GOVERNMENT AFFAIRS WEEKLY

AAFP Government Relations — 1133 Connecticut Avenue, NW (Suite 1100) — Washington, DC 20036

August 28, 2015

IN THIS SPECIAL RECESS REPORT…

NEXT WEEK IN WASHINGTON…
* Congress remains in recess until Tuesday, September 8.

1. AAFP RESPONDS TO 2016 PROPOSED MEDICARE PHYSICIAN FEE SCHEDULE

In a 28-page letter sent to the Centers for Medicare & Medicaid Services (CMS) on August 26, the AAFP responded to the 2016 proposed Medicare physician fee schedule. This detailed response is in addition to the AAFP's July 23, 2015 letter that congratulated CMS and outlined our full support for the proposed creation of advance care planning (ACP) services.

In the letter, the AAFP recognized this is the first proposed physician fee schedule after repeal of the Sustainable Growth Rate (SGR) formula by the *Medicare Access and CHIP Reauthorization Act of 2015* (MACRA). The 2016 proposed fee schedule marks the first time in many years that physicians do not face significant and disruptive cuts in their Medicare payment because of the flawed SGR formula. The AAFP looks forward to working with CMS to develop new, *MACRA*-required payment systems for physicians and other practitioners. After submitting the AAFP letter to CMS, the AAFP issued a press statement outlining how attaching additional billing codes to account for the extra work associated with patient care services does little to solve a structural flaw in ensuring that Medicare appropriately pays physicians for their medical expertise. That flaw is the fee-for-service structure that fails to value prevention, efficiency and improved patient experience in the health care system.

To improve the final 2016 Medicare physician fee schedule rule, in the letter to CMS, the AAFP:

- Supports technical changes to the methodology used to compute the practice expense and malpractice relative value units (RVUs)
- Appreciates CMS's efforts to identify misvalued services and comments on how to improve the valuation and coding of the global surgical package
- Supports the permanent elimination of the refinement panel, since CMS will instead publish information separately.
- Appreciates CMS's interest in better valuing cognitive work outside of the current evaluation and management (E/M) code framework but strongly urges CMS to revalue E/M codes before creating new add-on codes for E/M services

- Suggests ways CMS can improve beneficiary access to transitional care management (TCM) and chronic care management (CCM) services
- Discusses the proposed methodology CMS will use to compute RVU adjustments for misvalued services as well as how the agency will phase-in significant RVU reductions
- Reiterates full support for the CMS's proposal to pay for advance care planning (ACP) services in 2016
- Supports the inclusion of CPT codes 99356-99357 (prolonged services in the inpatient or observation setting) on the telehealth list but expresses concerns with the proposed frequency limitation
- Supports the incident-to clarifications made by CMS
- Fully supports CMS paying for CCM services in rural health clinics and federal qualified health centers (FQHCs)
- Has significant concerns about the disproportional burden primary care physicians will face in 2017 when trying to comply with a requirement that physicians ordering certain imaging services (magnetic resonance, computed tomography, nuclear medicine, and positron emission tomography imaging services) for Medicare beneficiaries must consult appropriate use criteria applicable to the imaging modality
- Is supportive of the Physician Compare website concept but with several concerns regarding the complexity and accuracy of the information and its usefulness to consumers; to resolve these concerns, the AAFP also strongly urges CMS to incorporate the Core Quality Measures Collaborative's aligned measure sets
- Opposes the premature expansion of Clinician and Group-Consumer Assessment and Healthcare Providers and Systems (CAHPS) survey to 25+ eligible professionals reporting via the Group Practice Reporting Option (GPRO) since the mandate to use a CAHPS certified vendor comes with great expense and is resource intensive, especially for smaller practices
- Supports the proposal to allow more time for qualified clinical data registries (QCDR) to self-nominate
- Comments on low-volume threshold and clinical practice-improvement activities associated with the Merit-Based Incentive Payment System (MIPS) and suggests how the agency should develop Alternative Payment Models (APMs)
- Supports further reporting alignment between the Electronic Health Record (EHR) Incentive Program and Comprehensive Primary Care (CPC) initiative
- Strongly urges CMS to expand the CPC initiative to as many geographic regions and practice sites as possible
- Comments on the further development of the Value-Based Payment Modifier and Physician Feedback Program.

