

March 11, 2016

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NEXT WEEK IN WASHINGTON...

- * On Monday, March 14, the House Energy and Commerce Committee will conduct a roundtable discussion, focusing on the causes, effects and treatments of concussions and head trauma.
- * On Wednesday, March 16, the House Ways and Means Subcommittee on Health will hold a hearing on "Preserving and Strengthening Medicare."
- * Also on Wednesday, the House Appropriations Subcommittee on Labor, HHS and Education will hold a hearing on the National Institutes of Health spending.
- * On Thursday, March 17, the Senate Finance Committee plans to hold a rescheduled hearing to review the operation of HealthCare.gov.
- * Also on March 17, the House Energy and Commerce Subcommittee on Health will hold a hearing to examine implementation of Medicare payment reforms in MACRA.

1. SENATE OVERWHELMINGLY PASSES OPIOID ABUSE BILL

After days of debate, the Senate, on Thursday, March 10, passed the *Comprehensive Addiction Recovery Act* (S 524) on a vote of 94 to 1. The underlying bill seeks to authorize grant programs to address the prescription drug and heroin abuse epidemic to be administered by the Justice Department and the Department of Health and Human Services (HHS). On Wednesday, the Senate amended the bill to add a number of provisions to the bill including language to allow for the partial filling of prescriptions for opioids in order to prevent diversion and abuse; to authorize a Drug Management Program for Medicare beneficiaries at-risk for prescription drug abuse which would lock-in the prescriber and pharmacy; and to call on the Comptroller General of the United States to report to Congress recent increase in the price of naloxone. There is a similar bill in the House (HR 953) awaiting consideration, and the Senate HELP committee will act next week on other opioid response and prescription bills (S 1455, S 2256, S 480).

2. CMS PROPOSES TO TEST PAYMENTS FOR MEDICARE PART B DRUGS

On March 8, CMS released a proposed rule to test models on how Medicare pays for prescription drugs under Part B, which covers those drugs administered in a physician's office or hospital outpatient department. For example, Part B often pays for cancer medications, injectables like antibiotics, or eye care treatments. CMS will lower the additional 6-percent average sales price mark-up to 2.5 percent. CMS also will test including a value-based purchasing component that will be used by health plans, pharmacy benefit managers, hospitals, and other groups to encourage the prescribing of lower-cost drugs. In 2015, Medicare Part B spent \$20 billion on outpatient drugs. Comments are due to CMS by May 9 and the AAFP is preparing a response.

3. AAFP, FRIENDS OF HRSA URGES CONGRESS TO RESTORE HRSA FUNDING

On March 1, 2016, the AAFP and 98 other organizations sent a [letter](#) to the Senate and House Appropriations Labor-HHS Subcommittee leaders seeking to restore the funding for the Health Resources and Services Administration (HRSA) to the fiscal year 2010 level of \$7.48 billion.

4. CALIFORNIA MOVES TO RAISE MINIMUM AGE FOR SMOKING TO 21

California's set. The California state Senate cleared the bill on Thursday, March 10, that would raise the minimum age for purchase and use of tobacco products to 21. A companion measure passed the California Assembly last week. The legislation, which also regulates e-cigarettes and opens the door to new tobacco taxes, is now waiting on a signature from Gov. Jerry Brown (D).

5. SENATORS CALL FOR FIXES IN NEW VA HEALTH CARE PROGRAM

On Thursday, March 10, several senators on the Appropriations Subcommittee for Military Construction and the Department of Veterans Affairs (VA) sharply criticized VA officials for the implementation of a new program to increase veterans' access to health care. The 2014 law called the *Veterans' Choice Act* sought to increase medical care available for veterans by non-VA physicians. It was a response to widespread concerns about lengthy wait times and inadequate care at VA medical facilities.

