

June 19, 2015

## IN THIS REPORT...

1. AAFP Opposes AHRQ Termination and Other Cuts in House Spending Bill
2. Some Public Health Programs Would Be Cut by House Funding Bill
3. House Panel Approves Bill to Exempt Tobacco from FDA Pre-Market Reviews
4. Medical Device Tax Would Be Repealed by House Approved Legislation
5. Committee Reviews Mental Health Bill
6. Senate HELP Committee Discusses Physician-Centered Health IT Priorities
7. The AAFP Raises Concerns With ICD-10 Deadlines
8. FamMedPAC Supports Key Committee Members
9. Regulatory Briefs

### NEXT WEEK IN WASHINGTON...

- \* On Tuesday, June 23, the Senate Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will meet at 3:00 pm to consider a draft FY16 spending bill.
- \* On Wednesday, June 24, the House Ways and Means Oversight Subcommittee will hold a hearing on the impact of the 2010 health care law on health insurance premiums.
- \* Also on June 24, the House Energy & Commerce Subcommittee on Health has a hearing to examine the Administration's approval of Medicaid demonstration projects.
- \* On Thursday, June 25, the same subcommittee will hold a hearing on three public health bills.

## 1. AAFP OPPOSES ACA, CMS CUTS AND AHRQ TERMINATION IN FY16 SPENDING BILL

On Wednesday, June 17, the AAFP sent a [letter](#) to the House Appropriations Subcommittee on Labor, HHS and Education to express serious concerns about the inadequate investment in our nation's primary care physician workforce, the National Health Service Corps and the Centers for Medicare & Medicaid Services in the draft fiscal year 2016 appropriations bill. The letter also opposed the bill's proposals to terminate the Agency for Healthcare Research and Quality (AHRQ) and to defund the implementation of the *Affordable Care Act (ACA)*.

When the subcommittee met later that day, only Democratic members offered amendments, all of which were rejected on party-line votes. The failed amendments included one by Rep. Lucille Royball-Allard (D-CA) to restore funding for AHRQ and one by Rep. Nita Lowey (D-NY) to restore funding for Title X Family Planning. The subcommittee's senior Democrat, Rep. Rosa Delauro (D-CT), offered an amendment to increase funding by \$11.7 billion for numerous programs within the bill to match the President's budget request.

The House Appropriations Committee intends to consider this spending draft next week. The Senate Labor, HHS and Education Appropriations Subcommittee is set to consider its draft bill on June 23. To express concern over this bill, send this [speak out](#) email to your Representative.

## **2. HOUSE COMMITTEES RECOMMEND CUTS PUBLIC HEALTH PRIORITIES**

The House Appropriations Subcommittee on Labor, Health and Human Services funding measure also included mixed results for public health programs. The bill increases funding for the U.S. Centers for Disease and Prevention's (CDC) by \$140 million and the Substance Abuse and Mental Health Services Administration (SAMHSA) by \$23 million. It recommends slashing the budget of key public priorities that address family planning, teen pregnancy prevention, immunizations and tobacco prevention. Further, it increased funding for food safety but falls short of the president's requested level. The following are key highlights.

- CDC, Public Health Preparedness is increased by \$108 million
- CDC Tobacco Prevention would be cut by \$110 million
- CDC Immunization Program would lose \$50 million
- Patient-Center Outcomes Research would be slashed by \$100 million
- SAMSHA Prescription Drug Program would grow by \$13 million
- Title X, Family Planning Program would be decreased by \$300 million
- Teen Pregnancy Prevention Initiative would lose \$90 million

The Agriculture spending bill included several public health provisions, as well.

- FDA Food Safety would increase by \$41 million
- Special Supplemental Nutrition Program for Women, Infants, and Children would decrease by \$139 million
- Child Nutrition would see a \$207 million increase
- Supplemental Nutrition Assistance Program would decline by \$184 million

The bill also includes a policy provision that will ensure any new USDA Dietary Guidelines focus only on food and nutrients and have a sound basis in scientific evidence.

## **3. APPROPRIATIONS BILL INCLUDES TOBACCO REGULATORY EXEMPTION**

The spending bill for the Department of Agriculture, Food and Drug Administration and related agencies the House Appropriations Subcommittee approved on Thursday, June 18, also includes a provision that changes a date for the applicability of FDA regulation of tobacco products. As a result of the change, all tobacco products currently on the market — including e-cigarettes — would be exempt from pre-market FDA review. Several Democratic members of the subcommittee raised the issue when the subcommittee debated the bill. It remained in the bill, nonetheless.

## **4. HOUSE APPROVES BILL TO REPEAL MEDICAL DEVICE TAX**

Legislation that would scrap a 2.3-percent excise tax on medical devices is on its way to the Senate after the House endorsed it in a bipartisan vote Thursday, June 18. The House passed the *Protect Medical Innovation Act* (HR 160) by a vote of 280-140, with 46 Democrats joining a 234 Republicans. The Obama administration has threatened to veto it, charging the repeal “would increase the deficit to finance a permanent and costly tax break for industry without improving the health system or helping middle-class Americans.” The tax, which took effect in 2013, was included in the ACA to offset some of the costs of the health coverage expansion. Eliminating the provision is estimated to cost about \$24.4 billion, but the Ways and Means Committee exempted the measure from the budget rules that would have required an offset. As a result, the cost of the repeal would be added to the federal deficit.

