

August 26, 2011

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## NEXT WEEK IN WASHINGTON...

\* Comments on the proposed 2012 Medicare physician fee schedule are due August 30.

### 1. DEFICIT REDUCTION COMMITTEE BEGINS WORK

The Joint Select Committee on Deficit Reduction called for in the *Budget Control Act* (PL 112-25) is charged with recommending at least \$1.2 trillion in deficit reduction over the next decade. Known as the “super committee,” it is co-chaired by Senator Patty Murray (D-WA), who is a member of the Senate Appropriations, Budget and HELP Committees, and Rep. Jeb Hensarling (R-TX), who chairs the Republican Conference Committee. The other Senators on the Committee are:

- Max Baucus (D-MT), who is Chairman of the Senate Finance Committee
- John Kerry (D-MA), a member of the Finance Committee’s Health Subcommittee
- Jon Kyl (R-AZ), a member of the Finance Committee
- Pat Toomey (R-PA), a member of the Senate Budget Committee
- Rob Portman (R-OH), also a member of the Senate Budget Committee.

The other House members of the Committee are:

- Dave Camp (R-MI), Ways and Means Committee Chairman
- Fred Upton (R-MI), Energy and Commerce Committee Chairman
- James Clyburn (D-SC), Assistant Democratic Leader
- Xavier Becerra (D-CA), a member of the House Ways and Means Committee
- Chris Van Hollen (D-MD), the senior Democratic member on the Budget Committee.

The AAFP has written a [letter](#) to each of the members of the new panel asking them to address the Medicare physician payment formula in their final proposal and include at least a 3-percent higher payment rate for primary care physicians delivering primary care services. In addition, the AAFP asked the Committee to preserve Medicare Graduate Medical Education (GME) funding from reductions, but that if GME reductions were necessary, the Committee should take care to keep primary care physician education and training intact. The AAFP has asked AAFP Key Contacts and chapter leaders who are constituents of these legislators to contact them and convey a similar message. Several requests for meetings with the legislators are in process.

Thanks to an AAFP member's contact with a congressional district office, last week we learned that super committee members were already organizing although Congress remains in recess through Labor Day. Rep. Upton said that committee members were holding conference calls and building a website. Other plans include public hearings and a way for Americans to submit their own suggestions for cutting the deficit. In addition, staff and members of the House committees are working with GOP leadership to discuss reductions to federal programs that fall under their jurisdiction, such as health issues in the Energy and Commerce and Ways and Means Committees.

They are required to hold the first meeting no later than September 16. The super committee will need at least seven of the 12 lawmakers to vote on a final proposal by Thanksgiving in order to fast-track it through both chambers and send it to President Obama by December 23. If the panel deadlocks, it would trigger across-the-board cuts for both defense and non-defense spending for an estimated across-the-board cut to Medicare provider payments of two percent.

## **2. AAFP SUPPORTS PLAN TO SCREEN FOR DEPRESSION AND ALCOHOL ABUSE**

In separate letters dated August 18, the AAFP strongly supported two proposed Medicare coverage decision memos. In one letter, the AAFP supported the CMS proposal to cover annual screenings for [depression](#) for Medicare beneficiaries in primary care settings that have staff-assisted depression care supports in place to assure accurate diagnosis, effective treatment, and follow-up. The AAFP also supported CMS's proposal to begin coverage for screening and behavioral counseling for [alcohol misuse](#).

## **3. AAFP SUPPORTS PLAN TO RETRACT SIGNATURE REQUIREMENT ON REQUISITIONS**

In a comment [letter](#) sent August 18, the AAFP supported CMS's proposal to retract a policy requiring the signature of a physician or qualified non-physician practitioner on a requisition for clinical diagnostic laboratory tests paid under the Clinical Laboratory Fee Schedule. In 2010, the AAFP had urged CMS not to impose this policy, which went into effect in 2011. In a proposed [regulation](#) released in June 2011, CMS discussed that when, "developing educational and outreach materials, we realized how difficult and burdensome the actual implementation of this policy was for physicians and NPPs and that, in some cases, the implementation of this policy could have a negative impact on patient care."

