

March 20, 2015

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NEXT WEEK IN WASHINGTON...

- * On Tuesday, March 24, the Senate HELP Committee plans a hearing on Continuing America's Leadership: Advancing Research and Development for Patients.
- * Also on Tuesday, the House Ways and Means Committee's Oversight Subcommittee will hold a hearing titled "Use of Data to Stop Medicare Fraud."
- * On Thursday, March 26, the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee will hold a hearing examining prescription drug and heroin abuse.

1. THE HOUSE MAY DEBATE SGR REPEAL

On Thursday, March 19, the *SGR Repeal and Medicare Provider Payment Modernization Act* (HR 1470/S 810) was introduced and is scheduled for debate in the House of Representatives next week. This legislation would repeal the SGR and provide a five-year period of specified payment rates for Medicare and incentives for physician practices to transition to Alternative Payment Models, including the Patient-Centered Medical Home. It would also consolidate three major performance-based payment programs: Meaningful Use, Physician Quality Reporting Initiative and the Value-Based Modifier into a single quality reporting system. The measure includes financial assistance for small practices to achieve quality standards and to transition to appropriate Alternative Payment Models.

The AAFP has sent a [letter](#) to the leaders of the House urging quick passage of the legislation. Grassroots efforts are underway. So far, over 850 people have sent [2,700 letters](#) to Capitol Hill. 100 people have used our SGR hotline at 1-866-629-5269 to urge their Representatives to support HR 1470. If you have not called yet, please do so using [these](#) suggested talking points.

2. AAFP PRESIDENT TESTIFIES ON HEALTH IT CHALLENGES

On March 17, the Senate Health, Education, Labor and Pensions Committee held a hearing titled, “*America’s Health IT Transformation: Translating the Promise of Technology into Better Care.*” The witnesses reviewed the current state of health information technology (health IT), the systems that work well, the challenges for adoption of electronic health records (EHRs), and key recommendations for Congress.

Robert Wergin MD, FAFP, [testified](#) on behalf of the American Academy of Family Physicians and indicated that while family physicians are early adopters and embrace innovations associated with health IT, there are many challenges to consider. He said physicians across the country are frustrated with EHRs that lack functionality and interoperability, and are anxious about documentation requirements. He recommended that decision makers overhaul these requirements, provide regulatory relief, strengthen interoperability standards, establish an ICD-10 contingency plan, review data consumer protections and approve the legislation to repeal the Medicare SGR and promote payment reform.

Senators Lamar Alexander (R-TN) and Patty Murray (D-WA) presided over the hearing and indicated their bipartisan commitment to improving the federal Meaningful Use program. In addition, Senators Bill Cassidy, MD (R-LA) and Elizabeth Warren (D-MA) expressed concerns about interoperability and vendors’ fees for upgrades. Senator Sheldon Whitehouse (D-RI) commented about the need to “reboot” the Meaningful Use program. Senator Alexander indicated the federal government should “[enable and encourage](#)” EHR adoption and should not use force by taking away Medicare payments. Senator Murray [acknowledged](#) the progress physicians have made in adopting health IT, increasing access and improving preventative health services.

3. 50 HOUSE MEMBERS WRITE IN SUPPORT OF TEACHING HEALTH CENTERS

On Thursday, March 19, a bipartisan group of 50 House members sent a [letter](#) to House Speaker John Boehner (R-OH) and House Minority Leader Nancy Pelosi (D-CA), urging continued support for the Teaching Health Center Graduate Medical Education (THCGME) program, set to expire on September 30 unless Congress intervenes. Rep. Niki Tsongas (D-MA) and Rep. Doug LaMalfa (R-CA) led the bipartisan group, which included House GOP Conference Chair Cathy McMorris Rodgers (R-WA), and GOP Doctors Caucus members Reps. Tim Murphy (R-PA), Phil Roe, MD (R-TN), and Andy Benishek, MD (R-MI). The letter states that “THC programs have expanded access to care for thousands of patients and have created a physician and dentist workforce pipeline for [underserved] communities.” The letter cites research published by the Robert Graham Center, including a recent piece cross-published in February 2015 in *Family Medicine*, which indicates that 56 percent of residents in family medicine practice within 100 miles of their training site.

