

July 18, 2016

IN THIS REPORT...

1. CMS Issues Medicare Physician Fee Schedule for 2017
2. Congress Finishes Work on Opioid Prevention Bill
3. AAFP Tells the VA to Support Physician-Led Health Care Teams
4. Solo and Small Practices Are Emphasized in MACRA Hearing
5. House Committee Would Keep Current Funding for Title VII
6. Health Is Primary in the U.S. Capitol
7. FamMedPAC Is Meeting Congressional Leaders at Party Conventions
8. Stark Law Comes under Scrutiny in the Senate Finance Committee
9. Congress Could Not Prevent Cut to DME Payments
10. Conscience Protection Law Approved by the House
11. Alabama Ends Enhanced Payments to Primary Care Providers
12. Regulatory Briefs

COMING UP IN WASHINGTON...

* Congress has adjourned until September 6.

1. AAFP SUMMARY OF 2017 PROPOSED MEDICARE PAYMENT RULE

On July 7, the Centers for Medicare & Medicaid Services (CMS) released a [proposed rule](#) titled, “Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model.” The agency also issued a related [press release](#), [fact sheet](#), and a [blog](#) titled, “Focusing on Primary Care for Better Health.”

The AAFP created a [summary](#) of this proposed rule for members. The AAFP is analyzing the regulation and will provide detailed comments to CMS before the due date of September 6.

2. SENATE CLEARS OPIOID LEGISLATION FOR WHITE HOUSE ACTION

The Senate voted 92-2 on Wednesday, July 13 to approve the *Comprehensive Addiction and Recovery Act* (CARA, S 524) sending it to President Obama for his signature. The House passed CARA by a bipartisan vote of 407-5 last week. The AAFP joined 78 organizations on a [letter](#) to the House and Senate commending the passage of CARA and urging Congress to provide adequate funding so that physicians and health professionals will have the resources necessary to prevent opioid addiction from claiming more lives and causing more devastation to families and communities.

3. AAFP OPPOSES REGULATION GRANTING INDEPENDENT PRACTICE IN THE VA

On July 13, the AAFP sent a [letter](#) to the Department of Veterans Affairs (VA), responding to their [proposed rule](#) which would allow the VA to grant full practice authority for advanced practice registered nurses, without regard for state practice acts. In the letter the AAFP argues that this proposal would alter the consistent standards of care for veterans over non-veterans in the states; further fragment the health care system; and dismantle physician-led team-based health care models. The AAFP strongly opposed this unprecedented proposal stating that this would dismiss state practice authority via administrative rulemaking and to undermine physician-led team-based care models that have proven to be most effective in improving quality and efficiency. The AAFP has created a [SpeakOut](#) message for members to advocate for physician-led, health care teams in the VA by sending.

4. SENATE PANEL EXAMINES PROPOSED RULE FOR MIPS AND APMS

On Wednesday, July 13, the Senate Committee on Finance held a hearing on the implementation of physician payment reforms. The lone witness was Andy Slavitt, Acting Administrator of the Centers for Medicare and Medicaid Services (CMS).

Sen. Orrin Hatch (R-UT), who chairs the Committee, emphasized a theme that recurred throughout the hearing; namely, that small practices, particularly in rural areas, are not as well positioned to succeed as larger systems. The senior Democrat on the Committee, Sen. Ron Wyden (D-OR), detoured from MACRA to express his view that Medicare reform should be viewed through the lens of treating patients with chronic illness. He thanked Mr. Slavitt for including policies from the committee's Chronic Care Working Group (CCWG) Policy Options Document in the proposed Medicare Physician Fee Schedule, which impact family medicine:

- expansion of the diabetes prevention program (DPP)
- payment for chronic care management for patients of greater complexity
- payment for care planning for patients with cognitive impairment (e.g., Alzheimer's and dementia).