## **4. JOINT LETTER SENT OPPOSING PROPOSED HIPAA PRIVACY REGULATIONS**

The AAFP participated with 19 other national physician organizations in a coalition [letter](#) sent August 1 to the U.S. Department of Health & Human Services' Office of Civil Rights (OCR) in response to the proposed rule on HIPAA privacy regulations. If the regulation is finalized in its proposed form, electronic health records must be capable of producing a report, upon patient request, that contains information on when a patient's personal health information was accessed over a three year period. The comment letter urges OCR to withdraw the access report requirement and to significantly modify the proposed accounting of disclosures report.

## **5. REGULATORY BRIEFS**

- On August 4, the Centers for Medicare & Medicaid Services (CMS) released state level data on utilization of Medicare [preventive services](#). So far, about 17.3 million Medicare beneficiaries have received preventive services in 2011 and about one million Medicare beneficiaries have received the new Annual Wellness Visit as called for in the *Affordable Care Act*. CMS also released state level data on the number of Medicare Prescription Drug [enrollees receiving discounts](#) while in the drug coverage gap. So far, 898,938 people have used the discounts to save an average of \$517 for a total of more than \$461 million. Based on bids submitted by Medicare Part D health plans, the average Medicare prescription drug premium will remain around \$30 in 2012.

- On August 5, CMS announced the Medicare Quality Care Finder [website](#), which provides information to patients on hospitals, nursing homes, physician offices, and other health care settings.
- On August 5, CMS issued [guidance](#) to state Medicaid directors regarding the Medicaid maintenance of effort (MOE) provisions in the *Affordable Care Act* as they relate to institutional level of care requirements and home and community based services.
- On August 8, the CMS [released](#) initial results from the fifth year of the Medicare Physician Group Practice (PGP) demonstration program. Out of ten physician groups, four medical groups split \$29.4 million for achieving quality and savings targets, while six groups did not qualify for shared savings in the fifth year of the demonstration. Seven groups reached all 32 performance benchmarks. In total, Medicare issued \$110 million in incentives to seven of the participants in the demonstration. All 10 practices will continue to participate in the PGP Transition Demonstration, a two-year supplement to the original demonstration that began in January. For more info, visit the Physician Group Practice Demonstration [webpage](#).
- On August 9, HHS [awarded](#) \$28.8 million in funds from the *Affordable Care Act* to 67 community health centers. A listing of organizations and states that received the Health Center New Access Point grants is available [online](#). These funds are estimated to provide 286,000 new patients with access to community health center services. Of the 67 grants to establish new access points, ten are to brand new sites.
- On August 9, CMS [announced](#) a new Medicaid Emergency Psychiatric Demonstration designed to provide states with more flexibility and resources to care for Medicaid beneficiaries with mental illnesses. This demonstration provides up to \$75 million in funding to states over three years to help care for Medicaid patients (aged 21 through 64) with psychiatric emergencies, in private inpatient psychiatric facilities with 17 or more beds, which are also known as institutions for mental diseases (IMDs). CMS is now accepting applications to participate in this demonstration from interested states.
- On August 10, CMS announced that Medicare contractors have begun issuing incentive payments for the 2010 Medicare Electronic Prescribing (eRx) Incentive Program to eligible professionals who met the criteria for successful reporting. Contractors are scheduled to complete issuing these payments by August 31, 2011. For the 2010 eRx incentive payments, the 4-digit electronic remit indicator code is “RX10”. This code will be displayed on the electronic remittance advice along with the LE indicator. Additionally, the paper remittance advice will read, “This is an eRx incentive payment.”
- On August 12, the Departments of Health & Human Services (HHS) and Treasury released three proposed rules titled:
  - [Eligibility determinations; Exchange standards for employers](#), which includes information on how consumers will enroll in Exchanges and further details on the Small Business Health Options Program (SHOP).
  - [Medicaid Program; Eligibility Changes](#), which focuses on the coordination of the Exchanges with Medicaid and CHIP; and
  - [Health Insurance Premium Tax Credit](#), which provides guidance to individuals who enroll in qualified health plans through the Exchanges and claim the premium tax credit, and to Exchanges that make qualified health plans available to individuals and to employers.