4. SENATE FINANCE COMMITTEE REFLECTS ON ACA 5 YEARS AFTER ENACTMENT

On Thursday, March 19, the Senate Finance Committee held a hearing entitled “The Affordable Care Act at Five Years.” The hearing served as a vehicle for both parties mainly to make political points either in favor of or against *the Affordable Care Act*—on what is the 5-year anniversary of the law’s passage. Chairman Orrin Hatch (R-UT) opened the hearing by focusing on emerging logistical challenges of the 2015 tax-filing season (since the IRS requires filers to attest to compliance with the individual mandate), and by asserting that more than \$5 billion of ACA-authorized projects (failed exchanges, navigator program, and the healthcare.gov website) have been fraught with waste. The senior Democrat, Sen. Ron Wyden (D-OR) in his opening statement, focused on individual stories of constituents who have benefited from the law. For example, he described a woman who wrote to him thanking him for deductibles and out-of-pocket expenses that are “a fraction of what they once were,” and another constituent who could purchase a health-insurance policy now despite being a breast-cancer survivor.

5. FamMedPAC PROMOTING AAFP'S LEGISLATIVE AGENDA

As Congress attempts to finalize the SGR repeal legislation and heads towards the Easter and Passover recess, FamMedPAC continues to help promote AAFP's legislative agenda with important legislators. The PAC participated in events for the following legislators this week:

- **Rep. Jan Schakowsky (D-IL)**, who serves on the Health Subcommittee of the House Energy and Commerce Committee.
- **Rep. Joe Heck, DO (R-NV)**, an emergency physician, who is a member of the House Doctor's Caucus and a co-host of the Primary Care Forum presented on Capitol Hill by the Robert Graham Center.
- **Rep. Joe Pitts (R-PA)**, the Chair of the Health Subcommittee of the House Energy and Commerce Committee (AAFP President Dr. Bob Wergin attended a lunch in Washington, D.C. with Rep. Pitts).
- **Rep. Lucille Roybal-Allard (D-CA)**, a member of the Health Subcommittee of the House Appropriations Committee.
- **Rep. Jim McDermott, MD (D-WA)**, a psychiatrist, who is the senior Democratic member of the Health Subcommittee of the House Ways and Means Committee.
- **Rep. Allen Lowenthal (D-CA)**, a psychologist married to a family physician, who is a co-sponsor of AAFP's GME legislation.
- **Rep. Rosa DeLauro (D-CT)**, the Ranking Member of the Health Subcommittee of the House Appropriations Committee.
- **Rep. Tim Murphy (R-PA)**, a psychologist, who is a member of the Health Subcommittee of the House Energy and Commerce Committee and a member of the House Doctors' Caucus.

6. AAFP URGES INCREASED APPROPRIATION FOR HEALTH PROFESSIONS

On Wednesday, March 18, the AAFP sent a [letter](#) drafted by the Health Professions and Nursing Education Coalition (HPNEC) to House and Senate Labor-HHS Appropriations Subcommittee leaders. The joint letter recommended \$524 million for the Health Resources and Services Administration Title VII health professions and Title VIII nursing workforce development programs in the fiscal year FY 2016 Labor-HHS-Education spending bill.

7. BUDGET RESOLUTIONS CALL FOR ACA & SGR REPEAL, SPENDING CUTS

This week, both the House and the Senate presented each chamber's respective budget plans to serve as a framework for tax and entitlement reform as well as the FY 2016 appropriations process. On March 17, House Budget Committee Chairman Tom Price, MD (R-GA) [released](#) the [FY 2016 budget resolution](#) which seeks to balance the budget over the next decade without tax increases, cutting \$5.5 trillion in federal spending. On March 19, the House Budget Committee voted along party lines (22 to 13) to approve the budget resolution which the House is scheduled to debate next week.

The House plan "repeals Obamacare in its entirety—including all of the tax increases, regulations, subsidies, and mandates." The House budget accounts for SGR repeal; recognizes Medicare's "vital role" and notes cost threats to the solvency of the program in justifying the reprise of a Medicare premium support system proposal as outlined in previous House budgets. The budget anticipates savings from medical liability reforms to limit non-economic damages. It envisions combining Medicaid and the State Children's Health Insurance Program into a single program paid for by State Flexibility Funds to give states greater freedom to meet their own unique challenges. House Democrats opposed the budget resolution in part out of concern that it would result in millions losing their insurance coverage.

