

July 16, 2010

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NEXT WEEK IN WASHINGTON...

- * On Tuesday, July 20, the Health Subcommittee of the House Ways and Means Committee will hold a hearing on efforts to promote the adoption and meaningful use of health information technology.
- * On Wednesday, July 21, Senate Health, Education, Labor and Pensions Committee will hold a hearing on treating rare and neglected pediatric diseases: promoting the development of new treatments and cures.
- * The House and Senate Appropriations Committees are likely to meet separately to consider FY 2011 spending proposals.

1. HOUSE SUBCOMMITTEE MAKES TITLE VII APPROPRIATIONS PRIORITY

The House Labor-HHS Appropriations Subcommittee approved its draft fiscal year 2011 spending bill on Thursday, July 21 by a party-line vote of 11 to 5. The Subcommittee draft, which the full Committee will consider next week, would provide \$76.7 billion for the Department of Health and Human Services, \$3.8 billion more than Congress appropriated last year and about \$270 million more than the president requested.

In his statement at the start of subcommittee's debate, Appropriations Committee Chairman David Obey (D-WI) said that budget considerations prevented the committee from adequately funding many crucial programs but that his draft gave top priority to the most important problems. He specifically mentioned health profession training programs saying, "Most of the programs funded have a particular emphasis on encouraging students and graduates to enter primary care fields and to practice in medically underserved areas, in order to broaden access to quality healthcare."

Although the Subcommittee did not publish the appropriation levels for individual programs, such as Title VII Section 747, the chairman announced that the bill provides the Health Resources and Services Administration with \$7.6 billion or \$99 million more than in FY 2010,

but \$20 million less than the President's request. The bill also calls for an additional \$30 million for HRSA programs from the Prevention and Public Health Fund.

The bill provides \$32 billion for the National Institutes of Health, fully funding the \$1 billion increase requested by the president. It also calls for an emphasis on translating basic research results into practical and available cures and treatments, permitting NIH to use up to \$50 million to launch a newly authorized Cures Acceleration Network aimed at that objective.

The Centers for Disease Control and Prevention are funded at \$6.8 billion or \$32 million more than in FY 2010 and \$170 above the President's budget request. The bill also provides for an increase of \$14 million for the Agency for Healthcare Research and Quality to \$411 million in FY 2011, but \$200 million less than the President had proposed.

2. HHS ANNOUNCES FINAL RULES FOR 'MEANINGFUL USE' OF EHR

On July 13, HHS Secretary Kathleen Sebelius announced final rules to help improve Americans' health, increase safety and reduce health care costs through expanded use of electronic health records (EHR). In order to be eligible for as much as \$44,000 under Medicare or \$63,750 under Medicaid, the *Health Information Technology for Economic and Clinical Health (HITECH) Act* requires physicians to adopt certified EHR technology and use it to achieve specific "meaningful use" objectives.

Two companion final rules were announced. One, issued by the Centers for Medicare & Medicaid Services (CMS), defines the minimum requirements that providers must meet through their use of certified EHR technology in order to qualify for the payments. The other, issued by the Office of the National Coordinator for Health Information Technology (ONC), identifies the standards and certification criteria for the certification of EHR technology, so physicians may be assured that the systems they adopt are capable of performing the required functions.

The final CMS rule includes modifications that pare down the 25 requirements for the use of EHR to a core group of requirements that must be met, plus an additional menu of procedures from which providers may choose. This two-track approach ensures that the most basic elements of meaningful EHR use will be met by all providers qualifying for incentive payments, while at the same time allowing latitude in other areas to reflect providers' needs and their individual path to full EHR use.

3. CHILDREN'S HEALTH INSURANCE REGULATIONS

Recently, CMS released two new guidance documents related to the *Children's Health Insurance Program Reauthorization Act (CHIPRA)*. The first provides states with a new option to receive an enhanced matching rate for language services in Medicaid and the Children's Health Insurance Program (CHIP). The second offers detailed guidance on the option to cover legal immigrant children and pregnant women in Medicaid and CHIP.

