

May 13, 2011

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## NEXT WEEK IN WASHINGTON...

- \* CMS will conduct multiple Medicare ACO, PQRS, eRx, and ICD-10 conference calls next week, further details are below.

### 1. ENERGY AND COMMERCE SENDS TORT REFORM BILL TO THE FULL HOUSE

The House Energy and Commerce Committee approved the *Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act* (HR 5), which would reform the medical liability system, by a vote of 30 to 20 on Wednesday, May 11. Rep. Phil Gingrey, MD (R-GA) introduced the AAFP-supported HEALTH Act to impose limits on medical liability litigation by capping awards and attorney fees, modifying the statute of limitations and eliminating joint and several liability. The Congressional Budget Office estimates that the reforms included in HR 5 could reduce the federal deficit by \$62 billion over ten years. On March 17, the House Judiciary Committee completed its action on the measure, which the House could debate soon.

### 2. PHYSICIAN PAYMENT REFORM REVIEWED IN ANOTHER HOUSE COMMITTEE

Witnesses at hearing on Thursday, May 12, registered varying degrees of disapproval with the current Medicare fee-for-service physician payment system and urged the House Ways and Means Subcommittee on Health to consider such alternatives as five-year, per-patient global budgets and “capitation” under which providers get a fixed, per-patient sum over a span of time regardless of the amount of care a patient gets.

A spirit of bipartisan determination to replace the controversial sustainable growth rate (SGR) payment formula characterized the hearing by the House Ways and Means Health Subcommittee. A similar spirit marked a hearing last week by the House Energy and Commerce Health Subcommittee.

“Republicans and Democrats alike have kicked the can down the road long enough” to postpone action on replacing the SGR, Ways and Means Health Subcommittee Chairman Rep. Wally Herger (R-CA), said. He promised to hold a series of hearings on replacing the physician

payment formula, saying “it is my hope, that by starting early, we will arrive at a payment system overhaul that can pass the House.” “Reforming the Medicare physician payment system is not a partisan issue,” added Rep. Pete Stark (D-CA), the senior Democrat on the panel.

### **3. HOUSE SUBCOMMITTEE WOULD ALLOW STATES TO CUT MEDICAID ELIGIBILITY**

On Thursday, May 12, the House Energy and Commerce Subcommittee on Health approved the *State Flexibility Act* (HR 1683) along party lines, 14-9. The bill would repeal requirements for states to maintain current eligibility standards for Medicaid and the Children’s Health Insurance Program (CHIP) or risk losing their federal matching funds. Known as “maintenance of effort” requirements, the targeted provisions were part of the economic stimulus and the 2010 health care overhaul.

Bill sponsor Rep. Phil Gingrey (R-GA), said the requirements put “handcuffs” on governors that prevent them from tailoring Medicaid programs to their states’ needs. GOP governors asked the Obama administration and Congress to lift the requirements earlier this year, maintaining that they force states to cut other programs, like education, to fund Medicaid.

But Democrats argued that the measure would deny health coverage to thousands of the nation’s poor, disabled and elderly. The Congressional Budget Office has estimated that the bill would save roughly \$2.1 billion over 10 years but could leave about 300,000 more people without insurance in 2013, many of whom would be children.

### **4. HOUSE TO PRODUCE FY 2012 HHS APPROPRIATIONS BILL BY AUGUST RECESS**

House Appropriations Chairman Rep. Hal Rogers (R-KY) announced a schedule for consideration of all 12 spending bills. The Committee’s schedule aims to complete work on all of the fiscal year 2012 bills by August. However, it is unlikely the Committee will succeed in having all the bills through the House before the August recess, because of the limited amount of time available for full House debates.

Chairman Rogers said that the schedule will help avoid a situation like the one that occurred earlier this year, when the final FY 2011 appropriations bill was approved seven months late and prompted threats of a government shutdown. The FY 2011 spending package was finalized when the White House, Senate Democrats, and House Republicans agreed to cut nearly \$40 billion in discretionary spending from FY 2010 levels. The House FY 2012 Labor, Health and Human Services and Education spending bill will be \$18 billion less than FY 2011 spending or \$139.2 billion in fiscal 2012. The Labor, HHS, Education Subcommittee will consider a draft FY 2012 bill on July 26 for full Committee consideration on August 2.

