AAFP
STRONG MEDICINE FOR AMERICA

GOVERNMENT AFFAIRS WEEKLY

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NEXT WEEK IN WASHINGTON…

* Both chambers of Congress will be in recess next week.

1. HEALTH REFORM REPEAL WINS IN THE HOUSE BY A VOTE OF 239-186

On February 3, the House voted 239 to 186 to completely repeal the *Affordable Care Act* (ACA). The bill, HR 596, includes instructions for several legislative committees work to replace the health care law with new policies. Every Democrat and three Republicans, Reps. Robert Dold (IL), John Katko (NY) and Bruce Poliquin (ME), voted against repeal. The AAFP sent a letter to every member of the U.S. House of Representatives urging them not to repeal it. This marks the fourth such vote since the law's passage in 2010 but the first time lawmakers have weighed in on full repeal since the GOP took control of Congress. President Barack Obama has made it clear he will veto any repeal of his signature health legislation.

2. COST ESTIMATE GROWS FOR SGR REPEAL

On February 2, the Congressional Budget Office (CBO) released its updated cost estimate for Medicare's Sustainable Growth Rate (SGR), estimating that freezing current physician payment rates through 2025 would cost $137.4 billion over the ten-year period. According to CBO, House and Senate legislation (HR 4015 and S 2000) to repeal and replace the SGR would cost $174.5

billion from 2015-2025. The current SGR extension expires at the end of March and unless Congress acts, physicians would see an overall reduction of 21 percent in Medicare payments.

3. FY 2016 BUDGET HAS NO MAJOR CHANGES IN HEALTH CARE FUNDING
The White House released President Obama's fiscal year 2016 budget request on February 2. The Health and Human Services budget in brief is on the HHS website. AAFP priorities include:

Medicaid: The President's budget seeks to continue encouraging provider participation in Medicaid by extending increased payments for primary care services delivered by family physicians through 2016.

Children's Health Insurance Program (CHIP): The budget proposed an additional four years of funding for the CHIP through FY 2019 to align with the maintenance of effort requirement and ensure comprehensive and affordable coverage for children covered by CHIP.

Medicare: As recently announced by HHS Secretary Burwell, the Obama budget includes proposals targeted at changing provider incentives and payment mechanisms. One of these proposals represents an improvement in physician payment that replaces the recurring threat of payment reductions known as the Sustainable Growth Rate.

HRSA – Graduate Medical Education (GME): As last year's budget did, this budget calls for a new competitive grant-based GME payment funded through the Medicare Hospital Insurance Trust Fund for a total of $5.3 billion over 10 years to support 13,000 new residents. It would replace the THCGME program. The budget calls for cutting the Children's Hospital GME by $165 million to $100 million in FY 2016.

HRSA – TITLE VII: The budget seeks level-funding of $39 million for the Title VII, Section 747 Primary Care Training and Enhancement program. It provides for two new workforce initiatives, including $4 million to fund ACA-authorized Rural Physician Training grants to help rural-focused training programs recruit and graduate students most likely to practice medicine in underserved rural communities which the AAFP has supported in the past. The budget proposes $10 million to support a new Clinical Training in Interprofessional Practice program to increase the capacity of community-based primary health care teams to deliver quality care. The budget again proposes to eliminate the Area Health Education Centers program.

HRSA – National Health Service Corps: The budget includes $810 million for the National Health Service Corps, including $523 million in mandatory funding. The current ACA NHSC trust fund expires at the end of FY 2015.

Agency for Healthcare Research and Quality (AHRQ): The budget proposes a program level for AHRQ of $479 million which is $14 million below the FY 2015 level.

