

June 1, 2012

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NEXT WEEK IN WASHINGTON...

- * On Monday, June 4, the Senate will reconvene.
- * On Tuesday, June 5 from 2-3pm ET, CMS will hold the Physician's Open Door Forum, which is a reoccurring national call for physicians with senior CMS officials. To participate, dial 1-800-837-1935 and reference conference 52260476.
- * On Friday, June 8, two subcommittees of the House Energy and Commerce Committee will hold health-related hearings; the Oversight Subcommittee will hear testimony about Medicare Fraud and the Health Subcommittee will hold a hearing on Standards for Medical Imaging Technologists.

1. AAFP ADVISES HOUSE COMMITTEE TO SUPPORT THE MEDICAL HOME

On Friday, May 25, the AAFP responded to a request from the Republican members of the House Ways and Means Committee asking for suggestions to improve the quality and efficiency of the Medicare physician payment system. The AAFP response argued that the physician payment system should reflect a commitment to build delivery of health care on a foundation of primary care. To accomplish that, according to the AAFP letter, Congress should base payment on the Patient-Centered Medical Home (PCMH) and pay a care management fee, appropriate fee-for-service for the face-to-face visits and a quality improvement component.

2. FAMILY DOCTORS INVITED TO WHITE HOUSE DISCUSSION

The White House and the Department of Health and Human Services (HHS) invited AAFP to extend an invitation to 8 AAFP members to participate in a discussion on improving care coordination and quality. Secretary Sebelius will address the physicians and a panel of physicians will lead the discussion of how the health delivery system is being transformed.

AAFP participants are:

Dr. Kimberly Becher
Dr. Patricia Czapp
Dr. Sam Jones
Dr. Jesus Lizarazabui

Dr. Yvette Oquendo
Dr. Sterling Ransone
Dr. Sean Reed
Dr. Jane Weida

3. HOUSE COMMITTEE DEBATES REPEALING PARTS OF HEALTH REFORM LAW

The House Ways and Means Committee on Thursday, May 31 approved three bills targeting certain provisions in the *Affordable Care Act* (PL 111-148, 111-152).

- The *Protect Medical Innovation Act* (HR 436), which Rep. Erik Paulsen (R-MN) introduced, seeks to repeal a tax on medical devices that pays for a portion of the health reform law. The measure passed by a vote of 23-11.
- Rep. Lynn Jenkins (R-KS) sponsored the *Restoring Access to Medication Act* (HR 5842) to repeal the provisions of the *Affordable Care Act* which disqualify expenses for over-the-counter drugs under health savings accounts and health flexible spending arrangements without a prescription. The committee approved this bill by a vote of 24-9.
- Rep. Charles Boustany, MD (R-LA) introduced the *Medical FSA Improvement Act* (HR 1004), which would allow funds in a flexible spending account (FSA) that are not spent for medical care to be distributed to the FSA participant as taxable income after the close of a plan year. Currently, such unspent amounts are forfeited. The committee approved the bill by a vote of 23-6.
- Another bill (HR 5858), introduced by Rep. Wally Herger (R-CA), would make a variety of changes to the rules for health savings accounts (HSAs), such as preventing veterans from being ineligible to make HSA contributions because they receive VA medical benefits for a service-connected disability. The committee voted 21-7 to approve the bill.

4 SENATE AND HOUSE APPROVE DIFFERENT BILLS EXTENDING FDA

On Thursday, May 30, the House of Representatives, by a vote of 387 to 5, passed the *Food and Drug Administration Reform Act* (HR 5651) to extend by five years the Food and Drug Administration's user fee program authority. The House's version is very similar to the Senate-passed *Food and Drug Administration Safety and Innovation Act* (S 2516), which sailed through Thursday, May 24 on a 96-1 vote. A conference committee will attempt to reconcile both bills in time to send a final version to President Obama before the Independence Day recess. The current law expires on September 30, 2012.

5. SENATE SPARES PREVENTION FUND, DEFEATS STUDENT DEBT INTEREST RELIEF

On May 24, the Senate defeated, 34 to 62, a Republican student loan bill (the *Stop the Student Loan Interest Rate Hike Act*, S 2343) that would have eliminated funding for the Prevention and Public Health Fund authorized in the *Affordable Care Act* (PL 111-148, 111-152) to offset the cost of keeping federal student loan interest rates from doubling in July. The bill, sponsored by Senator Lamar Alexander (R-TN), nearly identical to the version passed by the House, would keep interest rates at 3.4 percent for another year by stripping \$6 billion from Prevention and Public Health Fund. Senator Tom Harkin (D-IA), the fund's champion, has said that the White House will oppose any effort to raid the fund. Last April, the House defied a White House veto threat and passed its version of the student loan bill on a 215-195 vote.