As part of these regulations, HHS also awarded \$185 million to 13 states and DC to help build Exchanges and sent letters to governors laying out options and resources available to help states set up Exchanges. More information can be found on the HHS [website](#).

- On August 15, the Centers for Disease Control and Prevention [awarded](#) \$49 million in grants to local public health programs in all 50 states. The grants include \$35.8 million from the *Affordable Care Act's* Prevention and Public Health Fund and \$3.8 million in CDC funding for epidemiology and laboratory capacity; \$9 million for state activities to

prevent healthcare-associated infections; and \$600,000 to bolster state immunization programs.

- On August 15, CMS posted [information](#) about hospitals affected by the implementation of Section 5503 of the *Affordable Care Act*, which reduced the full-time equivalent (FTE) resident caps for certain teaching hospitals who were not training up to their caps and authorized the redistribution of such positions to other qualified teaching hospitals. In total, approximately 628 indirect medical education (IME) and 726 direct graduate medical education (DGME) slots were redistributed under this provision.
- On August 17, the Departments of Health & Human Services (HHS), Labor, and the Treasury proposed regulations intended to provide patients with easily understood language on their healthcare coverage options and to provide employers with assistance in identifying coverage options for their employees. Specifically, the proposed regulations include a proposed Summary of Benefits and Coverage (SBC) [template](#) and a uniform glossary of terms commonly used in health insurance coverage. More information can be found [online](#).
- On August 18, the U.S. Department of Health & Human Services [announced](#) \$40 million in grants for efforts to identify and enroll children eligible for Medicaid and the Children's Health Insurance Program (CHIP). Grants were awarded to 39 state agencies, community health centers, school-based organizations and non-profit groups in 23 states.
- On August 19, CMS [announced](#) the expansion of the competitive bidding program designed to lower costs for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). The DMEPOS competitive bidding program uses competitions between suppliers to set new, lower payment rates for certain medical equipment and supplies, such as oxygen equipment, walkers, and some types of power wheelchairs. On January 1, 2011, Round 1 of this program was implemented in nine product categories in nine areas around the country. In the expanded Round 2, CMS announced the HCPCS codes associated with product categories and a list of ZIP codes in 91 metropolitan areas. More information can be found on the Competitive Bidding Implementation Contractor [website](#) or on the CMS DMEPOS [website](#).
- On August 23, CMS's Center for Medicare & Medicaid Innovation launched the Bundled Payments initiative which is designed to improve care for patients while they are in the hospital and after they are discharged. As called for in the *Affordable Care Act*, this effort will align payments for services delivered across an episode of care rather than paying for services separately. Organizations interested in applying to the Bundled Payments initiative must submit a letter of intent no later than September 22, 2011 for Model 1 and November 4, 2011 for Models 2, 3, and 4. More information is [online](#).
- On August 25, HHS [announced](#) awarding \$137 million to states to boost prevention and public health. The awards include \$1 million to enhance public health laboratories, nearly \$5 million for tobacco cessation services, more than \$42 million to support immunization information technologies, \$2.6 million to the Emerging Infections Programs, \$9.2 million to eight national non-profit public health organizations to assist health departments in adopting effective practices, \$1.5 million to evaluate and prevent ventilator-associated pneumonia, up to \$75 million to fund nine Screening, Brief Intervention, Referral and Treatment programs over the next five years. A full list of grantees is available [online](#).
- On September 9 from 1:30-3pm ET, CMS will hold a conference call on the Medicare and Medicaid EHR Incentive Programs. [Registration](#) is required.