In addition, the FY2016 budget proposes over $600 million in public health investments in priority programs: antibiotic resistance, injury prevention, food safety and drug abuse. The following are highlighted budget recommendations:

- Prescription Drug Abuse (within CDC, DOJ, SAMHSA) - $99 million increase
- Combating Antibiotic Resistance (within CDC, HHS, FDA) - $491 million increase
- Injury Prevention and Surveillance (within CDC) - $86 million increase
    - National Violent Death Reporting System (NVDRS) - $12.3 million increase
    - Rape Prevention and Education - $5.6 million increase
    - Youth concussion surveillance - $5 million increase

- Food Safety (within FDA) - $300 million increase

The following are highlighted public health program reductions.
- Preventive Health and Health Services Block Grant (-$160 million)
- Racial and Ethnic Approaches to Community Health (-$50.9 million)
- Immunizations (-$50.3 million)

4. SENATE FINANCE COMMITTEE REVIEWS HHS BUDGET
On Wednesday, February 4, the Senate Finance Committee held a hearing titled, *The President's Budget for Fiscal Year 2016.* The sole witness was Health and Human Services Secretary Sylvia Matthews Burwell. In her opening statement, she outlined several of the administration's funding proposals to support primary care, including $4.2 billion for community health centers, and $14.2 billion to bolster the nation's health care workforce (including more than 15,000 National Health Service Corps clinicians). Secretary Burwell also stated that the administration encourages the bipartisan-bicameral Congressional efforts to repeal the Medicare SGR formula and replace it with a long-term solution.

Several committee members spoke for primary-care priorities. Ranking Member Ron Wyden (D-OR) stated that he believed that the future of Medicare would involve "treating chronic disease," and applauded the Secretary for HHS's January 26 announcement of intent to move toward more value-based payments, as "a roadmap that boldly moves away from the outdated fee-for-service model." Several other committee members, including Sen. Maria Cantwell (D-WA) and Sen. Tom Carper (D-DE), praised the new HHS payment-reform proposal. Sen. Sherrod Brown (D-OH) led a discussion with the Secretary about the need to revive the Medicaid enhanced payment for primary care. Senator Brown cited the recent study in *The New England Journal of Medicine* documenting that "parity and payment over the past two years has led to an increase in appointments for Medicaid patients." Secretary Burwell agreed that Medicaid parity is "an important program," and "a cost effective program."

Burwell received criticism from Sen. Chuck Schumer (D-NY) over the Administration's proposal to reduce payments to hospitals for graduate medical education. Secretary Burwell defended the proposal in part by pointing out that the savings would be "realigned" to target National Health Service Corps, Medicaid parity for primary care, and other areas "of most need."

5. HEALTH CARE ENROLLMENT SURGES IN FINAL DAYS OF ENROLLMENT
With only 2 days left before 2015 Open Enrollment season ends, HHS wrote in the Open Enrollment Blog this week that 7.75 million consumers have selected or were automatically reenrolled in health care plans since November 2014. Over the past few months, over 10 million applications have been submitted through the federal marketplace, healthcare.gov. Some of these applicants qualified for Medicaid or other public insurance programs, or are still being processed which is why they are not counted in the 7.75 million total. Open enrollment also has surged in the past couple of weeks in a number of states, especially Louisiana, Nevada, Mississippi, Texas, and South Carolina.

6. SENATE CONFIRMS WHITE HOUSE DRUG CZAR
On Monday, February 9, the U.S. Senate confirmed Michael Botticelli as Director of the White House Office of National Drug Control Policy (ONDCP) by a vote of 92-0. Botticelli is the first ONDCP Director who is in long-term recovery from a substance use disorder, recently celebrating 26 years in recovery.

Prior to joining ONDCP, Acting Director Botticelli served as Director of the Bureau of Substance Abuse Services at the Massachusetts Department of Public Health, where he successfully

expanded innovative and nationally recognized prevention, intervention, treatment, and recovery services for the Commonwealth of Massachusetts. He served in a variety of leadership roles for the National Association of State Alcohol and Drug Abuse Directors; and was a member of the Advisory Committee for the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention and the National Action Alliance for Suicide Prevention.