Senators pressed the VA Secretary, Robert McDonald, to support consolidation of programs that allow veterans to seek care outside VA medical facilities without jeopardizing the quality of care. Senator Jon Tester (D-MT) pointed to his legislation to consolidate community care programs, the *Improving Veterans Access to Care in the Community Act* (S 2633), which:

- Gives VA spending flexibility to provide veterans with health care from non-VA physicians when necessary.
- Consolidates the VA's multiple community care programs into a single program with simpler eligibility criteria and a single set of clinical and administrative systems.
- Expands access to emergency treatment and urgent community care for veterans.

Sen. John Hoeven (R-ND) also made promoted the *Veterans Choice Improvement Act* (S 2646) he is cosponsoring that would consolidate care. Specifically, it would:

- Streamline the process for veterans who need to go outside of the VA to receive care by consolidating redundant and overlapping programs into the Veterans Choice Program and creating one funding source for all non-VA care programs.
- Requires that the VA create a claims submission process with industry best practices and gives strict timelines for payment to community physicians.
- Allows the VA to enter into provider agreements with local providers

But other senators were wary of proposals to consolidate care, including Sen. Lisa Murkowski (R-AK) and Sen. Susan Collins (R-ME). They are concerned that a non-Choice program could be jeopardized if the agency were to consolidate community care programs.

6. CONGRESSIONAL LEADERS ASK FOR HEALTH IT HIPAA GUIDANCE

On March 9, eight Representatives wrote a [letter](#) to the Secretary of the U.S. Department of Health and Human Services asking for updated *Health Insurance and Portability and Accountability Act* (HIPAA) guidance associated with the emergence of personal health devices and applications. According to the letter, “Advances in mobile health technology have the potential to dramatically improve health outcomes and the accessibility of health care.” The letter also states that 86 percent of physicians believe that mobile technology may help patient health maintenance.

7. SENATE HELP COMMITTEE APPROVES MEDICAL INNOVATIONS BILLS

On March 9, the Senate Committee on Health, Education, Labor, and Pension [approved](#) seven bills as part of its Innovations Initiative, which aims to support precision medicine and increase access to treatment. The legislation is similar to the [21st Century Cures Act](#) that the House of Representatives approved in 2015. Most notably, the committee passed [S 2512](#), sponsored by Senator Al Franken (D-MN), to add Zika virus infection to the diseases eligible for the Food and Drug Administration’s priority review process for vaccines and treatments.

8. SENATE COMMITTEE TO APPROVE MENTAL HEALTH AND DRUG ABUSE BILLS

On March 7, a bipartisan group of the Senate HELP Committee introduced a draft of a [bill](#) titled the *Mental Health Reform Act*. The legislation is one of five major policies under consideration in Congress to improve mental health program administration, increase access to patient care, eliminate regulatory barriers, and build the mental health workforce. The legislation would establish a new Medical Director position in the Substance Abuse and Mental Health Services Administration. The bill includes a grant and technical assistance program to support primary care and mental health integration. It requires HHS to issue HIPAA guidance to clarify the conditions for sharing patient information and improving care coordination. The committee will review the draft bill and four other bills addressing prescription drug abuse next week.

9. AAFP NOMINATES FAMILY PHYSICIANS TO MEDPAC

In a letter sent March 9 to the U.S. Government Accountability Office, the AAFP nominated Drs. Kisha Davis, Rick Kellerman, and Bob Wergin to serve on the Medicare Payment Advisory Commission, which is a nonpartisan legislative agency that provides Congress with policy analysis of the Medicare program.

10. FamMedPAC RAISING AAFP’S PROFILE IN WASHINGTON, D.C.

FamMedPAC continues to raise AAFP’S profile in Washington, D.C. by supporting important legislators. The PAC supported the following legislators/committees this week:

- **Sen. Ben Cardin (D-MD)**, who is a member of the Health Subcommittee of the Senate Finance Committee.
- **National Republican Senatorial Committee**, which is the committee that supports Republican candidates for the U.S. Senate. The Chair of the Committee, **Sen. Roger Wicker (R-MS)**, and the Senate Majority Leader, **Sen. Mitch McConnell (R-KY)** attended.
- **Sen. Michael Bennet (D-CO)**, who a member of the Senate Finance Committee.

