

June 10, 2011

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NEXT WEEK IN WASHINGTON...

- * On June 13, the House returns from a week-long recess.
- * On June 14, the House Energy and Commerce Subcommittee on Health has scheduled a hearing on “The Independent Payment Advisory Board: The Controversial Consequences for Medicare and Seniors.”
- * On June 14, CMS will hold a conference call on the Advanced Payment Initiative for ACOs, further details in the regulatory briefs.

1. SENATORS OPPOSE CHANGING MEDICAID

On June 7, 37 Democratic Senators sent a letter to the President stating their opposition to any deficit-reduction proposal that would block grant, cap, or otherwise reduce Medicaid coverage. Four other Senators sent separate letters expressing their opposition to cutting Medicaid. While these Senators have supported efforts to reduce the deficit, they insisted that those proposals should not target eligibility and benefits for Medicaid patients,

They noted that Medicaid provides health care services to 68 million low-income children, parents, pregnant women, people with disabilities, and seniors. Medicaid covers 40 percent of births, 62 percent of long-term care and, along with the Children’s Health Insurance Program, 34 percent of the children in the country. As an indication of how many need Medicaid coverage, between 2008 and 2009, Medicaid enrollment among families rose 9.3 percent.

The House Republican budget calls for \$1 trillion in cuts to Medicaid and would turn it into a block grant program with a capped annual federal payment. Partisan disagreement over spending cuts for the fiscal year 2012 budget and a debt-limit increase have hindered budget talks. Republicans insist that spending growth in Medicare, Medicaid and other federal entitlement programs are key drivers of the deficit and should be cut significantly. Democrats have acknowledged that spending cuts are necessary but argue that the cuts should not target elderly and low-income residents

2. FEDERAL REGULATORY BRIEFS

- In January, President Obama issued an Executive Order directing all executive agencies, “to establish a plan for ongoing retrospective review of existing significant regulations to identify those rules that can be eliminated as obsolete, unnecessary, burdensome, or counterproductive or that can be modified to be more effective, efficient,

flexible, and streamlined.” In response to this order, the U.S. Department of Health & Human Services (HHS) published in late May the [Preliminary Plan for Retrospective Review of Existing Rules](#). Without providing substantial details, HHS references that the Centers for Medicare & Medicaid Services (CMS) will attempt to review hospital conditions of participation and CMS operations manuals, try to streamline Medicare and Medicaid beneficiary notice requirements, and make efforts to harmonize quality measure reporting requirements.

- In late May, the HHS issued a [press release](#) announcing it will reduce premiums in the Pre-Existing Condition Insurance Plan (PCIP). As outlined in the *Affordable Care Act*, the PCIP began in July and will run until January 1, 2014, when Health Insurance Exchanges become available.
- In early June a [final rule](#) was published that prohibits federal Medicaid payments to states for certain preventable health care-acquired conditions. As required by the *Affordable Care Act*, this new rule is effective July 1, 2011 though states may delay implementation until July 1, 2012. It applies to all Medicaid inpatient hospitals based on Medicare's list of preventable conditions and to “wrong site” procedure or patient surgeries in inpatient and outpatient settings. In a March 16 [letter](#) to CMS, the AAFP commented on the related proposed rule. Though the AAFP supports efforts to eliminate “never events” and healthcare acquired conditions, the comment letter pointed out that little evidence links payment denial with improved outcomes.
- In a June 6 comment [letter](#), presidents from the Society of Teachers of Family Medicine, the Association of Family Medicine, the Association of Family Medicine Residency Directors, the American Academy of Family Physicians, and the North American Primary Care Research Group submitted comments to CMS on the proposed Medicare Accountable Care Organization (ACO) regulation. The letter discussed concerns that the proposed Medicare ACO regulation could have significant negative effect on the Graduate Medical Education (GME) training infrastructure.
- On June 6, the CMS Innovation Center announced the [Advanced Primary Care Practice Medical Home](#) demonstration project for up to 500 Federally Qualified Health Centers. Launching in September and lasting for 3 years, interested FQHCs must apply through August 12 to participate. If accepted, participants will be paid a \$18 care management on a quarterly basis per beneficiaries and receive assistance to become National Committee for Quality Assurance level 3 patient-centered medical home.
- On June 7, CMS [extended](#) the application deadline for the Pioneer ACO Model program to August 19 and the deadline for submitting a letter of intent to June 30.
- Also on June 7, HHS [announced](#) that states may apply for grants through July 22 to update or create coordinated plans to address chronic conditions. HHS allocated \$40 million from the Prevention and Public Health Fund for this effort.
- On June 14 from 2:00 – 3:30pm ET, CMS will hold a conference call on the Advanced Payment Initiative which is designed to test whether pre-paying a portion of future shared saving to prospective ACOs could increase participation. To participate dial 1-866-501-5502 and reference conference 71725238.
- On June 21 from 1:30 – 3:00pm ET, CMS will conduct a free national conference call on changes the agency recently [proposed](#) affecting the 2011 Electronic Prescribing Incentive Program. [Registration](#) for this call is required. CMS proposes to “better align the eRx Incentive Program with the Medicare and Medicaid Electronic Health Records (EHR) Incentive Programs, as well as suggestions to expand the significant hardship exemption categories.” The AAFP is reviewing the proposed regulation and will submit formal comments to the agency.