7. AAFP COMMENTS ON LATEST MEDICARE ACO PROPOSED RULE

In a letter sent to CMS on February 4, the AAFP responded to the proposed rule titled "Medicare Shared Savings Program: Accountable Care Organizations." CMS issued this proposed rule to make changes to the Medicare Shared Savings Program (MSSP), including provisions relating to the payment of Accountable Care Organizations (ACOs) participating in the MSSP. The AAFP response expressed support for efforts that improve the quality and efficiency of care and efforts that demonstrate an increased value of healthcare expenditures. However, the letter asserted that the current and proposed changes to the Medicare ACO program could struggle or fail to meet the potential benefits of better care for individuals, better health for populations, lower per-capita costs for Medicare beneficiaries, and improved coordination among physicians. The AAFP's principal concern is the agency's continued reliance on the needlessly complicated retrospective claims-based attribution method for the MSSP. The AAFP has recommended an approach to more broadly attribute Medicare beneficiaries to MSSP ACOs on a prospective basis, as is the case in the Pioneer ACO program and the proposed MSSP Track 3 option. The AAFP urged CMS not to confine its payment method to the current, traditional Medicare fee-for-service payments but instead employ a variety of approaches, such as blended fee-for-service payments, prospective payments, episode/case rate payments, and partial capitation payments. Many of these innovative, non-fee-for-service payments would require a prospective linking of Medicare ACO patients with the primary care physician of their own choice.

The AAFP concurred with the CMS proposal to exclude sub-specialty physicians in the beneficiary assignment process. However, the AAFP did not support policy that could assign a beneficiary to an ACO based solely on services delivered by a non-physician ACO professional, since that assignment should be limited to primary care physicians. In addition, the AAFP joined with other physician groups in a detailed response to CMS as well as a summarized version.

8. HHS URGED TO NOT CHANGE "GRANDFATHER DATE" OF TOBACCO CONTROL ACT

In a coalition letter sent January 29, the AAFP and others wrote HHS to affirm the public health importance of applying the new product provisions of the *Family Smoking Prevention and Tobacco Control Act* to products the Food and Drug Administration (FDA) proposes to deem subject to its authority. This law established a premarket review process for new tobacco products, which the statute defines as products introduced into interstate commerce after February 15, 2007 and products modified after that date. The letter discusses how several tobacco companies have expressed concern about how FDA has proposed applying the new product provisions to products that it is deeming subject to its authority. They have urged FDA to change the "grandfather date" in Section 910 of the statute from February 15, 2007 to the date of the proposed or final deeming rule, a request that also has been made by several in Congress. The AAFP letter urges HHS to reject changes to the new product "grandfather date."

9. INCREASED PATIENT PROTECTIONS IN MEDICARE ADVANTAGE PLANS URGED

In a coalition letter sent on February 12, the AAFP and other physician organizations wrote CMS in advance of the 2016 Medicare Advantage call letter. The letter urged CMS to increase patient protections in the Medicare Advantage plans, make changes to requirements regarding adequate notice to patients about provider networks in these plans, and offer options for seniors who have had changes imposed upon them during the benefit year. The letter argued more

must be done to provide potential and existing enrollees with adequate information to make decisions about MA plans. The letter discussed that over the past two years, physicians throughout the country have been removed "without cause" from Medicare Advantage plan networks during the benefit year, which needlessly disrupts patients' care. The letter also argued that allowing plans to lock seniors into a plan that meets their needs and then removing physicians from their network, disrupting their care, should not be permitted.

10. BICAMERAL CHIP LEGISLATION INTRODUCED
On February 11, Senator Sherrod Brown (D-OH) and Rep. Gene Green (D-TX) introduced the *The Protecting and Retaining Our Children's Health Insurance Program Act of 2015*, or PRO-CHIP Act, which proposes a four-year extension of funding through fiscal year (FY) 2019.

