

November 15, 2013

IN THIS REPORT...

1. House and President Propose Extending Substandard Health Insurance Coverage
2. HHS Releases Preliminary Health Insurance Enrollment Numbers
3. Implementation of ACA Is the Subject of House Subcommittee Hearing
4. House Veterans' Affairs Hearing includes Testimony from a Family Physician
5. AAFP Suggests 3 Family Physicians for Comparative Effectiveness Board
6. CBO Director Meets with House-Senate Budget Conference Committee
7. Surgeon General Nominee Is Announced
8. Dr. Wanda Filer Gives Keynote Address at Women in Government Gala in DC
9. FamMedPAC Maintaining High Profile
10. Mental Health and Substance Use Disorder Parity Final Rule Released
11. Use of Electronic Cigarettes (E-Cigarettes) Grows among Teens
12. Regulatory Briefs

NEXT WEEK IN WASHINGTON...

- * The final 2014 Medicare Physician Fee Schedule is expected on or before Wednesday, November 27 and will generally be effective on January 1, 2014.

1. HOUSE APPROVES HEALTH INSURANCE BILL TO ALLOW MINIMAL COVERAGE

By a vote of 261 to 157, the House of Representatives today passed the *Keep Your Health Plan Act* (HR 3350) to permit a health insurance issuer that has in effect health insurance coverage in the individual market as of January 1, 2013, to continue offering such coverage for sale during 2014 outside of a health care exchange established under the *Patient Protection and Affordable Care Act*. The bill treats such coverage as a grandfathered health plan for purposes of an individual meeting the requirement to maintain minimum essential health coverage.

The likelihood of several Democratic House members voting in favor of this bill encouraged the President to announce that the administration would not enforce for one year the requirement that all insurance plans meet a minimum standard of coverage. The announcement relies on state insurance commissioners and the insurance companies themselves to rescind the cancellation notices of those insurance plans that would be substandard as of January 1, 2014. HHS is asking states to adopt the transitional fix the White House announced.

To ensure consumers are informed about their options, insurers that are offering renewal of 2013 plans must let consumers know what protections the renewed plan is not including and how they can learn about new plans with better protections and possibly tax credits. To protect against premium impacts of this change, the Department of Health and Human Services (HHS) intends to adjust the temporary risk corridor program which is designed to stabilize premiums as changes are implemented. This option will not allow older plans to be sold to new customers in

2014. HHS will consider the impact of this transitional policy in assessing whether to extend it beyond 2014.

According to the National Association of Insurance Commissioners (NAIC), the decision could lead to market disruptions in 2014 and beyond and could push premiums higher. It leaves in place different policies for different plans, and it may not be logistically possible for states to make the needed adjustments. "In many states, cancellation notices have already gone out to policyholders and rates and plans have already been approved for 2014," the NAIC statement says. "Changing the rules through administrative action at this late date creates uncertainty and may not address the underlying issues." Karen Ignagni, the head of AHIP, which represents major insurance providers, noted that the President's action "could destabilize the market and result in higher premiums for consumers ... Additional steps must be taken to stabilize the marketplace and mitigate the adverse impact on consumers."

2. HHS RELEASES PRELIMINARY HEALTH INSURANCE ENROLLMENT NUMBERS

The Department of Health and Human Services (HHS) on November 13 [released a report](#) stating that 106,185 Americans have selected health plans through health insurance marketplaces during the first reporting period of open enrollment. This number includes consumers who have chosen plans from both state-based and federal marketplaces since open enrollment began on October 1. An additional 396,261 individuals have been determined to be eligible for Medicaid or the Children's Health Insurance Program (CHIP). The report shows that 975,407 consumers have completed the application and eligibility process but have not yet selected a plan.

3. HOUSE SUBCOMMITTEE HOLDS ANOTHER HEARING ON ACA IMPLEMENTATION

The Subcommittee on Health of the House Energy and Commerce Committee held a hearing on Thursday, November 14, entitled, "Obamacare's Implementation Problems: More than Just a Broken Website." Five witnesses were invited including a physician, Rodger Stark, who is a health care policy analyst with the Washington Policy Center. He shared his concern that the Medicaid program is not sustainable with the numbers of new users coming to the program.

Rep. Joe Pitts (R-PA), who chairs the subcommittee, added a new twist to the much heard promise that if you like your health insurance plan you can keep it. In his opening remarks, Rep. Pitts said that calls coming into his congressional office from constituents suggest that if you like your physician you might not be able to use him/her any longer because they might not be in the network.

4. VETERANS' AFFAIRS HEARING ON PROHIBITED PRACTICES

On November 13, the House Veterans' Affairs Subcommittee on Oversight and Investigations held a [hearing](#) titled "Correcting 'Kerfuffles': Analyzing Prohibited Practices and Preventable Patient Deaths at Jackson VAMC". Witnesses included Dr. Phyllis Hollenbeck, MD, FAFAP and other staff from the G.V. (Sonny) Montgomery Veterans' Affairs (VA) Medical Center.