6. HOUSE DEFEATS LEGISLATION TO PROHIBIT ABORTIONS FOR SEX SELECTION

By a vote of 246-168, the House rejected an effort to pass the *Susan B. Anthony and Frederick Douglass Prenatal Nondiscrimination Act* (HR 3541). The bill was considered under a procedure that would require approval by two-thirds of the votes cast (or 277). The bill would impose criminal penalties on anyone who performs, coerces or accepts funds for an abortion that is based solely on the gender of the fetus.

7. FamMedPAC CONTRIBUTES OVER HALF A MILLION DOLLARS IN 2012

FamMedPAC has contributed \$502,700 to 99 candidates and committees thus far in the 2012 election cycle. Contributions have gone to both political parties and to legislators of both the House and Senate.

FamMedPAC supported the following legislators this week:

- **Rep. Pete Stark (D-CA)**, the senior Democrat on the Health Subcommittee of the House Ways and Means Committee.
- **Rep. Tom Price (R-GA)**, a physician (orthopedic surgeon) who serves on the Health Subcommittee of the House Ways and Means Committee.
- **Rep. Dan Benishek (R-MI)**, a physician (general surgeon), who is a cosponsor of the *Primary Care Workforce Access Improvement Act* (HR 3667), introduced by Rep. Cathy McMorris Rogers (R-WA), which would establish a pilot program to examine direct Medicare GME funding for non-hospital medical training sites. AAFP supports the bill.
- **Rep. Joe Heck (R-NV)**, an emergency physician and co-sponsor of the *Medicare Physician Payment Innovation Act* (H.R. 5707), the bill introduced by Rep. Allyson Schwartz (D-PA) that would repeal the Medicare physician payment formula. AAFP supports the bill.

8. REGULATORY BRIEFS

- On May 18, CMS [awarded](#) a \$65,925,396 loan to Hospitality Health CO-OP in Nevada to launch a new private non-profit, consumer-governed health insurance company. Created by the *Affordable Care Act*, the CO-OP program encourages eligible groups to create consumer-responsive health insurance companies to increase competition in the individual and small business markets. Beginning in 2014, CO-OPs will offer plans through the Affordable Insurance Exchanges. In addition, a CO-OP loan was also awarded to Michigan Consumer's Healthcare CO-OP. Previously, ten organizations were awarded loans that plan to offer coverage in ten states.
- On May 22, the Patient-Centered Outcomes Research Institute (PCORI) announced that the agency will accept [applications](#) through July 31 for \$96 million in funding for research to help patients and caregivers make better informed health care decisions. Letters of intent to apply are due by June 15. Another \$24 million in funding to improve the nation's capacity to conduct patient-centered outcomes research will be announced this summer.
- On May 24, CMS [announced](#) that in the first four months of 2012, over 416,000 Medicare beneficiaries saved an average of \$724 on prescription drugs and 12.1 million used a preventive service. As part of this announcement, CMS also indicated that Medicare beneficiaries have saved a total of \$3.5 billion on prescription drugs in the Medicare drug benefit coverage gap.
- On May 24, the AAFP released a [summary](#) of the proposed Medicaid Payments for Primary Care Services in Parity with Medicare & Charges for Vaccine Administration regulation. A formal regulatory response from the AAFP will be sent to CMS before the agency's June 11 deadline.
- On May 29, CMS posted [data](#) regarding the 2011 Primary Care Incentive Program onto their website. In 2011, over 150,000 primary care providers nationwide received almost \$560 million in higher Medicare payments due to the Primary Care Incentive Program (PCIP) called for in the *Affordable Care Act*. Further highlights of the data include that:
 - 86 percent of PCIP payments were distributed to physicians in urban areas.
 - 38.2 percent of payments were made to family physicians.
 - 50.1 percent of payments were distributed to physicians in general internal medicine.
 - And the remainder was made to nurse practitioners (7.0 percent), physician assistants (2.5 percent), geriatricians (1.7 percent), pediatricians (0.3 percent), and clinical nurse specialists (0.2 percent).
- On May 30, CMS [announced](#) the Partnership to Improve Dementia Care, an initiative to ensure appropriate care and use of antipsychotic medications for nursing home patients. This partnership set a national goal of reducing use of antipsychotic drugs in nursing

home residents by 15 percent by the end of 2012. CMS and industry and advocacy partners are enhancing training for patients and providers, increasing transparency by making data on each nursing home's antipsychotic drug use available on Nursing Home Compare starting in July, and offering alternatives to antipsychotic medications.

