

January 8, 2015

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### NEXT WEEK IN WASHINGTON...

- \* On Tuesday, January 12, the Senate Health, Education, Labor and Pensions Committee may vote on the nomination of Robert Califf to lead the U.S. Food and Drug Administration.
- \* Also on January 12, the President is slated to offer his State of the Union address to Congress.

## 1. CONGRESS SENDS BILL TO REPEAL ACA PRESIDENT FOR VETO

The House of Representatives opened the second session of the 114th Congress with a 240-to-181 vote on Wednesday, January 6 to repeal or alter key portions of the *Affordable Care Act* and prevent federal funds for Planned Parenthood for a year. The *Restoring Americans' Healthcare Freedom Reconciliation Act* (HR 3762), which seeks to lift tax penalties associated with the individual and employer mandates and to repeal the medical device tax and the tax on high-cost employer health plans, passed the Senate last month.

President Barack Obama vetoed the measure on Friday, January 8 [saying](#) that the bill “would reverse the significant progress we have made in improving health care in America.”

## 2. OVER 11 MILLION HAVE ENROLLED IN HEALTH MARKETPLACE PLANS

Nearly 11.3 million had signed up for health plans nationwide as of Dec. 26, Department of Health and Human Services (HHS) announced on Thursday, January 7. The [figures](#) -- which cover the 38 states using HealthCare.gov as well as the 12 states and the District of Columbia

with their own exchanges -- put the Obama administration within its estimated range for how many people would select plans for 2016. HHS estimated that between 11 million and 14.1 million people would select plans during the current open enrollment season. By the end of 2016, its goal is to have 10 million paid enrollees remaining. Open enrollment ends on Jan. 31.

### **3. AAFP JOINS THE WHITE HOUSE'S SUMMIT ON SMOKE-FREE HOUSING**

On Wednesday, January 6, the White House held a summit to discuss its proposed regulation for smoke-free public housing. Jennifer Frost, MD, the AAFP's Medical Director with the Division of the Health of the Public and Science, attended the event along with other national and local leaders. The Secretary for Housing and Urban Development, Julian Castro, and U.S. Surgeon General, Dr. Vivek Murthy, led the discussion of the health and economic benefits of the proposed regulation. It is expected to affect 2 million people who live in public housing. The rule is estimated to save \$153 million in health, safety and facility damage costs. Currently, 600 housing authorities have implemented smoke-free policies.

### **4. NO SEQUESTER CUTS IMPOSED ON FISCAL YEAR 2016 SPENDING**

On January 4, the White House Office of Management and Budget (OMB) released the sequestration report for fiscal year 2016. It found that the spending levels Congress approved are small enough to avoid an across-the-board reduction. The full OMB report is available [here](#).

### **5. HOUSE ENERGY AND COMMERCE COMMITTEE TO REVIEW CONCUSSIONS**

On December 22, Rep. Fred Upton (R-MI), [announced](#) that three subcommittees of the House Energy and Commerce Committee will begin to review issues surrounding concussions. The committee will review the causes, treatments and research regarding traumatic brain injuries. The announcement highlighted risks posed for those in the military and athletes.

### **6. UPDATED DIETARY GUIDELINES FOR AMERICANS RELEASED**

On January 7, the Dietary Guidelines for Americans (DGA) was released. The new standards encourage less consumption of sugar (less than 10 percent of daily calories) and a little consumption of cholesterol instead of the current specific amount, which is current 300 milligrams. The recommendation of an earlier version that discouraged consumers from eating processed or red meat was eliminated. The guidelines' standards for sodium recommended consuming no more than 2,300 milligrams of sodium per day. This was an area of concern addressed in the AAFP's April 28 [letter](#) to the DGA Advisory Committee.

### **7. COMMENTS SENT TO CMS ON 2016 FINAL MEDICARE PHYSICIAN FEE SCHEDULE**

In a December 24 [letter](#) to CMS, the AAFP responded to the final rule titled, "Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2016." The response expressed extreme disappointment that the agency was unable or unwilling to identify the full 1.0 percent reduction in misvalued relative value units (RVUs) required in 2016. The AAFP letter considers the inability to identify enough overvalued codes in the fee schedule as inconceivable.