The proposed House budget would accelerate cuts to domestic spending programs by an additional \$759 billion through FY 2025. These cuts will bar even modest increases in primary

care research and training investments for the Agency for Healthcare Research and the Health Resources and Services Administration and could prevent the restoration of AAFP budget priorities such as the Teaching Health Centers Graduate Medical Education and the National Health Service Corps programs.

The Senate budget, [released](#) by Budget Committee Chairman Mike Enzi (R-WY) on March 18, differs from the House version and would balance in 10 years and cut spending by \$5.1 trillion overall. The committee approved it by a party-line vote of 12 to 10 on March 19. The Senate's FY 2016 budget resolution also calls for repealing and replacing the ACA noting that while the President's 2010 health care law is under Supreme Court review, "the actual contours of that legislation are unknowable at this time."

8. SENATE LEADERS REQUEST COMMENT EXTENSION FOR DIETARY GUIDELINES

On March 16, Senators Lamar Alexander (R-TN), Pat Roberts (R-KS), Patty Murray (D-WA) and Debbie Stabenow (D-MI), authored a [letter](#) requesting federal officials extend the comment period for responding to the [Scientific Report for the Dietary Guidelines for Americans](#). The scientific report is the basis of the Dietary Guidelines for Americans, which is updated every five years by the U.S. Department of Agriculture and the U.S. Department of Health and Human Services. It will be published later in 2015. The [report](#) recommends a more plant-based diet and the consumption of less red meat. The dietary guidelines provide science-based standards for federal nutrition programs, Americans' diets and promotion of chronic disease prevention.

In response, the USDA and HHS secretaries announced the deadline would be extended to May 8, an additional 30 days.

9. HOUSE APPROVES TRAUMA CARE AND PRESCRIPTION DRUG APPROVAL BILLS

On March 16, the House of Representatives approved three health bills focused in improving trauma care and the prescription drug approval process.

- **Trauma Care:** Reps. Mike Burgess, MD (R-TX) and Gene Green (D-TX), introduced the *Access to Life-Saving Trauma Care for All Americans Act* ([H.R. 647](#)) and the *Trauma Systems and Regionalization of Emergency Care Reauthorization Act* ([H.R. 648](#)). The bills would strengthen trauma care systems, regional coordination and care access in underserved rural and urban areas.
- **Prescription Drug Review:** the *Improving Regulatory Transparency for New Medical Therapies Act* ([H.R. 639](#)) would accelerate federal approval process for drugs under the review of the U.S. Food and Drug Administration (FDA) and the Drug Enforcement Agency (DEA). The legislation would require a shorter time for the DEA's scheduling process. It also would allow drugs to be given an interim drug classification until the agency makes a final determination.

10. CMS SHOULD DEVELOP ADDITIONAL OUTPATIENT E&M CODES

The AAFP and others sent CMS a [letter](#) on March 16 that calls on the agency to engage in a process to create additional outpatient evaluation and management (E&M) codes since the AAFP believes the existing office codes (CPT 99201-5 and 9921-5) no longer accurately or adequately reflect the work currently provided to and required by Medicare beneficiaries. The letter urges CMS to convene meetings to define the research plan and publish these codes in the 2018 final Medicare physician fee schedule.

11. AAFP URGES REQUIRING EHRS TO ADHERE TO APPROPRIATE USE CRITERIA

In a [letter](#) sent to the Office of the National Coordinator (ONC) for Health Information Technology on March 19, the AAFP expressed deep concerns with the lack of interoperability in health care and the disproportional burden primary care physicians will face in 2017 when trying to comply with Section 218 of the *Protecting Access to Medicare Act*. This section requires

physicians ordering certain imaging services (magnetic resonance, computed tomography, nuclear medicine and positron emission tomography imaging services) for Medicare beneficiaries to consult appropriate use criteria applicable to the imaging modality. The AAFP is concerned that EHRs will not be able to address the workflow needs incumbent upon the ordering physician when consulting and documenting that appropriate use criteria were accessed. The letter asked ONC to consider carefully how “appropriate use criteria” can be workable in a practice’s EHR system. The AAFP believes ONC should facilitate compliance by establishing interoperability standards and requiring all EHRs to adhere to the appropriate use criteria specified by CMS.