The hearing focused on primary care services provided at the Montgomery VA Medical Center in Jackson, Mississippi. Dr. Hollenbeck, an official 2013 Office of Special Counsel whistleblower, testified regarding primary care problems between physicians and nurse practitioners. The VA's own investigative team report on her whistleblower complaint substantiated that "the Medical Center does not have enough physicians, and nurse practitioners (NPs) have not had appropriate supervision and collaboration with Physician Collaborators." Further the report and Dr. Hollenbeck's [testimony](#) discussed that, "NPs were also erroneously declared as Licensed Independent Practitioners (LIP), and the required monitoring of their practice did not consistently occur resulting in NPs practicing outside the scope of their licensure."

This hearing relates to an October 28 [letter](#) sent from the AAFP and 22 other national physician organizations as well as 43 state medical societies to the VA that expressed strong concerns regarding potential changes to the Veterans Health Affairs (VHA) Nursing Handbook, which would mandate that all advanced practice nurses (APRNs) within the VHA be designated as independent providers, without regard to state practice acts. The hearing also relates to a similar [letter](#) the AAFP sent to the VA on June 20, 2013.

5. AAFP NOMINATES 3 TO PCORI BOARD

The AAFP sent a [letter](#) to the Government Accountability Office (GAO) on November 4 nominating 3 family physicians to a vacant position on the Board of Governors of the Patient Centered Outcomes Research Institute (PCORI). These physicians – Joseph E. Scherger, MD, MPH, Eric Wall, MD, MPH and Theodore G. Ganiats, MD – were nominees when the original PCORI Board was assembled in 2010; however, at that time no family physicians were included.

In the letter, the AAFP strongly urged the GAO to include a family physician. The AAFP's nominees not only are nationally known in the research field, but also have practiced or taught family medicine, making them outstanding candidates for the open seat.

6. CBO DIRECTOR MEETS WITH HOUSE-SENATE BUDGET CONFERENCE COMMITTEE

On November 13, Congressional Budget Office Director Doug Elmendorf met with the budget conference committee led by House Budget Committee Chairman Rep. Paul Ryan (R-WI) and Senate Budget Committee Chairman Senator Patty Murray (D-WA). He reviewed the economic and budget outlook and took questions from the conferees. The House-Senate Conference Committee is charged with reconciling the chambers' differing budget outlines. Overall, they face a \$91 billion difference in the fiscal year 2014 discretionary spending levels between the two budget resolutions (HConRes 25 and SConRes 8).

Dr. Elmendorf outlined serious fiscal challenges including a weak economy, stubbornly persistent high unemployment as well as long-term costs associated with an aging population. He also noted that the deficit has decreased dramatically in recent years, but that economic growth has been slowed by the automatic spending cuts known as sequestration that are set to cut defense and non-defense discretionary spending by about \$1.1 trillion over the next eight years. Several legislators acknowledged that they are short on time. December 13 is the deadline for the budget conference committee to produce an agreement, but Appropriations Committee members have urged the conference to set an overall FY14 spending level by November 22 to allow them to finalize the 12 annual spending bills. However, the conference is not scheduled to reconvene between now and November 22. The current stopgap spending bill that ended the government shutdown funds the government through January 15 and extends the government's borrowing authority to February 7.

7. SURGEON GENERAL NOMINEE ANNOUNCED

The White House announced on Thursday, November 14, that President Obama intends to nominate Vivek Hallegere Murthy, MD, to be the next surgeon general. He is a hospitalist attending physician and instructor in medicine at Brigham and Women's Hospital at Harvard Medical School. He is the co-founder and president of Doctors for America, which began as Doctors for Obama in 2008. According to the White House press release, in 2011, Dr. Murthy was appointed to serve as a member of the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health. He has been the Co-Founder and Chairman of the Board of TrialNetworks, formerly known as Epernicus, since 2007. Dr. Murthy co-founded VISIONS Worldwide in 1995, a non-profit organization focused on HIV/AIDS education in India and the US, where he served as President from 1995 to 2000 and Chairman of the Board from 2000 to 2003. Dr. Murthy received a BA from Harvard University, an MBA from Yale School of

Management, and an MD from Yale School of Medicine. He would succeed Dr. Regina Benjamin, a family physician, who announced her resignation from the post in July.