The program provides health insurance coverage for children up to age 19 and pregnant women in families with incomes above the Medicaid eligibility level. Since the program was first created in 1997, the percentage of children without insurance dropped from 14 percent to 7 percent. The program's funding is set to expire September 30, 2015. The AAFP has commented to the Medicaid and CHIP Payment and Access Commission (MACPAC) and to Congress about the need to update and fund this important program.

11. ICD-10 IMPLEMENTATION COMES UNDER SCRUTINY IN THE HOUSE
On February 11, the House Energy and Commerce Committee's Subcommittee on Health held a hearing titled, *Examining ICD-10 Implementation*. The hearing occurred a few days after a Government Accountability Office (GAO) report, which was informed by interviews with AAFP officials and other medical stakeholders, examined CMS' ICD-10 transition efforts. The report also highlighted areas of concern such as the needs of small physician practices, requests for comprehensive testing and the need to disseminate best practices.

Overall, a majority of the witnesses and Subcommittee members expressed support for ICD-10 implementation without delay. In contrast, Representatives Mike Burgess (R-TX), Jim Barton (R-TX), Renee Ellmers (R-NC), Larry Buschon (R-IN) and Billy Long (R-MO) said the new requirement could be harmful to physicians' practices. Rep. Burgess, who is an obstetrician-gynecologist, advised members to learn from past experience and to put contingency plans in place. Rep. Barton encouraged the administration to provide incentives and additional transitional resources. Rep. Buschon, who is a surgeon, warned that ICD-10 could cause financial hardship on small physician practices. One witness, William Jefferson Terry, MD, an urologist provided compelling commentary on physicians' "tsunami of regulations" that require additional expenses, interferences with the physician-patient relationship and significant time investments. Although, Dr. Terry agreed that ICD-10 should proceed as planned, he indicated that how the policy is implemented is of vital importance.

12. SENATE HELP COMMITTEE DISCUSSES VACCINE-PREVENTABLE DISEASES
On February 10, the Senate Health, Education, Pensions and Labor (HELP) Committee held a hearing titled, *The Reemergence of Vaccine-Preventable Diseases: Exploring the Public Health Successes and Challenges*. The hearing reinforced the importance of vaccines in public health, the physicians' role in educating families and the need to address the association between philosophical exemptions and the growing infection rate of vaccine-preventable diseases. During the question and answer period, Mark Sawyer, MD, who is a professor of clinical pediatrics at the University of California San Diego and Rady Children's Hospital, and an infectious disease expert, stated that state policy makers may need to restrict or eliminate parents' ability to use personal belief exemptions (PBE) to avoid or delay vaccinating their children. Primary care physicians are strongly concerned vaccine refusals and the use of PBEs.

13. OVERSIGHT COMMITTEE REVIEWS CHALLENGES TO MENTAL HEALTH PROGRAMS
On February 11, the House Energy and Commerce's Subcommittee on Oversight and Investigations held a hearing to review concerns reported in a GAO report, which concluded that greater and more coordinated efforts are needed among U.S. Department of Health and Human Services (HHS) agencies and the 112 programs for those with serious mental illnesses. The hearing also highlighted that improvements are needed in the areas of interagency coordination, program evaluation, and identification of gaps in service.

14. CMS ANNOUNCES NEW MEDICARE COVERAGE FOR LUNG CANCER SCREENING
The Centers for Medicare and Medicaid Services announced on Thursday, Feb. 5, that Medicare will begin covering, effective immediately, screening for lung cancer with low dose computed tomography (CT). The new preventive benefit will be available once per year for Medicare beneficiaries who meet the following requirements: (1) 55-77 years old, are current smokers or have quit smoking within the last 15 years; (2) have a smoking history of at least 30 "pack years," and (3) they receive a physician order meeting certain requirements. Previously, the AAFP had released a clinical preventive service recommendation that "the evidence is insufficient to recommend for or against screening for lung cancer with low-dose computed tomography."

