

December 13, 2013

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### NEXT WEEK IN WASHINGTON...

- \* The Senate is expected to act next week to avert the Medicare SGR cut.
- \* The House has adjourned to reconvene in 2014.

## 1. HOUSE AND SENATE COMMITTEES APPROVE BILLS TO REPEAL SGR

The House Ways and Means and Senate Finance Committees met separately on Thursday, December 12 to consider legislation to repeal the flawed Medicare Sustainable Growth Rate (SGR) formula and overhaul the way Medicare pays physicians. The AAFP released a [statement](#) on December 11 urging Congress to finish work on these bills and send the measure to the President. While the payment policies are specified in the legislation, neither committee has determined how the measure will be paid for, and that could be a significant barrier to final action.

By a vote of 39 to 0, the House panel passed a modified version of the SGR repeal legislation (HR 2810) that the House Energy and Commerce Committee had approved last July 31. Rep. Dave Camp (R-MI), who chairs the Ways and Means Committee, cited the AAFP during his opening statement as one of 50 groups supporting the process. Rep. Danny Davis (D-IL) also mentioned the importance of family physicians during the session. Despite the unanimous vote, several Committee members voiced reservations about the value-based payment criteria such as pay-for-performance measures. Nonetheless, none of the committee members insisted on amendments during the debate on the bill.

The Senate Finance Committee later that day by voice vote backed a draft bill that would also change how Medicare pays physicians, after adopting several amendments. In total, committee members filed 137 amendments on a wide variety of policy reforms to Medicare and Medicaid, 26 of which were incorporated into the proposal before the markup, and 7 of which were passed during the debate. Senator Sherrod Brown (D-OH) offered an amendment to extend the current Medicaid primary care payment policy through 2015 (under current law Medicaid parity

payments will lapse at the end of 2014), but he withdrew the amendment when no budget offsets to pay for the amendment were specified. The AAFP sent Senator Brown a [letter](#) of support on December 11. A notable exchange occurred between Sen. Bill Nelson (D-FL) and Sen. Max Baucus (D-MT), who chairs the committee, on the topic of Medicare funding of residency training. During the debate, Chairman Baucus stated: “A major area of need . . . tends to be family practice. We must make sure there are enough family practice slots, to the degree that there are additional slots total.” Senator Nelson withdrew his amendment before the committee acted on it.

All three committees that have jurisdiction over Medicare have now approved comprehensive legislation that repeals and replaces the Medicare SGR formula. While this represents substantial progress on SGR repeal, several important hurdles remain, including reconciling the competing proposals, and finding the necessary offsets to pay for the cost of repeal, which is estimated to be in the neighborhood of \$150 billion over 10 years.

## **2. BIPARTISAN BUDGET AGREEMENT WITH SGR PATCH NEARS ENACTMENT**

On Thursday, December 12, the House of Representatives passed the *Bipartisan Budget Act* (H.J. Res. 59) or “BBA 2013” by a vote of 332 to 94. The House-Senate Conference Committee on the budget resolution negotiated the details of BBA 2013 to provide some relief from the scheduled sequestration cuts in fiscal years 2014 and 2015. The measure gives direction to the House and Senate Appropriations Committees for drafting spending bills for two years. Those committees have only until January 15 to produce the FY 2014 appropriations bills that will fund government activities including HHS primary care training and research programs.

The AAFP released a [statement](#) in support of the *Pathway for SGR Reform Act*, a provision included in the budget measure to provide a three-month “patch” to postpone the Medicare SGR cut. The BBA 2013 also saves the government \$28 billion over ten years by requiring the President to sequester the same percentage of mandatory budgetary resources – including Medicare – in 2022 and 2023 as will be sequestered in 2021 under the current *Budget Control Act*.

The Senate will take up the BBA 2013 probably on Tuesday, December 17, before concluding this session of the 113<sup>th</sup> Congress. President Obama has indicated that he will sign it.

## **3. HOUSE BILL WOULD AUTHORIZE PEDIATRIC RESEARCH**

The House of Representatives voted on December 11 to pass the *Gabriella Miller Kids First Research Act* (HR 2019) by a vote of 295 to 103. The bill would provide \$13 million a year for 10 years to pediatric research by reallocating money from an existing fund used for presidential campaigns. Rep. Gregg Harper (R-MS) who has a child with Fragile X syndrome introduced the measure. Some House members opposed the bill, saying it was a political move and would only authorize but not appropriate money to be spent on pediatric research.

## **4. NEW MEANINGFUL USE TIMELINE ANNOUNCED AS ADVOCATED BY AAFP**

Following an August 7 [letter](#) from the AAFP to the Centers for Medicare & Medicaid Services (CMS) and the National Coordinator for Health Information Technology, on December 6, CMS and the Office of the National Coordinator (ONC) proposed a new timeline for implementation of meaningful use (MU) for its Medicare and Medicare electronic health record (EHR) incentive programs. However MU stage 2 requirements remain unchanged. According to the [announcement](#), the revised timeline would extend stage two through 2016 and, for physicians who have completed at least two years in MU stage two, push the beginning of stage three to 2017. Further information on the recent announcement can be found in a related AAFP News Now [article](#). Further information about MU stage 2 can be found in a [Q&A](#) with family physician David Kibbe, MD.