After expressing disappointment and concern regarding the target recapture amount policies, the AAFP reiterated full support for CMS efforts to establish coverage and payment for advance care planning services beginning in 2016.

Finally, the AAFP reminded CMS about concerns over the potential misuse of the annual wellness visit by commercial entities and repeated the stance that the annual wellness visit encourages Medicare beneficiaries to engage with their primary care physician or other usual source of care on an annual basis for prevention and early detection of illness.

## **8. AAFP COMMENTS ON PROPOSED DISCHARGE PLANNING RULE**

In a December 22 [letter](#) to CMS, the AAFP commented on a proposed rule titled, “Medicare and Medicaid Programs; Revisions to Requirements for Discharge Planning for Hospitals, Critical Access Hospitals, and Home Health Agencies.” The letter supported the proposed rule’s directive that hospitals and other facilities better inform primary care physicians about the discharge of their patients in a timely fashion. The AAFP agreed that the proposed changes in this regard modernize the discharge planning requirements, improve patient quality of care and outcomes, and reduce avoidable complications, adverse events, and readmissions.

## **9. WHITE HOUSE, HHS ACT ON GUN VIOLENCE**

On Tuesday, January 5, President Obama announced several executive [actions](#) to strengthen background checks, increase access to mental health services, support domestic violence victims and research gun safety technology. In addition, on Friday, January 6, HHS issued a [final rule](#) that permits the disclosure to the National Instant Criminal Background Check System (NICS) of the identities of those who, for mental health reasons, are prohibited from having a firearm. The AAFP and other groups supported this proposal in a June 6, 2013 [letter](#) to HHS.

## **10. AAFP SUPPORTS RULE THAT STATES ENSURE SUFFICIENT MEDICAID PAYMENT**

In a [letter](#) sent to CMS on December 24, the AAFP responded to the final rule period titled, “Methods for Assuring Access to Covered Medicaid Services” and the related request for information titled “Data Metrics and Alternative Processes for Access to Care in the Medicaid Program.” The regulation calls for a transparent and data-driven process for states to document whether Medicaid payments are sufficient to enlist enough providers to assure beneficiary access to covered care and services. The AAFP response expressed support for a transparent and data-driven process, but then stated that the AAFP is very disappointed that the final rule does not follow the AAFP’s recommendation to develop a consistent national approach to measuring access to care. Instead, after more than 4 years, CMS merely requests further feedback on how to measure access to care. The AAFP called this lack of progress a major concern and recommended that CMS should do more to require sufficient payment for services available under Medicaid fee-for-service and Medicaid managed care plans.

## **11. CMS RELEASES FINAL RULE ON DURABLE MEDICAL EQUIPMENT**

On December 30, CMS issued a [final rule](#), effective Feb. 29, 2016, that establishes a prior authorization process for certain durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) items. The final rule and prior authorization process are aimed at preventing unnecessary utilization. The final rule creates a:

- “Master List” of items that meet specific criteria and are potentially subject to prior authorization
- “Required Prior Authorization List,” a subset of items on the Master List
- Prior authorization program for the Required Prior Authorization List items.

There are 135 DMEPOS items on the Master List that are potentially subject to prior authorization and the list is updated annually. Presence on the Master List does not automatically create a prior authorization requirement for that item. Instead, CMS will initially implement prior authorization for a subset of items on the Master List. CMS refers to that subset as the “Required Prior Authorization List.” The AAFP is developing further educational materials regarding these new requirements.

## **12. FamMedPAC HALF WAY TO ELECTION CYCLE GOAL**

FamMedPAC is just over half way to its election cycle goal of raising \$1 million dollars for the 2016 election cycle. The PAC received \$500,839 in donations from 2491 AAFP members in 2015, the highest one year total ever. The PAC made \$484,700 in donations in 2015 to 116 candidates and committees. The donation total is also the highest one-year total for the PAC.

### 13. STATE LEGISLATURES CONVENE

This week, 14 state legislatures began their 2016 legislative session. The convening dates of these state legislatures are:

- January 4—California
- January 5—Indiana, Kentucky, Mississippi, Ohio, Pennsylvania, Rhode Island, Vermont
- January 6—Maine, Massachusetts, Missouri, Nebraska, New Hampshire, New York

20 states are scheduled to go into session next week.