Sen. Debbie Stabenow (D-MI) asked what CMS is doing for rural practices and Sen. John Thune (R-SD) mentioned small practices, and expressed his view that the low-volume threshold was pegged too low, at \$10,000 of Part B revenue and fewer than 100 beneficiaries. He also expressed disappointment that the system of reporting in MIPS via virtual groups would be delayed for a year. Sen. Johnny Isakson (R-GA) focused on the table in the NPRM, which projects that 87 percent of solo practices will receive a downward adjustment under MIPS (compared to 18 percent of practices with 100 or more clinicians). Mr. Slavitt indicated throughout his testimony that CMS is reviewing the many comments from providers and is considering a number of changes in the final rule.

5. HOUSE COMMITTEE APPROVES FY 2017 SPENDING BILL

After two days of debate and amendments, the House Appropriations Committee on Thursday, July 14 approved (by a vote of 31-19) the bill to fund the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 2017. The bill released by the full committee seeks to defund existing programs of the *Affordable Care Act* (ACA) and prohibit new discretionary funding from being used to further implement ACA activities.

In addition to the program funding levels [reported](#) last week, the House bill would cut the Health Resources and Services Administration (HRSA) by \$222.4 million. The House, like the Senate, would retain current funding for Primary Care Training and Enhancement (Title VII, Section 747) at \$38.9 million. Overall, HRSA's Title VII Health Professions programs received \$294.2 million, which is a 12-percent increase over the FY 2016 due to the transfer of \$50 million for the Behavioral Health Workforce Education and Training program from the Substance Abuse and Mental Health Services Administration to HRSA. Like the Senate bill, the House bill eliminates

the Title VII, Health Careers and Opportunity Program for the first time since FY 2012. The House draft proposes to increase HRSA's Rural Programs in FY2017 to include an additional \$10 million for a Rural Opioid Overdose Reversal grant program.

The committee adopted an amendment offered by Labor-HHS Subcommittee Chairman Tom Cole (R-OK) by voice vote to ensure that women in their forties and those 75 and over do not have co-pays for mammograms despite the U.S. Preventive Services Task Force [recommendation](#). It also approved by voice vote an amendment by Rep. Marcy Kaptur (D-OH) directing the CDC to coordinate with other agencies and states on the public health effects of algal blooms.

The committee defeated several amendments which sought to;

- strike the restriction on CDC funds being used for research on gun violence
- increase funding to the CDC's Childhood Lead Poisoning Prevention program and the CDC's Safe Water programs
- restore funding for Title X family planning
- restore funding for the CDC's Office on Smoking and Health
- increase funding for NIH by \$750 million and direct \$555 million of the additional funds to the National Cancer Institute
- allocate \$1.9 billion in emergency supplemental spending to fully fund the Administration's request for Zika research and prevention programs
- restore funding for the Teen Pregnancy Prevention program to the current 2016 levels.

Progress on the annual appropriations process appears stalled. The Senate rejected a second attempt on Thursday, July 14 to vote on a pending appropriations measure.

6. AAFP PROMOTES HEALTH IS PRIMARY ON CAPITOL HILL

The AAFP participated in the 2016 Coalition for Health Funding Public Health Fair on Wednesday, July 13. The event was attended by several legislators including the founding co-chairs of the Congressional Public Health Caucus, Reps. Rob Wittman (R-VA) and Gene Green (D-TX), representatives from throughout the health advocacy community, and legislative staff.

7. FamMedPAC HEADING TO CONVENTIONS; SUPPORTS IMPORTANT LEGISLATORS

FamMedPAC is heading to both the Republican and Democratic presidential conventions at the to help promote AAFP's legislative agenda. FamMedPAC is co-sponsoring a reception for Congressional legislators at each convention with several other physician medical specialty societies. These gatherings are another opportunity for FamMedPAC to raise the visibility of AAFP and primary care. FamMedPAC supported the following legislators before Congress recessed:

- **Rep. Sandy Levin (D-MI)**, senior Democrat on the House Ways and Means Committee.
- **Sen. Lamar Alexander (R-TN)**, Chair of the Senate Health, Education, Labor and Pensions Committee and a member of the Labor-HHS Subcommittee of the Senate Appropriations Committee.
- **Sen. Orrin Hatch (R-UT)**, Chair of the Senate Finance Committee.
- **Sen. Pat Toomey (R-PA)**, Chair of Senate Finance's Health Subcommittee.

