Program to be reviewed at National Provider call. To participate dial (800) 225 - 4597 and use ID# 70909319.

* On June 23, the Senate Finance Committee will hold a hearing, entitled "Health Care Entitlements: The Road Forward," to discuss Medicare, Medicaid and deficit reduction.

1. MEDPAC RECOMMENDS CARE COORDINATION PAYMENT

This week, the Medicare Payment Advisory Commission (MedPAC) released a report to Congress and executive summary that focused on:

- payments for physician services, including alternatives to the sustainable growth rate (SGR), improvements in payment accuracy and appropriate use of ancillary services;
- the design of Medicare's traditional fee-for-service benefit package and its impact on beneficiaries and the program overall;
- Medicare's technical assistance to health care providers for quality improvement..

The report also examines aspects of the broader health care system, including:

- Improvements in care coordination for beneficiaries dually eligible for Medicare and Medicaid;
- The function of federally qualified health centers and how they intersect with the Medicare program;
- Variation in private-sector payment rates for services across and within markets.

MedPAC remains concerned about the sustainability of the Medicare program and continues to explore avenues for protecting the access of Medicare beneficiaries to quality care, while reducing the rate of growth in Medicare expenditures. MedPAC believes some efficiency can result from stronger incentives to better coordinate care and to use high-value services, like

primary care. It also considers improving incentives for the use of high-value care by changing the benefit structure in traditional Medicare.

MedPAC again points out fundamental problems with the current SGR system and reaffirms its commitment to helping Congress find budgetary offsets within Medicare. But the Commission cautions that it is unlikely that the full offset needed to eliminate the SGR cuts can be found easily in Medicare within the applicable budget window.

Noting that last-minute SGR "fixes" are taking a toll, and considering the time and effort that will be involved in determining how to structure future payments for physician and other health professional services, the report states that interim fee schedule updates should apply for a minimum of one year—ideally at least two years—to provide stability for CMS, claims-processing contractors and physicians and other health care professionals who bill Medicare.

The report provides four additional recommendations:

1. HHS should accelerate efforts to package discrete services in the physician fee schedule into larger units for payment;
2. Congress should direct HHS to apply a multiple procedure payment reduction to the professional component of diagnostic imaging services provided by the same practitioner in the same session;
3. Congress should direct HHS to reduce the physician work component of imaging and other diagnostic tests that are ordered and performed by the same practitioner;
4. Congress should direct HHS to establish a prior authorization program for practitioners who order substantially more advanced diagnostic imaging services than their peers.

2. CONGRESSIONAL BUDGET OFFICE LAYS GROUNDWORK FOR SGR DEBATE

On Tuesday, June 14, the Congressional Budget Office (CBO) reported on Medicare physician payment. The CBO projects that, under current law, payment rates for physician services will be reduced by 29.4 percent in 2012. The report describes the types of changes enacted by Congress to prevent scheduled reductions in physician payment updates since 2002.

3. TOBACCO CONTROL RESTRICTIONS STRIPPED FROM FUNDING BILL

On Monday, June 13, the AAFP joined the American Academy of Pediatrics and others to call on the House of Representatives to reconsider several provisions in the fiscal year 2012 FDA appropriations bill (HR 2112), which could impair efforts to address critical public health issues – including tobacco control, antibiotic resistance, and obesity. The letter expressed concern that an amendment offered by Rep. Dennis Rehberg (R-MT) and approved by the Appropriations Committee would prevent the FDA from regulating tobacco marketing. The Rehberg amendment was struck by a parliamentary procedure. Rep. Cliff Stearns (R-FL) offered another amendment to reduce by $392 million the user fees that tobacco companies pay to fund the operations of the FDA'a Center for Tobacco Products. In a bipartisan vote, the amendment was defeated 257-164.

On June 16, the House passed the spending bill by a vote of 217 to 203 with 19 Republicans and all Democrats opposed. Overall, the FDA's $3.7 billion funding roughly matches current spending levels, but is about $500 million less than the administration's request. The Senate has not yet scheduled action on the bill.