- *Enhanced Matching Rate for Translation and Interpretation Services.* This letter provides additional information around the CHIPRA provision that gives states the opportunity to receive increased federal funding to better serve Medicaid and CHIP beneficiaries for whom English is not their primary language. The letter clarifies the matching rate states will receive and also describes in detail which services would qualify for the increased administrative match for translation or interpretation services.
- *Medicaid, CHIP Coverage of Lawfully Residing Immigrant Children and Pregnant Women.* This letter describes in greater detail the broad definition CMS has adopted for the term "lawfully residing" immigrants and pregnant women who have been in the US fewer than five years, whom states now have the option to cover in Medicaid and CHIP. The letter

4. HHS APPOINTMENTS ANNOUNCED

On July 7, the Obama administration announced the recess appointment of Dr. Donald Berwick to serve as Administrator of the Centers for Medicare and Medicaid Services (CMS). The use of the recess appointment allows the administration to bypass the Senate confirmation process but limits Dr. Berwick's service to the end of next year. His nomination had been sent to the Senate last April, and no confirmation hearing had been scheduled.

The administration has also appointed Liz Fowler, who was chief counsel on health for the Senate Finance Committee, as deputy director at the HHS' Office of Consumer Information and Insurance Oversight. She played a major role in drafting the health reform law during her tenure at the Senate panel.

5. HOUSE PASSES BILL TO TWEAK SEVERAL HEALTH CARE LAWS

The House passed, on July 14, by voice vote, the *Veterans', Seniors', and Children's Health Technical Corrections Act* (HR 5712), which would, among other things, clarify that residency positions that are being shared between teaching hospitals under an "affiliation agreement" would not be redistributed to other hospitals. There are more than 300 hospitals in 36 states with affiliation agreements in place that are currently using these residency slots. It would also clarify Medicare eligibility for those also eligible for the military's TRICARE program and make children's hospitals eligible for discounts for orphan drugs used to treat rare diseases.

6. FamMedPAC SUPPORTS EVENT FOR SEN. MURRAY (D-WA)

More than 15 medical specialty societies, including FamMedPAC, participated in a health care event for Washington Senator Patty Murray (D) this week. The Senator is a strong supporter of primary care, having voted for the health reform law and having signed a letter to the Appropriations Committee Chairman in support of funding for Title VII programs for medical education. She also supported the Stabenow bill (S. 1776) repealing the Medicare SGR formula that failed to pass the Senate late last year. She is committed to finding a solution to the SGR problem. The Senator serves on the Appropriations Committee and said the Committee would pass the Labor-HHS appropriations bill. She is not confident the Senate will finally pass the bill, since all Republicans will oppose it. She is facing a difficult reelection, in part due to her vote in favor of the health reform bill. Members of the Washington Academy of Family Physicians are sponsoring a fundraising event for the Senator later this year.

7. LOUISIANA LEGISLATURE ADJOURNS AFTER PASSING HEALTH CARE BILLS

To wrap up the 2010 legislative session, Louisiana Governor Bobby Jindal (R) signed a number of bills, including:

- [HB 244](#) allows coverage under a parent's or grandparent's health policy until age 26
- [HB 963](#) establishes a volunteer license as a category of medical licensure and allows for the waiver of fees for retired physicians to volunteer gratuitous and uncompensated health care services under certain conditions
- [HB 1371](#) establishes the Medicaid medication therapy management program to review or modify the medication therapy regimens of patients by a licensed pharmacist, in collaboration with a primary health care provider
- [SB 683](#) requires health insurance issuers to directly pay non-contracted health care providers for emergency services rendered pursuant to a plan or policy for such services
- [SB 710](#) requires health insurance issuers to pay any new provider to the contracted network of providers the contracted reimbursement rate of the network
- [SB 732](#) establishes requirements for balance billing disclosure by the health insurance issuer, facility and facility-based physician

8. TEXAS RULE CREATES NEW REQUIREMENTS FOR PROVIDER WEBSITES

The Texas Medical Board recently adopted a rule establishing new requirements for professional practice websites. Sites must clearly disclose specific services provided in the office and licensure and qualifications of physician(s) and associated health care providers. Patients must also be able to find information on uses and response times for emails, electronic messages and other communication transmitted via the site. Providers now are required to disclose fees for online consultations and services and how payment should be made, as well as any financial interest in information, products or services provided.

9. NEW YORK MEDICAL MALPRACTICE INSURANCE RATES UP 5 PERCENT

The New York State Insurance Superintendent James J. Wrynn approved an increase in medical malpractice insurance rates. The increase, which took effect July 1, follows two years of rates freezes. The average increase is five percent, which varies depending on physicians' specialty and location. The Medical Malpractice Insurance Pool is the state's insurer of last resort, providing insurance for doctors and others who are not able to get insurance in the voluntary market. For the fewer than 300 doctors covered by the pool, rates will rise an average of 9.9 percent.