### **5. SENATE HELP COMMITTEE HOLDS HEARING ON AVOIDING ER USE**

On May 11, the Senate Health, Education, Labor and Pensions (HELP) Committee’s Subcommittee on Health and Aging held a hearing on “Diverting Non-urgent Emergency Room Use: Can It Provide Better Care and Lower Costs?” Witnesses included James Macrae, Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration; Debra Draper, Director, Health Care, Government Accountability Office (GAO); Peter Cunningham, PhD, Senior Fellow, Center for Studying Health Systems Change; and Dana Kraus, MD, a family physician employed by a Community Health Center, Northern Counties Health Care. Virtually all witnesses emphasized the importance of primary care. In addition, the GAO witness discussed a recent report concluding that CHCs are critical to reducing emergency care.

### **6. CMS RELEASES ACO EDUCATIONAL MATERIALS, ANNOUNCES REGIONAL CALLS**

On May 6, the Centers for Medicare & Medicaid Services (CMS) released a [fact sheet](#) for rural physicians regarding the [proposed](#) Medicare Accountable Care Organizations (ACO) program.

In it, CMS highlights their proposal that Medicare ACOs in rural communities could be eligible for an exemption from the 2 percent net savings threshold under the one-sided model for Medicare ACOs with less than 10,000 assigned beneficiaries.

CMS also announced several conference calls that will be conducted by the CMS Regional offices regarding the proposed Medicare ACO regulation:

- On May 16, the CMS San Francisco regional office will hold a call from 1pm-2pm PDT. Participants should dial 888-989-4351 and use code 5320738.
- On May 17, the CMS Atlanta regional office will conduct a call from 9am-10am CT. Participants should also dial 888-989-4351 and use code 5320738.
- Also on May 17, the CMS Dallas regional office will hold their call from 11am-12pm CT. Dial 888-942-8391 and reference code 7274738 to participate.
- On May 18, the CMS Chicago regional office will concurrently hold an in-person listening session and a conference call. This will take place 3pm-4pm CT at the Hilton Grand Rapids Airport Hotel in Grand Rapids, MI. Telephone participants should dial 800-857-5156 and use code 3929347.

The AAFP prepared a [summary](#) of the proposed Medicare ACO regulation and is currently finalizing a formal comment letter. This letter will be finalized soon and shared with members and state chapters.

## 7. REGULATORY BRIEFS

- On May 11, The U.S. Department of Health and Human Services (HHS) [announced](#) the “Alignment Initiative”, which consists of new efforts by the Medicare-Medicaid Coordination Office to better manage care provided to the [9 million patients](#) that receive both Medicare and Medicaid benefits. To address a currently fragmented system, HHS will soon publish a notice in the Federal Register requesting public input on ways to improve care coordination, fee-for-service benefits, prescription drugs, cost sharing, enrollment, and appeals for individuals eligible for Medicare and Medicaid. As part of this initiative, HHS highlighted their April [announcement](#) of a new process intended to provide states with timely access to Medicare data so that care is better coordinated for individuals dually eligible for Medicare and Medicaid.
- On May 12, CMS released a [summary](#) of recent savings to the Medicare program. Totalling \$120 billion over the next five years, these estimated savings are a result of several efforts including implementation of provisions from the Affordable Care Act (ACA) designed to target fraud, waste, and abuse. In the analysis, CMS forecasts:
  - \$55 billion saved from reforming provider payments to reward quality of care;
  - \$10 billion through 2013 from improving patient safety, lowering hospital readmissions and hospital-acquired conditions;
  - \$1.8 billion from ACA provisions designed to reduce Medicare fraud and abuse;
  - \$2.9 billion over 5 years or \$17 billion over 10 years due to reimbursement changes for durable medical equipment; and
  - \$50 billion by reducing Medicare payments to insurance companies.
- On May 17 from 1:30 pm to 3:00 pm ET, CMS will host a conference call on the 2011 Physician Quality Reporting System & Electronic Prescribing Incentive Program. [Registration](#) is required and a slide [presentation](#) will be posted on the CMS PQRS website prior to the call.
- Also on May 17, CMS will conduct the next Physician Open Door Forum conference call from 2:00 pm - 3:00 pm ET. Among other topics, CMS is expected to discuss claims reprocessing for some 2010 Part B claims and, provide an update on the Primary Care Incentive Program. Participants may call 1-800-837-1935 and use code 50103486.