12. AAFP COMMENTS TO FDA ON ELECTRONIC PRESCRIPTION INFORMATION

In a [letter](#) the AAFP sent to the FDA on March 18, the AAFP responded to a proposed rule that would amend prescription drug and biological product labeling regulations to require electronic distribution of the prescribing information intended for health care professionals, which is currently distributed in paper form on or within the package from which a prescription drug or biological product is dispensed. The FDA also is proposing that prescribing information intended for health care professionals will no longer be permitted to be distributed in paper form with the package from which a prescription drug or biological product is dispensed.

Though the AAFP shares the FDA’s goal of pursuing policies that help ensure that the most current prescribing information is publicly accessible for the safe and effective use of human prescription drugs and though the AAFP supports the concept that health care professionals receive information electronically, the AAFP ultimately urged the FDA to continue to mandate that printed prescribing information be included on or within drug packaging, even if FDA also makes the information available electronically. This would allow health care professionals the option to access prescribing information according to their individual preferences and needs.

13. MEDICAID EXPANSION UPDATES

- **Kansas** – On Wednesday (3/18) and Thursday (3/19), legislators in Kansas held hearings on plans for the Kansas Department of Health and Environment to develop and implement a Medicaid expansion plan. The chair of the House Health and Human Services committee is opposed to expansion, but there was a large turnout of witnesses who testified in favor. It is estimated that a Medicaid expansion in Kansas would expand coverage to between 140,000 and 170,000 individuals. The Kansas Academy of Family Physicians did a speak-out encouraging their members to support the KanCare expansion.
- **Missouri** – Last week, Gov. Jay Nixon (D) endorsed a work requirement proposal for a possible state Medicaid expansion. As proposed, Medicaid recipients would have to work or seek work to qualify for Medicaid. Individuals who do not adhere to the requirement would pay higher premiums. Additionally, there are possible provisions for penalties for unnecessary emergency services and financial rewards for health life choices. The state legislature continues to be divided on the subject.
- **Utah** – The Utah legislature failed to act on a deal to expand Medicaid before the end of its regular session. Gov. Gary Herbert (R) and state legislative leaders have said that they are committed to reaching an agreement this year. There could be a special session later this year to address any agreements on expansion.

14. REGULATORY BRIEFS

- On March 13, MedPAC [released](#) the March 2015 Report to Congress on Medicare payment policies. Of particular note to primary care physicians is that MedPAC recommends that “The Congress should establish a prospective per beneficiary payment to replace the Primary Care Incentive Payment program (PCIP) after it expires at the end of 2015. The per beneficiary payment should equal the average per beneficiary

payment under the PCIP and should be exempt from beneficiary cost sharing. Funding for the per beneficiary payment should protect PCIP-defined primary care services regardless of the practitioners furnishing the services and should come from reduced fees for all other services in the fee schedule.”

- On March 16, HHS released [statistics](#) in advance of the 5th anniversary of the Affordable Care Act. Since passage about 16.4 million uninsured people have gained health insurance coverage. That includes about 2.3 million uninsured young adults (aged 19-25) gained health insurance. An additional 14.1 million uninsured people gained coverage between October 2013 and March 2015 when the Medicaid and Health Insurance Marketplace coverage expansions took effect. That includes 3.4 million young adults. Over that period, the uninsured rate dropped by 35 percent.
- On March 19, the Departments of Justice and Health and Human Services [announced](#) over \$27.8 billion in returns from joint efforts to combat health care fraud.
- CMS will host the following free educational calls, [registration](#) is required:
 - Medicare Shared Savings Program ACO: Preparing to Apply for 2016, April 7, 1:30pm ET
 - Open Payments (Sunshine Act) 2015 - Prepare to Review Reported Data, April 15, 2:00pm ET
 - Medicare Shared Savings Program ACO: Application Process, April 21, 1:30pm ET