4. IOM ISSUES FIRST REPORT ON GEOGRAPHIC ADJUSTERS

Medicare adjusts fee-for-service payments according to the geographic location of a practice. The Centers for Medicare and Medicaid Services (CMS) does this through a vehicle known as the geographic practice cost index (GPCI). At the request of Congress, the Institute of Medicine (IOM) examined ways to improve the accuracy of data sources and methods used for making

the geographic adjustments in payments to providers. In its report released this week, IOM recommends an integrated approach that includes:

- moving to a single source of wage and benefits data;
- changing to one set of payment areas and labor markets; and
- expanding the range of occupations included in the index calculations.

The IOM also recommends developing a new source of data on the cost of office rent and applying the hospital wage index for facilities other than acute-care hospitals. Taken together, these recommendations would lead to improvements in payment accuracy, including a more streamlined and consistent payment process for a broader range of providers and a reduced burden of cost reporting.

Dr. Goertz, AAFP President, testified in February on this issue before the IOM when the committee was in the information gathering phase.

5. CONGRESSIONAL COMMITTEE EXAMINES HEALTH REFORM'S EFFECT ON JOBS

On June 15, the Energy and Commerce Health Subcommittee continued a hearing that began on June 2, entitled "PPACA's Effects on Maintaining Health Coverage and Jobs: A Review of the Health Care Law's Regulatory Burden." Steve Larsen, Director of the Center for Consumer Information and Insurance Oversight at CMS was the only witness. As in the June 2 hearing, the Republicans contended that people would not be able to keep their current health insurance since so many businesses wouldl be forced to drop their health insurance plans as a result of the law. In his statement, Mr. Larsen countered that the "grandfathering" provisions in the regulations allowed businesses to make only minor modifications.

6. REGULATORY BRIEFS

- In a June 6 letter to the U.S. Department of Health & Human Services (HHS) National Vaccine Program Office, the AAFP commented on the Vaccine Safety Working Group's draft white paper on the federal vaccine safety system.
- On June 10, HHS provided guidance to state Medicaid agencies clarifying that they are able to offer same-sex couples many of the same financial and asset protections available to opposite-sex couples when a partner is entering a nursing home or care facility.
- Also on June 10, the Department of Defense issued a press release that applauds, "the growing number of medical professionals signing up to accept TRICARE, the health care plan for members of the uniformed services, retirees and their families." There are 9.6 million TRICARE beneficiaries worldwide, more than 325,000 providers across the US the TRICARE network, and over 1 million providers accept TRICARE beneficiaries.
- On June 16, HHS Secretary Kathleen Sebelius, US Surgeon General Regina Benjamin, Director of the White House Domestic Policy Council Melody Barnes, and others released The National Prevention Strategy: America's Plan for Better Health and Wellness. Called for in the *Affordable Care Act*, 17 federal agencies came together to create the National Prevention Strategy, which is designed to "move the nation from a focus on sickness and disease to one based on prevention and wellness." In partnership with other national and local public health organizations, the AAFP sent a comment letter on November 5, 2010 regarding the strategy's framework and a letter dated June 16, 2011 commending the release of the National Prevention Strategy.
- Also on June 16, HHS announced an additional funding opportunity for national networks of community-based organizations to apply for more than $4 million in cooperative agreements. These funds are intended to help support, disseminate, and amplify the evidence-based strategies of the Community Transformation Grants (CTG). In May, HHS announced more than $100 million in first year funding for CTGs.

7. AAFP CHAPTERS TACKLE PHARMACIST IMMUNIZATION LEGISLATION

During the 2011 session, a number of state legislatures have considered legislation to expand the scope of practice for pharmacists—some of which allow them to prescribe and administer vaccinations to children without physician supervision or notification.

- The **Louisiana Academy of Family Physicians** helped defeat SB 60, which would have allowed a pharmacist to administer influenza vaccines to those 7 years old and older and pneumococcal, Zoster, and Tetanus and Diphtheria Toxoids to those 18 and older. If enacted, the measure would have "carved the physician out of the process completely," said James Taylor, MD, Legislative Chair of the LA AFP.

- The **North Carolina Academy of Family Physicians** is putting up a similar fight in their state legislature. HB 444 / SB 246 would allow pharmacists to administer any vaccine or immunization recommended or required by the CDC under certain conditions. Because the legislature is not scheduled to adjourn until July, chapter staff continue to work to prevent treating immunizations as over-the-counter drugs, as it would eliminate patient counseling and prevent physicians' ability to monitor and catch adverse reactions.