- On May 18, CMS will discuss the ICD-10 conversion process on a national conference call. [Registration](#) is required prior to the call.
- On May 19 from 2:30-3:45pm ET, CMS will hold an educational conference call titled, “Medicare and Medicaid EHR Incentive Programs: Understanding Meaningful Use”. [Registration](#) is required prior to the call.
- On May 26 from 2:30pm to 3:30pm, CMS will hold a conference call on the 2011 Physician Quality Reporting System, Electronic Prescribing Incentive Programs, and the ICD-10 conversion process. To participate dial 1-800-837-1935 and use code 44767414.

#### 8. FamMedPAC VISIBLE AT ALF, FMCC – PARTICIPATES IN DC EVENTS

FamMedPAC was visible at the Annual Leadership Forum in Kansas City, and the k at the Family Medicine Congressional Conference in Washington DC. The PAC had a booth at both meetings, providing contribution forms and information for the attendees. At ALF, Dr. Jim King made a brief presentation to the attendees and urged them to support the PAC. The PAC received over \$18,000 in donations. At FMCC, PAC Board member, Dr. Judy Chamberlain, made a presentation and asked all attendees to stop by the booth and donate. The PAC received over \$19,000 in donations. Both totals represent new records for the PAC at these meetings. The PAC Board held its annual meeting just before the FMCC. The highlight of the meeting was the creation of a new donor level for students and residents. The Club George donor level for students and residents is now \$1 a week, or \$52 for the year. AAFP Resident Board Member, Dr. Heidi Meyer, and Student Board Member, Kevin Bernstein, promoted the new donor level to the students and residents at FMCC, and most made a contribution. For all of 2011, the PAC has received \$218,516 in donations.

FamMedPAC participated in events for the following Members of Congress this week:

- **Rep. John Boehner (R-OH)**, the Speaker of the House.
- **Rep. Kevin McCarthy (R-CA)**, the Majority Whip of the House.
- **Sen. Olympia Snowe (R-ME)**, who serves on the Senate Finance Committee. This event was sponsored by FamMedPAC. Maine AAFP members, Dr. Judy Chamberlain, Dr. Patrick Connolly, and Dr. Swapna Gummadi attended.
- **The Blue Dog Coalition**, a group of moderate Democratic Members of the House.
- **Rep. John Dingell (D-MI)**, a member of the Energy and Commerce Health Subcommittee.
- **Rep. Diane Black (R-TN)**, a nurse and member of the Ways and Means Committee.
- **Rep. John Fleming (R-LA)**, a family physician. Dr. Fleming spoke at the opening reception of the FMCC.

#### 9. WASHINGTON ENACTS LEGISLATION SUPPORTED BY WA AAFP

The Washington state legislature adjourned its regular session on April 22 having enacted legislation supported by the **Washington Academy of Family Physicians** including:

- [SB 5005](#) requires parents who want to exempt their child from school immunization requirements to sign and submit a form to the school district. Steve Albrecht, MD, President of the **Washington Academy of Family Physicians** and family physician Anthony Chen, MD, MPH testified in support of the measure.
- [SB 5394](#) requires health care purchasing efforts for the Medicaid, Basic Health and Public Employees Benefits Board programs to include provisions in contracts that encourage broad implementation of primary care health homes. The **WA AAFP** testified in support of this bill.