

April 28, 2017

### **On the Horizon ...**

- \* On May 2, the House Energy and Commerce Subcommittee on Health will hold a hearing titled, “Examining Improvements to the Regulation of Medical Technologies.”
- \* On May 2, the House Energy and Commerce, Oversight and Investigations Subcommittee will hold a hearing, “Combating Waste, Fraud, and Abuse in Medicaid’s Personal Care Services Program.”

## **U.S. CONGRESS**

### **1. Congress Clears One Week Spending Bill to Avert Government Shutdown**

On Friday, May 28, the Senate unanimously passed a stopgap spending bill which the full House earlier approved by a 382 to 30 vote. The “continuing resolution” or CR ([HJRes 99](#)) funds the government at the current level through May 5. The CR avoids a government shutdown at midnight and allows legislators another week to pass a comprehensive spending package to fund the government through September.

### **2. House Members Call for Restoration of AHRQ Funding**

On April 6, 2017, a bipartisan group of 43 members of Congress, under the leadership of Rep. Don Beyer (D-VA), sent a “Dear Colleague” [letter](#) to the House Appropriations Labor, Health and Human Services Subcommittee in support of providing the Agency for Healthcare Research and Quality with \$364 million in budget authority in FY 2018 to restore the agency’s funding to the FY 2015 level.

### **3. AAFP, Others Urge Congress to Reject Tobacco Policy Riders**

On April 11, the AAFP and 50 other organizations sent a [letter](#) to House and Senate Appropriations Committee leaders requesting that they reject the tobacco policy riders originally included in the House Agriculture and FDA Appropriations bill as well as reject the House Appropriations Committee’s more than 50% cut to the CDC’s Office on Smoking and Health in the final FY 2017 law.

### **4. FDA Commissioner Nomination Advances**

The Senate Health, Education, Labor, and Pensions (HELP) Committee voted to approve the nomination of Scott Gottlieb, MD, as the U.S. Food and Drug Administrator by a 14-9 vote. Sens. Michael Bennet (D-CO) and Sheldon Whitehouse (D-RI) were the only Democrats to support the appointment. Scott Gottlieb is an internal medicine physician with extensive experience working in health administrative positions. Dr. Gottlieb is a FDA Deputy Commissioner, a CMS senior advisor, and also served as a member of the Health IT Policy Committee, a board that helped set standards for the Meaningful Use program. The full Senate is expected to consider his nomination within weeks. Policymakers are anxious to have a commissioner in place to help implement policies resulting from the 21<sup>st</sup> Century Cures Act. Dr.

Gottlieb will also play an important role in the upcoming FDA User Fee Agreement Acts negotiations.

## 5. Senate Committee Approves Four Health Bills

On April 26, the Senate HELP Committee approved the following four health bills:

- **National Clinical Care Commission Act** ([S. 920](#)) would establish an interdisciplinary federal commission to review standards for diabetes prevention and care, and for related conditions. The U.S. House of Representatives approved a companion bill (HR 309) on January 8 by a voice vote. The AAFP [supported](#) this legislation.
- **Protecting Patient Access to Emergency Medications Act of 2017** ([S. 916](#)) would amend the Controlled Substances Act to allow paramedics and other emergency personnel to administer medications, including pain medications, under a physician's standing order. The legislation was approved in the House January 9.
- **Strengthening Mosquito Abatement for Safety and Health Act** ([S. 849](#)) updates the current state mosquito abatement and epidemiology lab grant program until the year 2020. The bill also requires a study to evaluate certain infectious disease and emergency response systems. The House-introduced bill has yet to be considered.
- **Early Hearing Detection and Intervention Act of 2017** ([S. 652](#)) reauthorizes the Health Resources and Services Administration program for early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children. The House companion bill has not been brought up for debate.

## CENTERING ON THE STATES

### 1. Bills of Interest

Following are State bills of particular note to family physicians:

- **Antitrust** – California has introduced the [Health Care Market Fairness Act of 2017](#) which would prohibit contracts between hospitals and contracting agents from containing certain provisions such as setting payment rates or other terms for nonparticipating affiliates of the hospitals and requiring a contracting plan to keep the payment rates confidential from any payer. Any prohibited contract provision would be void and unenforceable.
- **Graduate Medical Education** – Minnesota [legislation](#) would ensure funding for the University of Minnesota's Department of Family Medicine and Community Health. UMN produces more family doctors than any other US program. This is a Minnesota AFP priority bill.
- **Interstate Medical Licensure Compact** – There are seven states (ME, MI, NE, RI, TN, TX, and WA) and the District of Columbia with pending legislation to pass the [Interstate Medical Licensure Compact](#). Currently, there are 18 states that have enacted legislation to participate in the compact. On April 7, the Commission began accepting [applications](#) from qualified physicians.
- **Medicaid Expansion** – The Oregon Ways and Means Committee is considering [eliminating](#) Medicaid expansion to help fix a \$1.6 billion budget gap. Oregon is the first democratic state to consider ending the program, which would impact about 350,000 low-income adults who would lose health coverage.
- **Telemedicine** – Telemedicine parity legislation was introduced in eight states ([IA](#), [ID](#), [KS](#), [MA](#), [NE](#), [NJ](#), [NC](#), [WV](#)) during the 2017 legislative session. Telemedicine parity mandates that reimbursement by health plans for telehealth services at the same or equivalent rate as paid for in-person services.