## **5. HOUSE COMMITTEE REVIEWS MENTAL HEALTH LEGISLATION**

On Tuesday, June 16, the House Energy and Commerce's Health Subcommittee held a hearing to examine the bill, *Helping Families in Mental Health Crisis Act* (HR 2646). The legislation would reform key mental health programs and establish a new agency within the Department of Health and Human Services to address serious mental health issues. The bill includes several provisions to support the integration of mental health and primary care; however, the bill also

would provide funding to encourage physicians to subspecialize in psychiatry. The also seeks to improve implementation and enforcement of the *Mental Health Parity and Addiction Equity Act*. During the [hearing](#), former Rep. Patrick Kennedy (D-RI) emphasized the important role of primary care physicians in prevention and early intervention services. The CEO of Mental Health America also commented on the need to support coverage among primary care physicians, including family physicians.

## 6. SENATE COMMITTEE EXAMINES IMPROVING HEALTH IT

On June 16, the Senate Health, Education, Labor and Pensions Committee conducted a hearing about the physician's experience using electronic health records. Sen. Lamar Alexander (R-TN) said that he wants legislation to improve the Meaningful Use program for physicians. He also asked if the committee should consider delaying Meaningful Use Stage 3 implementation. Sen. Sheldon Whitehouse (D-RI) recommended addressing many of the concerns discussed during the March 17 hearing when Dr. Robert Wergin, AAFP President, testified.

## 7. AAFP RAISES SEVERAL CONCERNS WITH ICD-10 TRANSITION

The AAFP sent the Centers for Medicare & Medicaid Services (CMS) a [letter](#) on June 16 to express concern about the possible negative consequences of ICD-10 implementation as it relates to claims-based reporting for the Physician Quality Reporting System (PQRS). The letter also requested assurance that the Medicare administrative contractors (MACs) will be able to handle the change in diagnosis codes as it relates to claims-based reporting of PQRS in 2015 and that no family physician will be penalized financially by a MAC's failure to do so.

In a separate [letter](#) sent July 17 to HHS Secretary Burwell, the AAFP expressed growing apprehension with the upcoming transition to ICD-10 as it specifically relates to CMS' authority to enter into contracts with Recovery Audit Contractors (RACs) to identify improper payments and recoup overpayments in Medicare. Since the change to ICD-10 is a significant, large, and technically challenging operation, the letter strongly urged CMS for three years to direct that the RACs not audit and seek recoupment for claims whose sole error is due to the transition to ICD-10. The AAFP urged that RACS not penalize practices for Medicare claims with the correct and appropriate corresponding diagnostic ICD-9 family code.

## 8. FamMedPAC SUPPORTS KEY COMMITTEE MEMBERS

FamMedPAC this week supported members of key Senate and House committees with jurisdiction over health issues. PAC activities provide strong support for AAFP's legislative efforts in Congress. The PAC supported the following legislators this week:

- **Sen. Rob Portman (R-OH)**; a member of the Health Subcommittee of the Senate Finance Committee.
- **Rep. Jim McDermott (D-WA)**, the senior Democrat on the Health Subcommittee of the House Ways and Means Committee.
- **Rep. Barbara Lee (D-CA)**, a member of the Health Subcommittee of the House Appropriations Committee.
- **Rep. Earl Blumenauer (D-OR)**, a member of the Health Subcommittee of the House Ways and Means Committee.

## 9. REGULATORY BRIEFS

- On June 12, the Departments of Health and Human Services, Labor, and Treasury issued a [final rule](#) designed to improve consumers' access to important plan information to compare their options when shopping for and renewing health insurance coverage.
- On June 15 the Medicare Payment Advisory Committee released their [annual report](#) to Congress on Medicare payment issues.

- On June 16, the FDA issued a final notice that partially hydrogenated oils, the primary dietary source of trans fats, are not “generally recognized as safe” for use in human food. As a result, they may no longer be added to human food after June 18, 2018 unless otherwise approved by the FDA. The AAFP supported such a step in a December 19, 2013 [letter](#) to the FDA.
- On June 18, CMS [announced](#) promising [results](#) from the first performance year of the Independence at Home Demonstration, including both higher quality care and lower Medicare expenditures. CMS analysis found that Independence at Home participants saved over \$25 million in the demonstration’s first performance year – an average of \$3,070 per participating beneficiary.
- CMS will host the following free educational calls, [registration](#) is required:
  - ESRD QIP: Reviewing Your Facility's 2016 Performance Data, July 9, 2:00pm ET
  - IQCP for CLIA Laboratory Nonwaived Testing, July 15, 1:30pm ET
  - 2016 PFS Proposed Rule: Medicare Quality Reporting Programs, July 16, 1:30pm ET
  - ESRD QIP: Proposed Rule for Payment Year 2019, July 29, 2:00pm ET