8. SENATE FINANCE COMMITTEE REEXAMINES THE STARK LAW

On Tuesday, July 12, the Senate Committee on Finance held a hearing on whether the Stark law (which limits certain physician referrals and compensation arrangements in Medicare) continues to serve a useful public purpose in the era of value-based payment and delivery, and particularly after the enactment of MACRA.

Chairman Orrin Hatch (R-UT) asked the witnesses whether there is “sufficient safe space” in the way of waivers from the Stark law to allow for the development of MACRA-authorized alternative payment models (APMs). All the expert witnesses agreed that CMS lacks authority to waive the Stark law for MACRA APMs, which would need to be remedied by Congress. Unlike the Medicare Shared Savings Program (MSSP), and certain other programs defined in statute—which do have explicit corresponding Stark waiver authority—MACRA did not contain any waiver authority for APMs.

9. CONGRESS FAILS TO UNDO CUT TO DURABLE MEDICAL EQUIPMENT SUPPLIERS

As Congress adjourned on Thursday, July 14, it tried but failed to reverse a statutory payment cut to Medicare-participating Durable Medical Equipment (DME) suppliers for home oxygen and certain sleep apnea equipment, in areas of the country not subject to the DME competitive bidding program. CMS had announced the statutory cut of about 40 percent on July 1. Both the House and Senate passed bills that would have delayed the payment reduction by 3 and 12 months, respectively. Rep. Tom Price, MD (R-GA) sponsored the *Patient Access to Durable Medical Equipment Act of 2016* (HR 5210), which passed the House on July 5 by voice vote. Separately, the Senate passed S 2736, also called the *Patient Access to Durable Medical Equipment Act of 2016*, by unanimous consent. Despite wide bipartisan support to avert the cut, the chambers could not reach an agreement on how to pay for a delay.

10. HOUSE APPROVED THE CONSCIENCE PROTECTION ACT

On July 13, the House approved the *Conscience Protection Act* (S 304) by a vote of 245-182. It would increase legal conscience protections for health professionals, hospitals, employers, and insurance companies who refuse to perform or support abortion services. The legislation was written to override the policy of the California’s Department of Managed Health Care that prohibits insurers from limiting or excluding abortion coverage from their health plans. After the policy was enacted in 2014, advocates appealed to the U.S. Department of Civil Rights. The agency found that because insurers voluntarily complied, no laws had been violated. Several physician leaders expressed concern that the policy is in conflict with standard medical ethics.

11. ALABAMA CUTS MEDICAID/MEDICARE PARITY

Due to an \$85 million shortfall in the state’s Medicaid budget, the Alabama Medicaid Agency will end enhanced payments to primary care physicians by August 1. Alabama had extended the higher payment rates, which were set at Medicare levels, after the federal government eliminated the payment bump in 2014. The change is expected to save \$14.7 million. Agency officials have said additional cuts are expected.

12. REGULATORY BRIEFS

- On July 12, CMS released an [analysis](#) indicating that the median individual deductible is \$850 for HealthCare.gov Marketplace policies, and consumers’ plans have an average of seven covered services before the deductible.
- On July 13 CMS [announced](#) that total health care spending growth is expected to average 5.8 percent annually over 2015-2025 and that projected national health spending growth remains lower than the average over previous two decades before 2008 (nearly 8 percent).
- CMS will host the following free educational call, [registration](#) is required:
 - ESRD QIP: Reviewing Your Facility’s PY 2017 Performance Data Call on August 2 at 2:30pm ET
 - PQRS Feedback Reports and the PQRS Informal Review Process for Program Year 2015 on August 10 at 1:30 pm ET