

June 29, 2012

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NEXT WEEK IN WASHINGTON...

* Both chambers of Congress will be in recess for the Independence Day holiday.

1. SUPREME COURT UPHOLDS HEALTH CARE REFORM LAW

On Thursday, June 28, the Supreme Court upheld the constitutionality of the *Patient Protection and Affordable Care Act* (ACA) in a 5 to 4 decision written by Chief Justice John Roberts and joined by Justices Ginsburg, Breyer, Kagan, and Sotomayor. The Court rejected the argument that the individual mandate was an exercise of the Commerce Clause power, but upheld the mandate as a valid exercise of the Congressional power to impose taxes. The law's individual mandate requires people to obtain health insurance for themselves and their dependents beginning in 2014 or pay a penalty.

In a [statement](#) released after the Court's decision was announced, AAFP President Dr. Glen Stream, MD, MBI, acknowledged that the ruling preserves most of the provisions of the ACA that affect primary care physicians. This decision affirms the momentum toward increased emphasis on continuous and comprehensive care for a health care system with a strong foundation of primary care provided by family physicians. In addition, the important ACA provisions supporting primary care medicine education and training will continue.

Although the Court upheld the expansion of the Medicaid program to cover more uninsured individuals, it struck down the provision allowing the federal government to withhold existing Federal Medical Assistance Percentage (FMAP) funding from states that do not expand their Medicaid programs under the ACA. Not only are we moving away from the old model of fragmented care which emphasized intervention rather than prevention, the decision upholds the expansion of coverage – a long-standing AAFP policy goal

Reacting to the decision, House Speaker John Boehner (R-OH) said that the House majority remained firmly resolved to repeal the ACA entirely. Although the House has previously passed several bills to repeal the ACA in whole and in part, House Majority Leader Eric Cantor announced that they will again vote on legislation to repeal the ACA on July 11.

2. COMMENT LETTER SENT ON GRADUATE MEDICAL EDUCATION (GME)

In a June 25 comment [letter](#) sent in response to the 2013 proposed hospital inpatient prospective payment system regulation, the Council of Academic Family Medicine and the AAFP supported CMS's proposal to extend the window of time that an institution has to establish a full time equivalent (FTE) resident cap for GME payment purposes from 3 years to 5. In addition, the letter supported the proposal's efforts to ensure redistributed residency positions promoted primary care maintenance and expansion. Finally, the letter opposed the inclusion of labor and delivery beds in the resident-to-bed ratio, citing the little relevance labor and delivery beds have for the Medicare patient population and advising that the impact would be a harmful reduction of Indirect Medical Education (IME) payments.

3. FAMILY PHYSICIANS NOMINATED TO AHRQ NATIONAL ADVISORY COUNCIL

In a letter sent June 28 to the Agency for Healthcare Research and Quality (AHRQ), the AAFP nominated six family physicians to serve on the National Advisory Council for Healthcare Research and Quality. The purpose of the council is to advise HHS and AHRQ on matters “to improve the quality, safety, efficiency, and effectiveness of health care for all Americans.”

4. AAFP COMMENTS ON NATIONWIDE HEALTH INFORMATION NETWORKS

The AAFP sent the Office of the National Coordinator for Health Information Technology (ONC) a [letter](#) dated June 28 responding to ONC's request for comments on the Nationwide Health Information Network: Conditions for Trusted Exchange. The letter applauds ONC's establishment of a voluntary program for health information exchanges to be accredited, certified, or audited, but AAFP also cited significant concerns about specific components of the proposal. The letter reiterates the AAFP's support for the Direct Project, but then outlines "conditions and foundational activities" that must take place simultaneously, including:

- Direct standard integration with certified Electronic Health Record (EHR) technologies.
- The establishment and maintenance of a security and trust framework.
- Predictability in the health information technology market.

In the letter, the AAFP states concern that ONC's request for information was too ambiguous and broad to be implemented effectively. After discussing the proposed role of entities that the Nationwide Health Information Network validates, the letter ultimately finds the ONC proposal to be confusing and not matching AAFP's experiences in DirectTrust.org. The letter concludes that the ONC should:

- Make explicit which electronic exchange methodology within the Nationwide Health Information Network is under consideration as being the subject of any “condition of trusted exchange,” that is, either Direct or Exchange, except in those instances in which a “condition of trusted exchange” may apply to both
- Specify in detail the type and nature of product, individual, organization, or association to which a “condition of trusted exchange” may apply, should apply, or must apply
- Recognize and keep separate the three classes of recognition and oversight; namely, certification, accreditation, and auditing, and clarify the roles, functions, and responsibilities for which kinds of products, organizations, and other entities which require either certification or accreditation.

5. REGULATORY BRIEFS

- On June 21, HHS [announced](#) that 12.8 million Americans will benefit from \$1.1 billion in rebates from insurance companies this summer, because of the Medical Loss Ratio (MLR) standard called for in the *Affordable Care Act*
- On June 21, HHS [announced](#) a new effort that is designed to reduce prescription drug abuse will be tested in Indiana and Ohio. Existing prescription drug use data will be

made available to providers and pharmacists when treating patients in ambulatory and emergency departments through this new pilot program

- On June 22, HHS [announced](#) the Innovation Fellows Program. According to HHS, “Fellows will be highly talented professionals from non-federal backgrounds such as business, industry, and academia who seek to bring successful innovation experiences, models, and business practices to HHS.” The [application](#) period for external fellows is June 20-July 20, 2012.
- On June 22, CMS [issued](#) a loan to Kentucky Health Care Cooperative and the Vermont Health CO-OP (Incorporated as the Consumer Health Coalition of Vermont) to launch new private non-profit, consumer-governed health insurance companies, called a Consumer Operated and Oriented Plan (CO-OP).
- On June 26, the U.S. Preventive Services Task Force [recommended](#) that primary care clinicians screen all adults for obesity, and refer adults with a body mass index of 30 or more to a comprehensive weight loss/behavior management program.
- On June 26, the Alaska Department of Health and Social Services [agreed](#) to pay the U.S. Department of Health and Human Services \$1,700,000 to settle possible violations of the *Health Insurance Portability and Accountability Act* (HIPAA) Security Rule. Alaska DHSS has also agreed to take corrective action to properly safeguard the electronic protected health information (ePHI) of their Medicaid beneficiaries.
- On July 16 from 1:30 to 3pm ET, CMS will conduct a national call on the Medicare Shared Savings Program and Advance Payment Model Application Process for the January 1, 2013 Shared Savings Program start date. [Registration](#) is required.