8. DR. WANDA FILER GIVES KEYNOTE ADDRESS AT WOMEN IN GOVERNMENT GALA

On Wednesday, November 13, Dr. Wanda Filer from AAFP's Board of Directors gave the Keynote Address at the [Women in Government](#) 25th Anniversary Gala to kick off its [Fourth Annual Health Care Summit](#) in Washington, DC. Women in Government is a national, non-profit, non-partisan organization of female state legislators that Dr. Filer has been involved with for many years. Dr. Filer discussed a number of AAFP's priority issues, including the importance of teamwork in health teams, tobacco prevention and cessation, rural access issues, addressing social determinants of health, and transparency in health care, among other things. Dr. Filer's speech was met with a standing ovation, and a number of state legislators told her afterwards that they had already begun working on various bills in their states to address these issues for their 2014 state legislative sessions.

9. FamMedPAC MAINTAINING HIGH PROFILE

FamMedPAC continues to help raise the visibility of AAFP with key Members of Congress, supporting the following events this week:

Rep. Diana DeGette (D-CO), a member of the House Energy and Commerce Committee.

Sen. Mike Enzi (R-WY), who serves on the Senate Finance Committee and the Health, Education, Labor, and Pensions Committee.

Rep. Ed Whitfield (R-KY), a member of the Health Subcommittee of the House Energy and Commerce Committee.

Rep. Dan Maffei (D-NY), a member of the House Armed Services Committee who returned to Congress in 2012 after having lost his seat in 2010. Rep. Maffei is the lead Democrat on a "Dear Colleague" letter circulating on the Hill urging House leadership to replace the Medicare physician payment formula before the end of the year.

10. FINAL MENTAL HEALTH & SUBSTANCE USE DISORDER PARITY RULE RELEASED

On November 8, the Departments of Health and Human Services, Labor and the Treasury jointly issued a [final rule](#) increasing parity between mental health/substance use disorder benefits and medical/surgical benefits in group and individual health plans. The final rule issued implements the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, and ensures that health plan features like co-pays, deductibles and visits limits are generally not more restrictive for mental health/substance abuse disorders benefits than they are for medical/surgical benefits. An HHS fact sheet on the rule is available [here](#).

11. YOUTH E-CIGARETTE USE DOUBLED BETWEEN 2011-2012

While cigarette use by middle and high school students stayed the same, use of other tobacco products became more widespread, a new [study](#) from the CDC finds. In 2012, 14 percent of high students reported smoking cigarettes and about 1 in 4 said they used tobacco products. The study defined tobacco products more broadly than in previous years, including e-cigarettes and hookah, and dissolvables. E-cigarette use nearly doubled between 2011 and 2012 for both middle school (0.6 percent to 1.1 percent) and high school (1.5 percent to 2.8 percent) students, the study found.

12. REGULATORY BRIEFS

- On November 12, CMS [announced](#) the launch of the CMS Virtual Research Data Center (VRDC) at the White House event *Data to Knowledge to Action: Building New Partnerships* which is intended to improve researchers' ability to extract knowledge and insights from large and complex collections of digital data, the VRDC is a secure and

efficient means for researchers to virtually access and analyze CMS' health care data. More information on the VRDC can be found [here](#).

- On November 13, HHS [announced](#) the release of an [enrollment report](#) for the first reporting period (Oct. 1-Nov. 2, 2013) of the Health Insurance Marketplace's Open Enrollment. As of November 2, 106,185 individuals have selected plans from the Marketplace, and another 975,407 have made it through the process by applying and receiving an eligibility determination, but have not yet selected a plan. An additional 396,261 have been determined or assessed eligible for Medicaid or the Children's Health Insurance Program (CHIP).
- On November 14, HHS released a [statement](#) about World Diabetes Day and National Diabetes Month.
- On November 14, CMS posted a [blog](#) on the latest Value-Based Purchasing Program Scorecard. For the second year in a row, CMS posted Hospital Value-Based Purchasing payment incentive adjustment factors for fiscal year 2014.
- CMS has scheduled several educational events on a variety of topics. [Registration](#) is required for each.
 - On November 19 from 1:00pm to 2:00pm ET "Open Payments System Webinar 1" and then from 2:00pm to 3:00pm ET "Open Payments Data Submission". On December 3, 2013, CMS will host a follow-up Q&A session after participants have had the opportunity to fully review the data submission resources. More information on that webinar will be available following the November 19 webinars.
 - On November 21 from 1:00pm to 2:30pm ET, "Special Open Door Forum: ACA Section 3004: Quality Reporting Program for Long Term Care Hospitals."
 - On November 22 from 1:00pm to 2:30pm ET, "CMS Innovation Center Special Open Door Forum: Discussion of the Medicare Intravenous Immune Globulin (IVIG) Demonstration."
 - On November 25 from 2:00pm to 3:00pm ET, "National Partnership to Improve Dementia Care in Nursing Homes."
 - On December 17 from 1:30pm to 2:30pm ET, "2014 Physician Fee Schedule Final Rule: Quality Reporting in 2014."