3. STATE CHAPTER REPORTS...

- **Oregon May Have Assistance for Family Medicine Residency Programs**

As the 2011 session winds down, Governor John Kitzhaber (D) has several bills to consider, including [HB 2401](#), a measure supported by the **Oregon Academy of Family Physicians**. If signed, the bill will “encourage” the Oregon Area Health Education Center to develop a network of the state’s family physician programs and assist hospitals to create a family physician residency program. This will enable the family physician residency programs to share resources and develop curriculum resources, faculty development, physician training and other components of a residency program. According to Kerry Gonzales, the executive director of the Oregon AFP, the bill will close “one of the biggest bottlenecks” to providing an adequate number of family physician residency slots—Oregon currently has 27—and help “ensure that the quality of education is top notch.”

The Governor also is considering [HB 2366](#), which requires the Health Care Workforce Committee to work with interested parties, including physician organizations, to develop a strategic plan for recruiting primary care providers to Oregon. [SB 99](#), also under consideration, would establish the Oregon Health Insurance Exchange Corporation as a public corporation performing governmental functions and exercising governmental powers. Governor Kitzhaber recently signed [HB 3138](#), which allows the State Board of Pharmacy to adopt rules allowing a pharmacist to prescribe vaccines to persons who are at least 11 years of age.

- **Family Physician Named Director of California Department of Public Health**

A member of the **California Academy of Family Physicians**, Ronald W. Chapman, MD, MPH, was appointed Director of the California Department of Public Health, a position that will require confirmation from the State Senate. A graduate of CAFP's Physician Leadership Program, Dr. Chapman is a former member of the CA AFP Board of Directors, Legislative Affairs Committee and the Family Physicians Political Action Committee Board. Dr. Chapman has served as the Chief Medical Officer for Partnership HealthPlan California since 2010.

4. OTHER HEALTH RELATED NEWS IN THE STATES...

- **Florida:** Governor Rick Scott (R) signed a measure ([HB 7095](#)) that attempts to address prescription drug abuse in Florida. As of July 1, dispensing physicians are prohibited from dispensing controlled substances listed in Schedule II and Schedule III with some exceptions and all inventories must be returned to wholesale distributors or local law enforcement by July 11. Wholesale distributors are required to buy back the inventory of any Schedule II and Schedule III controlled substances in the manufacturer’s original packaging, unopened and in date. The bill also reduces the timeframe for dispensers to report to the prescription drug monitoring program database from 15 days to 7 days.

Legislation ([HB 7107](#) and [HB 7109](#)), also recently signed, requires all Medicaid recipients to enroll in managed care plans unless specifically exempt. Recipients may choose between insurers, exclusive provider organizations, HMOs and other managed care plans run by health care providers or groups of providers, such as Provider Service Networks or Accountable Care Organizations. Recipients may also choose specialty plans with expertise in specific medical conditions. The bills also limit lawsuits against Medicaid providers to non-economic damages for personal injury or wrongful death to \$300,000 per claimant. The cap can be pierced if the plaintiff can prove by clear and convincing evidence that the provider acted wrongfully. No practitioner is liable for more

than \$200,000 in non-economic damages unless the injured patient can prove by clear and convincing evidence that the practitioner acted wrongfully.

Other enacted legislation includes [SB 1410](#) and [HB 935](#), which exempt primary care providers who post their schedule of charges for uninsured patients from CME requirements for two years and licensure fees for a single period of renewal. Governor Scott is currently considering additional measures, including [SB 1590](#) and [HB 479](#) to require non-Florida licensed physicians to obtain a certificate to provide expert witness testimony and to provide immunity for volunteer team physicians when rendering emergency care or treatment at an event. If enacted, separate legislation ([SB 1676](#) and [HB 1393](#)) would provide that a not-for-profit college or university that owns or operates an accredited medical school, while under contract with a teaching hospital to provide patient services, is considered a part of state government, and thus is entitled to sovereign immunity protection.

- **Maryland:** The state's regional health IT extension center has reached its initial goal of signing up 1,000 primary care providers to help them deploy and become meaningful users of electronic health records. Lt. Governor Anthony Brown (D) led the administration's healthcare efforts to reach this goal for adoption of electronic health records as part of the commitment to make Maryland the healthiest state in the nation.
- **Rhode Island:** The Robert Wood Johnson Foundation has announced a plan to provide Rhode Island and nine other states with the resources necessary to implement key health provisions of the Affordable Care Act, the national healthcare reform law. The program provides technical and other assistance for a period of four years leading up to the law's full implementation in 2014, toward helping to effectively expand and increase healthcare coverage in the state.