

February 3, 2012

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### NEXT WEEK IN WASHINGTON...

- \* On Tuesday, February 7, the House Ways and Means Subcommittee on Health will hold a hearing on how private sector payers are rewarding physicians who deliver high quality and efficient care. Among the witnesses will be **Dr. John Bender**, family physician from Ft. Collins, Colorado.
- \* CMS hosts a call on the Medicare Spending per Beneficiary Measure (MSPB) on February 9, further registration details in regulatory briefs.

## 1. PHYSICIAN LEADERS LOBBY FOR SGR REPEAL

AAFP Board Chair, Dr. Roland Goertz, and AAFP President-Elect, Dr. Jeff Cain participated in series of meetings with some 17 members of the House-Senate conference committee deliberating on how to deal with the Medicare Physician payment formula that includes the Sustainable Growth Rate (SGR). The conference committee is working out the differences between the House and Senate versions of the *Temporary Payroll Tax Cut Continuation Act* (HR 3630). In addition, the group met with 8 of the leaders of the House and the Senate. These meetings were an unprecedented combined effort of the four largest organizations of physicians who treat Medicare patients; namely, the AAFP, the American College of Physicians, the American College of Surgeons and the American Osteopathic Association.

Also this week, Doug Elmendorf, the Director of the Congressional Budget Office (CBO), responded to questions on the feasibility of using the Overseas Contingency Operations (OCO) accounts as an SGR offset in remarks to the media and in a House Budget Committee hearing. Elmendorf noted that the OCO is annually appropriated for expenses related to military operations rather than being non-discretionary funding but seemed to indicate that Congress could choose to use the war savings.

In an report released on Tuesday, January 31, CBO projects the cost of repealing Medicare's SGR formula at \$316 billion between 2013 and 2022 which is \$29 billion higher than the August projection, primarily because CBO expects the cost of Medicare services to rise faster.

## 2. GME PRIMARY CARE PILOT BILL INTRODUCED IN THE HOUSE

On December 14, Reps. Cathy McMorris Rodgers (R-WA) and Mike Thompson (D-CA) introduced legislation to authorize Medicare primary care graduate medical education (GME) pilot projects. The *Primary Care Workforce Access Improvement Act* (HR 3667) is the product of an ongoing effort by the AAFP and the Council of Academic Family Medicine to test how GME payment reforms can support production of a robust primary care workforce. The pilot is consistent with the recommendations of the Commission on Graduate Medical Education and the Medicare Payment Advisory Commission. By January 31, the bill had attracted three cosponsors – Reps. Dan Benishek, MD (R-MI), Jim McDermott, MD (D-WA), and Pat Tiberi (R-OH). A Senate companion bill is under development.

## 3. FamMedPAC SUPPORTS TWO KEY LEGISLATORS

FamMedPAC supported two receptions this week in Washington, D.C. for Congressional legislators who serve on key committees.

- **Rep. Rosa DeLauro (D-CT)**, who serves on the House Appropriations Committee and is the senior Democratic member on the Labor-HHS Subcommittee, is a strong supporter of primary care and Title VII programs.
- **Sen. Bob Menendez (D-NJ)**, who serves on the Senate Finance Committee and is a strong supporter of Title VII programs.

## 4. REGULATORY BRIEFS

- In a [letter](#) dated January 26, the HHS Office of Inspector General (OIG) wrote the Centers for Medicare & Medicaid Services regarding the lack of data on physicians opting out of Medicare. The OIG concluded that the quality of the data and lack of procedures for Medicare contractors' handling of opted-out physicians impedes CMS's oversight of this aspect of the Medicare program.
- On January 27, CMS issued a [press release](#) and proposed a [rule](#) that revises requirements pertaining to Medicaid reimbursement for covered outpatient drugs, including key aspects of Medicaid coverage, payment, and the drug rebate program. CMS estimates that states will save up to \$17.7 billion over 5 years due to these changes. Comments on the proposal are due April 2, 2012.
- On January 30, CMS announced the redistribution of resident cap positions from closed hospitals. Section 5506 of the *Affordable Care Act* directed CMS to develop a process to preserve permanently the Medicare funded residency slots from teaching hospitals that close. This pool of direct GME and IME slots was to be redistributed, giving priority to hospitals located in the same or contiguous core-based statistical area (CBSA) as the closed hospital. To see the list of hospitals that applied and received slots under this first round of section 5506, download this CMS [file](#).
- In a coalition [letter](#) sent January 31, the AAFP joined in urging HHS to consider tobacco cessation services an essential health benefit. The AAFP also made separate [comments](#).
- On February 1, CMS [announced](#) that Medicare Advantage premiums are down by 7 percent on average and enrollment is up by 10 percent. Average premiums have fallen from \$33.97 in 2011, to \$31.54 in 2012, while enrollment has risen from 11.7 million in 2011 to 12.8 million in 2012.
- On February 9 from 1:30 pm – 3:00 pm ET, CMS will host a national call on the Medicare Spending per Beneficiary Measure. [Registration](#) for this call is required.

## 5. INDIANA AAFP-SUPPORTED CLEAN INDOOR AIR MEASURES CONTINUE TO MOVE

On Monday, January 30, the Indianapolis City-County Council passed a clean indoor air bill, [Proposal 18](#), on a 19-9 vote. Proposal 18 now heads to Mayor Greg Ballard who has said he will veto it. The ordinance seeks to add most bars, bowling alleys and hotel rooms to the current clean indoor air law passed in 2005. The bill exempts retail tobacco shops, off-track

betting parlor, non-profit private clubs and veterans' halls from the ordinance, while banning children from exempted locations. The mayor noted that this would force exempted businesses to pick between allowing patrons to smoke or allowing children on the premises. [HB 1149](#), a bill that would eventually make Indiana smoke-free passed the House of Representatives with 61 votes in favor. It is similar to Proposal 18 but allows 18 months for bars to comply.

#### **6. FEDERAL JUDGE BLOCKS CALIFORNIA MEDICAID PAYMENT CUT**

US District Judge Christina Snyder issued an injunction on Wednesday, February 1, preventing California from cutting physician payments under the state's Medicaid program. Judge Snyder found the proposed action a violation of federal law, stating in her [order](#) that "[t]he state's fiscal crisis does not outweigh the serious irreparable injury plaintiffs would suffer absent the issuance of an injunction." Governor Jerry Brown's (D) administration will appeal the ruling.

#### **7. KANSAS AFP SUPPORTS EXPANSION OF CLEAN INDOOR AIR ACT**

On Thursday, February 2, the Kansas Academy of Family Physicians [submitted testimony](#) to the Kansas Senate Federal and State Affairs Committee regarding [HB 2340](#). The bill aims to close a loophole in the clean indoor air law enacted in March 2010 that permits smoking on the floors of state-owned casinos. The Kansas AFP supported the original law, but was outspoken that the loophole should be closed. The Kansas House approved HB 2340 in March 2011 on a 97-26 vote.