### 2. New Resources Available

The AAFP Center for State Policy has released a new resource on [scope of practice - naturopathic providers](#). This resource aims to help chapters as they continue to advocate on behalf of family medicine.

## **EXECUTIVE BRANCH**

### **1. AAFP Submits Payment Proposal to PTAC**

On April 14, the AAFP sent the Physician-Focused Payment Model Technical Advisory Committee a full payment [proposal](#) for Advanced Primary Care: A Foundational Alternative Payment Model (APC-APM). The Advanced Primary Care-Alternative Payment Model (APC-APM) embodies the principle that patient-centered primary care is comprehensive, continuous, coordinated, connected, and accessible from the patient's first contact with the health system. The APC-APM would be open to almost 200,000 primary care physicians and potentially impact more than 30 million Medicare patients. Based on available evidence, additional spending on primary care is projected to be more than offset by savings elsewhere in the health care system.

The APC-APM would create a new payment structure for participating primary care practices consisting of a combination of four mechanisms:

- A prospective, risk-adjusted, primary care global payment for direct patient care;
- Fee-for-service limited to services not included in the primary care global fee;
- A prospective, risk-adjusted, population-based payment; and
- Performance-based incentive payments that hold physicians appropriately accountable for quality and costs.

On April 28, PTAC [announced](#) to the public that comments on the AAFP's APC-APM proposal will be accepted until May 18.

### **2. Comments sent to CMS on Episode-based Cost Measures**

In a [letter](#) sent April 24, the AAFP responded to several questions posed by CMS regarding episode-based cost measures. The AAFP encouraged CMS to initially develop episodes that encapsulate high-cost centers such as hospitals and surgical centers. In doing so, CMS would maximize their potential to acquire large cost savings and could use those episodes to learn the best methodology in which to apply episodes to physicians, and any unintended consequences that might occur.

### **3. AAFP Outlines MACRA Administrative Simplification Requests**

In a [document](#) sent April 26, the AAFP urged CMS to improve and simplify implementation of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). AAFP urged CMS to:

- Remove the financial risk standards from regulatory definitions of Medical Home Model.
- Remove arbitrary size restrictions limiting AAPM participation in Medical Home Models.
- Eliminate all documentation guidelines for evaluation and management codes for primary care physicians in both the MIPS and AAPM pathways.
- Jettison the complicated and entirely uncalled-for MIPS APM category.
- Eliminate administrative claims population health measures.
- Use consistent terms from proposed to final rulemaking to avoid confusion in the physician community.

The AAFP also provided recommendations on policies to improve and strengthen MACRA implementation, such as recognizing the value of primary care services, approving primary care APMs, and simplifying the scoring methodology used in MIPS.

### **4. Regulatory Briefs**

- On April 10 and 11, PTAC recommended two new payment models for limited-scale testing. Project Sonar would pay practices for managing patients with gastrointestinal disease and hold them accountable for meeting cost targets. The American College of Surgeons-Brandeis Advanced Alternative Payment Model would hold clinicians involved in episodes of care responsible for high quality and low cost.
- On April 13, CMS [issued](#) a final rule regarding the health insurance market for 2018. The AAFP commented on the proposed version in a March 7, 2017 [letter](#).

- On April 19, HHS [announced](#) it will grant a total of \$485 million to help combat opioid addiction.
- On April 25, CMS [released](#) new data on race, ethnicity, and language preference in the Health Insurance Marketplaces 2017 Open Enrollment Period.
- On April 26, CMS [released](#) a post titled, "CMS' Ongoing Commitment to Minority Health."

## **TAKE ACTION**

### **1. Speak Out Now to Protect Primary Care Research!**

The Agency for Healthcare Research and Quality (AHRQ) uses evidence-based research to find innovative ways to prevent medical errors and hospital-acquired infections saving billions and saving lives. However, the current administration budget calls for the effective termination of the Agency by "consolidating" it within the National Institutes of Health even as it proposes an 18 percent cut to NIH's budget. Use the [AAFP Speak Out tool](#) to tell your legislators directly that primary care research is worth protecting.

### **2. Help FamMedPAC Today!**

More than 950 AAFP members have already contributed to FamMedPAC in 2017, contributing over \$212,000! As Congress continues to debate the fate of the Affordable Care Act, AAFP must ramp up its engagement to champion the fundamental issues that allow us to provide the highest quality care to patients. FamMedPAC is a key component of AAFP's efforts to remain the predominant voice for primary care in Washington. The PAC has contributed \$86,500 to 17 candidates and committees this year, raising the profile of family medicine with key legislators. Please help us to fight for you and your patients by visiting the [FamMedPAC Donation Page](#).