### 14. STATE LEGISLATIVE BILLS OF INTEREST

State Government Relations staff will be monitoring legislation throughout the 2016 session.

Following are a few bills of interest:

- **Continuing Medical Education Requirements**—Vermont [SB 243](#) and New Hampshire [HB 1423](#) increase or mandate continuing medical education requirements regarding the topic of prescribing controlled substances in an effort to combat opioid abuse.
- **Health Care Reform**—Missouri has introduced various measures to reform health care. [SB 648](#) expands Medicaid and provides that the reimbursement rate to MO HealthNet providers for MO HealthNet services provided be comparable to commercial reimbursement payment levels. [HB 1537](#) establishes the Missouri Universal Health Assurance Program.
- **Medical Malpractice**—Indiana [SB 152](#) and Kentucky [SB 6](#), [SB 31](#) and [SB 66](#) are various medical malpractice reforms.
- **Payment Reform**—New Hampshire [HB 1495](#) requires health insurance carriers issuing health benefit plans under the managed care law to offer financial incentives to covered persons for choosing certain health care providers, including primary care.
- **Scope of Practice**—Missouri [HB 1918](#) repeals the licensure of assistant physicians, a classification of licensure for physicians which was created by the 2014 passage of SB 716 and SB 754. An assistant physician is an individual who is a resident and citizen who has not completed an approved postgraduate residency but has successfully completed Step 2 of the United States Medical Licensing Examination or the equivalent.

### 15. WISCONSIN JOINS THE INTERSTATE MEDICAL LICENSURE COMPACT

On December 14, Wisconsin became the 12<sup>th</sup> state to join the Interstate Medical Licensure Compact. The [compact](#) is an expedited licensure process for eligible physicians that increases license portability and improves patient access to care. At the beginning of the 2016 session, this measure has been introduced in New Hampshire and legislation from 2015 will carry over in Illinois, Nebraska, Michigan, Oklahoma, and Rhode Island.

### 16. REGULATORY BRIEFS

- On December 21 CMS [released](#) a new online dashboard to provide information on Medicare spending on prescription drugs, for both Part B (drugs administered in doctors' offices and other outpatient settings) and Part D (drugs patients administer themselves) to provide additional information and increase transparency. This dashboard allows consumers, policy makers, academics, manufacturers, purchasers, consumers, and other stakeholders to see six lists, comprising 80 drugs -- three lists for Medicare Part B and three for Medicare Part D, sorted by the:
  - Top 15 drugs by total annual cost,
  - Top 15 drugs by the highest spending per Medicare user, and
  - Top 10 drugs with the highest annual increase in cost in 2014.
- On December 21, FDA issued [final recommendations](#) and a related [FAQ document](#) that updates its blood donor deferral policy to reflect the latest scientific evidence on reducing the risk of HIV transmission by blood and blood products. The policy changes the

recommendation regarding blood donations by men who have sex with men from an indefinite deferral to a deferral of 12 months since last sexual contact with another man.

- On December 22, CMS released a [request for information](#) related to CMS entering into a contract with one or more Recovery Auditors to identify and correct overpayments and underpayments in Medicare Part C.
- On December 23, HHS released a [blog](#) about the [2016 Interoperability Standards Advisory](#) which is a catalog of existing and emerging standards and implementation specifications developed and used to meet specific interoperability needs.
- On December 28, President Barack Obama signed into law a congressional fix that gives CMS more flexibility in granting exemptions from meaningful use penalties for 2015. Implementation details are expected to be announced by HHS soon.
- On January 5, CMS [announced](#) \$157 million in funding for a five year model, known as the Accountable Health Communities Model, to test whether screening beneficiaries for health-related social needs and associated referrals to and navigation of community-based services will improve quality and affordability in Medicare and Medicaid.
- CMS will host the following free educational calls, [registration](#) is required:
  - ESRD QIP: Payment Year 2019 Final Rule Call, January 19, 2:00pm
  - Collecting Data on Global Surgery as Required by MACRA Listening Session, January 20, 2:30pm
  - IMPACT Act: Connecting Post-Acute Care across the Care Continuum Call, February 4, 1:30pm