- On May 31, CMS published an [information request](#) in the *Federal Register* regarding an evaluation of the Multi-Payer Advanced Primary Care Practice Demonstration. This demonstration was established in September 2009 in Maine, Vermont, Rhode Island, New York, Pennsylvania, North Carolina, Michigan, and Minnesota. CMS says the evaluation will "assess the effects of advanced primary care practice when supported by Medicare, Medicaid, and private health plans." The AAFP is closely reviewing this request and will directly work with the agency as CMS evaluates this demonstration.
- On June 7, CMS will hold a national call about registration and attestation for the Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs. [Registration](#) is required.

9. STATE GOVERNMENT UPDATES

Iowa AFP Ends Successful Legislative Session

Despite being one of the least productive legislative sessions on record for the Iowa General Assembly, the Iowa AFP ended their advocacy on a high note. The legislature considered various health related legislation that directly affects primary care. The bills included the [Health and Human Services appropriations](#) which allocated \$40 million to mental health needs, and the [Rural Primary Care Loan Repayment Program](#), which establishes a loan repayment program for primary care physicians, the IAFP's top legislative priority. In addition, the legislature blocked a rule to eliminate co-payments and co-insurance requirements for patients dually eligible for Medicaid and Medicare. Iowa medicine worked together in opposition to four bills to expand non-physician scope of practice, defeating three. The only expanded scope of practice bill that passed the Assembly was a physician assistants-backed bill that raises the supervisory ratio for PAs from the current 2:1 to 5:1. Lastly, [SF 2318](#), which allows for the Iowa Health Information Network to move forward developing a fee schedule and regulatory structure also passed the General Assembly.

Ohio Supreme Court Upholds Clean Indoor Air

In a unanimous decision, the Ohio Supreme Court ruled on Wednesday, May 23, that the Buckeye State's Smoke-Free Workplace Act is constitutional. The result of a ballot initiative, the Ohio measure was the first clean indoor air law in the Midwest and is among the nation's strictest. The law eliminated indoor smoking in almost all indoor public businesses. The measure was approved in 2006 with 58 percent of the vote. The Ohio AFP is a strong supporter and has opposed attempts to weaken it.

Georgia AFP Opposes Cost Sharing for Duals

On May 30, the Georgia AFP, along with 11 other state medical specialty societies and the Medical Association of Georgia, [sent a letter](#) urging the state to retract its proposal to cease Medicaid payment of Medicare cost sharing for dual eligibles. The Georgia Department of Community Health [recently announced](#) that the state will no longer pay the full Medicare coinsurance and deductible obligations for dual eligibles. The Department hopes the reduction in provider payment will save the state \$48.6 million annually.

Illinois Cleaning up Medicaid Mess

Reminiscent of the SGR, Illinois developed a habit of paying for current year Medicaid operations by using future years' Medicaid appropriations. With the clock winding down on its 2012 regular session, the Illinois General Assembly is aiming to close the \$2.7 billion structural deficit that developed, including \$1.8 billion in unpaid provider bills. The Assembly recently approved [SB 2840](#), a bill to reform Medicaid eligibility and institute utilization

controls, and [HB 5007](#), which authorizes Cook County to apply for a federal waiver to collect federal match for adults with incomes up to 133 percent of the Federal Poverty Level in the Medicaid program. Both bills now head to Governor Pat Quinn (D).

These two bills are tied to a third bill, [SB 3397](#), which will require the Department to pay down outstanding Medicaid liabilities by limiting to \$700 million the amount of unpaid Medicaid bills the state can roll over in this upcoming fiscal year (which starts July 1) and to \$100 million for each fiscal year, starting with FY 2014. The bill currently is before the Senate.

Of note, all three of these bills must be passed and signed by the Governor before any one bill can become law.

To help in paying down the tab, the Assembly approved [SB 2194](#), an IAFP supported \$1-per-pack increase in the Illinois cigarette tax. The Assembly also sent Gov. Quinn [SB 3261](#), a bill containing a provision to implement an enhanced hospital assessment program.