11. STATE LEGISLATIVE BILLS OF INTEREST

Following are a few bills of interest in the 2016 session:

- **Medical Marijuana**—44 states have introduced legislation regarding medical marijuana. Some states, Delaware [SB 138](#) and New Mexico [HB 281](#), have introduced legislation to study the use of medical marijuana, while others, Florida [HB 1183](#) and South Carolina [HB 3140](#), are hoping to authorize patients to possess medical marijuana subject to specific requirements.

- **Network Adequacy**—Connecticut [SB 433](#) implements the recommendations of the National Association of Insurance Commissioners by introducing their Health Benefit Plan Network Access and Adequacy Model Act.
- **Physician Payment**—Maine [LD 1638](#) is an appropriation bill that provides for an increase in reimbursement rates to eligible MaineCare providers who are subject to the service provider tax.
- **Provider Networks**—Illinois [HB 5559](#) would require the Department of Healthcare and Family Services to develop a procedure to directly test the provider network directories for Medicaid. The procedure must directly test the accuracy of the information contained in the provider directories, the ability of prospective patients to obtain an appointment, and the timeliness of appointments offered to prospective patients.
- **Telemedicine**—Telemedicine continues to gain traction as an answer to serve rural America. As a result, several states have introduced policy regulating telemedicine. Following are different types of telemedicine legislation that staff is tracking. Alaska [HB 234](#) mandates insurance coverage for telemedicine. New Jersey [AB 1457](#) mandates Medicaid coverage for telemedicine. Indiana [HB 1263](#) and New Hampshire [HB 1210](#) requires stipulations regarding prescriptions for controlled substances via telemedicine. Pilot projects, such as Mississippi [HB 829](#) and Virginia [SB 19](#), are being set up to test telemedicine for urgent care. Hawaii [HB 1944](#) clarifies requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth.

12. REGULATORY BRIEFS

- On March 7, CMS posted [results](#) of the 2016 Value Modifier including the positive and negative adjustment factors that will be applied to physician groups that are subject to it in 2016. The higher payment factor in 2016 is 15.92 percent and is based on the number of physician groups subject to the declining payment. CMS noted that there are:
 - 13,813 physician group practices with 10 or more eligible professionals that are subject to the 2016 Value Modifier based on performance in 2014.
 - Physicians in 128 groups exceeded the program's benchmarks in quality and cost efficiency and will receive an increase in their payments.
 - Physicians in 59 groups will see a decrease in their Medicare payments in 2016 based on their performance.
 - Physicians in 5,418 groups failed to meet minimum reporting requirements and will see a decrease in their Medicare payments in 2016.
 - Medicare payments for most physician groups nationwide (8,208 groups) that met the minimum reporting requirements will remain unchanged in 2016 because of their performance on quality and cost efficiency measures or because there was insufficient data to calculate the group's Value Modifier.
- On March 8, CMS [published](#) a correction to the 2016 Medicare physician fee schedule. Due to errors CMS, the 2016 Medicare Conversion Factor is now 35.8043 instead of the previous 35.82.
- On March 8, the VA [announced](#) \$22.3 billion to upgrade information technology.
- On March 9, CMS [released](#) the Skilled Nursing Facility Utilization and Payment Public Use File which details information on services provided to Medicare beneficiaries by Skilled Nursing Facilities. The new data include information on 15,055 skilled nursing facilities, over 2.5 million stays, and almost \$27 billion in Medicare payments for 2013.
- On March 9, the VA [announced](#) it is able to fund care for all veterans with hepatitis C for Fiscal Year 2016 regardless of the stage of the patient's liver disease.
- CMS will host the following free educational call, [registration](#) is required:
 - IMPACT Act: Data Element Library Call, April 14 at 2:00pm ET
 - National Partnership to Improve Dementia Care and QAPI Call on April 28 at 1:30pm ET