- The **Pennsylvania Academy of Family Physicians** is working with state legislators on legislation to add parental consent for all individuals under the age of 18 to the guidelines for pharmacists administering immunizations. These measures also state that a pharmacy intern who has completed education and training requirements may administer immunizations under supervision of a pharmacist. HB 817 / SB 254 have yet to receive consideration from their initial committees of referral; however, the Pennsylvania General Assembly is not scheduled to adjourn sine die until December 2012. According to Andy Sandusky, deputy executive vice president of the PA AFP, the measures are "contrary in many ways to the patient-centered medical home, which is to have primary care inoculations, as well as primary care medications, delivered within the primary care physician office."

More than 30 states currently have a prescriber approved protocol for pharmacists to immunize children. Legislation enacted in 2011 includes:

- Arizona SB 130 adds influenza vaccines and immunizations administered to seven year olds and older to the definition of "practice of pharmacy;"
- Arizona SB 1298 provides that, for a person at least six years of age, a pharmacist may administer immunizations pursuant to a prescription order and may administer immunizations for influenza or in response to a public health emergency without a prescription order;
- Idaho HB 218 allows pharmacists to prescribe immunizations for susceptible persons 12 years or older for protection from communicable disease;
- Indiana HB 1233 allows a pharmacist to: (1) administer an immunization to an individual under a drug order or prescription; and (2) administer an immunization for influenza or shingles to a group of individuals under a drug order, a prescription, or protocol approved by a physician if: (a) the physician specifies the group of individuals; (b) the physician is licensed in Indiana and not employed by a pharmacy; (c) the pharmacist notifies the individuals' primary care physician within 14 days; and (d) patients are at least 18 years of age or at least 14 years of age with parental consent;
- Kentucky SB 40 allows pharmacists to administer flu vaccines to individuals nine to 13 years of age;
- Maryland HB 986 / SB 845 alter the age of an individual to whom a pharmacist may administer certain vaccines to at least seven years old;

- Montana SB 189 allows a pharmacist to administer influenza immunizations by injection or inhalation for individuals who are 12 years of age or older;
- North Dakota SB 2035 allows pharmacist administration of vaccinations to those at least 11 years old upon an order by a physician, physician assistant, or nurse practitioner;
- Oregon HB 3138 clarifies that a pharmacist may prescribe and administer vaccines to persons who are at least 11 years of age.

8. FamMedPAC HIGHLIGHTS PHYSICIAN PAYMENT AND EDUCATION ISSUES

FamMedPAC participated in meetings both in Washington, DC, and across the country. The main topics of discussion continue to be the pressing need for a permanent fix to the Medicare SGR formula, adequate funding for health professionals' training programs under Title VII, and protecting the gains made for primary care under the *Affordable Care Act.* The PAC supported two receptions in Washington this week, an event hosted by an AAFP member in Louisiana, and an event in Chicago during the AMA meeting. The PAC supported events for the following Members of Congress:

- **Rep. John Fleming (R-LA)** is a family physician in his second term in Congress. Rep. Fleming spoke at the Family Medicine Congressional Conference last month. AAFP member Dr. Cissy Picou hosted a reception for the Congressman in his district.
- **Sen. Kirstin Gillibrand (D-NY)** is a first-term Senator who serves on the Senate Special Aging Committee. The American Osteopathic Association hosted a reception for the Senator in their offices in Chicago during the AMA meeting. AAFP Executive Director, Doug Henley, MD, and AAFP President, Roland Goertz, MD, attended the event.
- **Rep. Mike Rogers (R-MI)** serves on the House Energy and Commerce Health Subcommittee. The AAFP staff attended a breakfast meeting to discuss how short-term Medicare payment patches create instability for physician offices.
- **Sen. Diane Feinstein (D-CA)** serves on the Senate Appropriations Committee. The AAFP staff attended a luncheon meeting to discuss federal funding for family medicine education and training.
- **Rep. Nita Lowey (D-NY)** serves on the Labor, HHS, Education Subcommittee of the House Appropriations Committee. AAFP staff attended a breakfast meeting to review the importance of funding for family medicine education and training, which Rep. Lowey strongly supports.