15. FamMedPAC SUPPORTS KEY MEMBERS EARLY IN CYCLE
Senators and Representatives have already started raising funds for their 2016 campaigns. FamMedPAC is focusing its efforts at this early stage of the election cycle on members of important committees, physician-lawmakers, and leadership in both parties. The PAC supported the following legislators in the first two weeks of February:

- **Rep. Andy Harris (R-MD)**, a physician (anesthesiologist) who serves on the Labor-HHS Subcommittee of the House Appropriations Committee.
- **Rep. Frank Pallone (D-NJ)**, the senior Democrat on the House Energy and Commerce Committee.
- **Rep. Lynn Jenkins (R-KS)**, a member of the Health Subcommittee of the House Ways and Means Committee.
- **Rep. Michael Burgess (R-TX)**; a physician (OB-GYN) and member of the Health Subcommittee of the House Energy and Commerce Committee.
- **Rep. Ami Bera (D-CA)**, a physician (internist) in his second term in Congress.
- **Sen. Patty Murray (D-WA)**, the senior Democrat on the Labor-HHS Subcommittee of the Senate Appropriations Committee, who also serves on the HELP and Budget Committees.
- **Rep. Nancy Pelosi (D-CA)**, the Minority Leader of the House.
- **Rep. Steve Scalise (R-LA)**, the Majority Whip of the House.
- **Rep. John Boehner (R-OH)**, the Speaker of the House.

16. REGULATORY BRIEFS

- On February 5, CMS issued a final national coverage determination (NCD) providing for Medicare coverage of Screening for Lung Cancer with Low Dose Computed Tomography (LDCT). Medicare will now cover lung cancer screening with LDCT once per year for beneficiaries who meet all of the following criteria:
    - They are age 55-77, and are either current smokers or have quit smoking within the last 15 years;
    - They have a tobacco smoking history of at least 30 "pack years" (an average of one pack a day for 30 years); and
    - They receive a written order from a physician or qualified non-physician practitioner that meets certain requirements.

- On February 6, CMS posted the final Essential Community Provider (ECP) list to assist issuers to identify providers that qualify for inclusion in an issuer's plan network to satisfy the ECP standard which defines providers who serve predominantly low-income, medically underserved individuals.
- On February 6, CMS issued a final rule for the Medicare Advantage (MA) and prescription drug benefit (Part D) programs to changes for contract year 2016. Opposed by the AAFP in a February 26, 2014 letter, the final rule did not include policies that would have lifted the protected class designation on three drug classes – antidepressants, antipsychotics and immunosuppressants for transplant rejection.
- On February 9 the FDA issued a final rule that clarifies a hands-off approach to regulating mobile devices and apps. The AAFP commented on this proposed rule in a letter sent July 2, 2014.
- CMS will host the following free educational calls, registration is required:
    - Payment of Chronic Care Management Services Under CY 2015 Medicare PFS, February 18, 1:30pm ET
    - ICD-10 Implementation and Medicare Testing, February 26, 1:30pm ET

17. PENNSYLVANIA GOVERNOR WOLF EXPANDS MEDICAID

On Monday, Pennsylvania Governor Tom Wolf (D) announced that his state would transition to a regular Medicaid expansion over the coming months. His announcement detailed the state's traditional plan to expand their Medicaid program, while withdrawing that of former Governor Tom Corbett (R), which was described as a "low risk" health care package. The Governor detailed a number of issues with the Healthy PA program, including patients not receiving vital treatment, confusion among recipients on what was and was not covered under the plan. Other issues included special populations being placed into incorrect plans, which then put their health insurance coverage status in jeopardy.

18. PRESIDENT SIGNS VETERANS SUICIDE PREVENTION BILL

On Thursday, February 12, President Obama signed a bipartisan bill that aims to reduce suicide among veterans. The *Clay Hunt Suicide Prevention for American Veterans Act* (HR 203/S 167) would require annual evaluations of the VA's mental health and suicide prevention programs. The Senate cleared the bill on February 3 which had passed the House unanimously on January 12.