2. THE AAFP CALLS FOR ENFORCEMENT ON ADVERTISING CAMPAIGNS

The AAFP recently signed onto a letter that was sent August 24 to the Food and Drug Administration calling for an enforcement action to be brought against RJ Reynolds for its advertising of Natural American Spirit cigarettes. Recently, RJ Reynolds launched a new national magazine advertising campaign for Natural American Spirit cigarettes which continues and intensifies past advertising campaigns using the phrases "100% additive-free," "natural tobacco" and "organic tobacco." These phrases clearly imply that the brand is less hazardous than other cigarettes.

On August 27, the FDA told tobacco manufacturers that they did not have the agency's approval to claim that their products were free of certain harmful substances, or that they posed less risk to consumers than other tobacco products. The warnings were sent to ITG Brands, which makes Winston cigarettes; Santa Fe Natural Tobacco (a subsidiary of RJ Reynolds), which

makes Natural American Spirit; and Sherman's 1400 Broadway N.Y.C., the maker of Nat Sherman cigarettes.

3. SUPPORT FOR PRECAUTIONS ON LIQUID NICOTINE PACKAGING
The AAFP sent the FDA a letter on August 28 in response to the agency's request for comments on nicotine exposure warnings and child-resistant packaging for liquid nicotine. The AAFP believes textual and graphical warning labels and child-resistant packaging must be required on all nicotine and nicotine delivery devices and we urged the FDA to promptly utilize its enforcement authority in this area. The AAFP continues to call for the FDA to have full jurisdiction to regulate the manufacture, sale, labeling, distribution and marketing of tobacco products and nicotine delivery devices, including e-cigarettes, although we have agreed that the Federal Trade Commission also should have authority to regulate advertising practices of tobacco companies. The AAFP also believes the FDA should require child-resistant packaging for liquid nicotine and all other novel tobacco products. Given that nicotine is an addictive drug, child-resistant packaging and graphical warnings are immediate and common sense steps that manufacturers should be required to take to prevent infants and children from inadvertently consuming or being exposed to liquid nicotine. Furthermore, since nicotine is a toxic substance, it should be treated as any other poisonous chemical and include both text and graphic warnings on child-resistant packaging.

4. AAFP NOMINATES TWO FOR ADVISORY COMMITTEE ON WOMEN VETERANS
In a letter sent to the U.S. Department of Veterans Affairs on August 28, the AAFP nominated Beulette Y. Hooks, MD, FAAFP and Janet M. West, MD, FAAFP to fill vacancies on the Advisory Committee on Women Veterans. The committee advises the VA on the administration of benefits and services for women veterans.

5. FamMedPAC HELPS AAFP MEMBERS CONNECT WITH LEGISLATORS BACK HOME
FamMedPAC provided support to several legislators over the past week for fundraising events attended by or hosted by AAFP members. Delivering a FamMedPAC check at a local event is a great way to build a relationship with your Congressman or Senators when they are away from Washington, DC. The PAC supported the following events this week:

- **Rep. David Young (R-IA)**, a member of the House Appropriations Committee. The Iowa Academy of Family Physicians hosted a reception for Rep. Young. FamMedPAC Board member Dr. David Carlyle attended along with other IAFP members.
- **Sen. Richard Burr (R-NC)**, a member of the Health Subcommittee of the Senate Finance Committee. Dr. Conrad Flick, a FamMedPAC Board member from North Carolina, attended the event.
- **Sen. Charles Grassley (R-IA)**, also a member of the Health Subcommittee of the Senate Finance Committee. Dr. Steven Richards hosted the event for Sen. Grassley at his home in Iowa.
- **Rep. G.K. Butterfield (D-NC),** a member of the Health Subcommittee of the House Energy and Commerce Committee. AAFP Board member Dr. Mott Blair attended the event for Rep. Butterfield in North Carolina.
- **Rep. Paul Ryan (R-WI)**, Chairman of the House Ways and Means Committee. Dr. Alan Schwartzstein attended the event for Rep. Ryan in Wisconsin.

6. REGULATORY BRIEFS
CMS will host the following free educational calls, registration is required (all times Eastern):

- National Partnership to Improve Dementia Care and QAPI, Sept. 3, 1:30 pm
- Overview of the 2014 Annual Quality and Resource Use Reports, Sept. 17, 2:30pm
- Medicare Quality Reporting Programs: 2017 Payment Adjustments, Sept. 24, 1:30pm