## **5. AAFP AGAIN PRESSES HHS TO DEACTIVATE NCCI EDIT**

In a December 4 [letter](#) to the U.S. Department of Health and Human Services (HHS), the AAFP and several other organizations again asked HHS to deactivate a National Correct Coding Initiative (NCCI) edit that became effective on January 1, 2013. The edit in question denies payment for all evaluation and management (E/M) services billed on the same date to the same patient as a vaccine administration code, unless modifier 25 is appended to the E/M code.

Though the letter expressed appreciation that CMS provided some flexibility on this edit by allowing each state Medicaid program to deactivate the edit for 2013, only 13 state Medicaid programs actually did so. The letter urges CMS to deactivate the edit nationwide as soon as possible. The AAFP communicated these exact concerns to the NCCI and CMS in a [letter](#) sent February 20, 2013 and discussed this issue in a related AAFP News Now [article](#).

## **6. GR STAFF ATTEND MEETING WITH OMB ON FDA REGULATION OF E-CIGARETTES**

On December 6, AAFP Government Relations staff, along with staff from the American College of Obstetricians and Gynecologists, the American College of Physicians and the American Academy of Pediatricians, met with staff of the Office of Management and Budget and the Food and Drug Administration to discuss pending regulations allowing the FDA to regulate tobacco products to use the FDA to include e-cigarettes in tobacco regulation. Regulators listened to the presentation on the need to regulate non-combustible tobacco products, to assure an age limit for purchase, to have listed ingredients, to research the effects, and to have health-related information available to our members and their patients for individual counseling and decision making.

## **7. SECRETARY SEBELIUS IS LONE WITNESS BEFORE HEALTH SUBCOMMITTEE.**

The series of House Energy and Commerce Health Subcommittee hearings on the *Affordable Care Act* continued on December 11 with the lone witness, HHS Secretary Kathleen Sebelius, appearing for almost 3 hours. The Secretary said that her team is working around the clock to fix remaining problems on the website for the federal health insurance marketplace. She sought to assure everyone that the program is now ready, has been and continues to be tested, and is allowing people to participate. The Administration announced that about 365,000 people have selected a plan through a state or federal program and that more than 4 times as many people enrolled in November as had in October. In addition, more than 803,000 low-income people were found eligible for Medicaid. Secretary Sebelius announced that she has asked the HHS Inspector General to investigate the development of the website and that a new position, "chief risk officer" has been created within CMS.

Rep. Fred Upton (R-MI), who chairs the committee, asked the Secretary if she thought that she should have delayed the launch of the website. She responded that she hopes to learn from the OIG investigation exactly what went wrong and what role the contractors played in the problems that plagued the roll out. Rep. Marsha Blackburn (R-TN) asked how much it cost the American public to clean up the website and whether the contractors would refund the government for the expense. The hearing concluded with Rep. Renee Elmers (R-NC) reminding the Secretary that the President's promise that people could keep their doctor was just not true. Secretary Sebelius explained that networks change all of the time, and physicians often go in and out of networks for a variety of reasons.

## **8. COMMITTEE ADVANCES HEALTH BILLS**

The House Energy and Commerce Committee approved the following bipartisan bills which the House will likely consider early next year.

- *Poison Center Network Act* (HR 3527)  
The bill reauthorizes the *Poison Center Support, Enhancement, and Awareness Act* of 2008 to authorize continued funding for grants to states to establish and operate poison

centers and maintain a single, national toll-free number that ensures access to poison center services by connecting callers to the poison center serving their area. In addition, the bill provides for a national media campaign to educate the public and health care providers about poison prevention, poison center services, and the toll free number.

- **Traumatic Brain Injury (TBI) Reauthorization Act (HR 1098)**  
This bill would continue brain injury research at the Centers for Disease Control and Prevention (CDC). The bill also provides for state grants that the Health Resources and Services Administration (HRSA) administers to help families access needed services such as rehabilitation and long-term care. In addition, HRSA provides grants to states for the protection and advocacy of TBI patients. Finally, the bill will allow grant programs to move from HRSA to another agency within HHS to better coordinate with federal agencies that oversee long-term services.

## 9. FamMedPAC HAS ACTIVE WEEK AS SESSION WINDS DOWN

As 113th Congress heads towards the end of its first session, FamMedPAC participated in several events for key legislators this week.

- **Rep. John Fleming (R-LA)** is a family physician from Shreveport, LA, who is in his third term.
- **Rep. Michelle Lujan-Grisham (D-NM)** is the former head of the New Mexico Health Department in her first term in Congress.
- **Rep. Nancy Pelosi (D-CA)** is the Minority Leader of the House.
- **Rep. Cathy McMorris Rodgers (R-WA)**, the lead sponsor of the *Primary Care Workforce Access Improvement Act (HR 487)*, is a member of the Health Subcommittee of the House Energy and Commerce Committee.
- **Sen. Pat Roberts (R-KS)** is a member of the Senate Finance Committee.
- **Rep. Steny Hoyer (D-MD)** is the Minority Whip of the House.

## 10. REGULATORY BRIEFS

- On December 10, HHS [announced](#) \$50 million in grants for mental health services to expand mental health and substance use disorder services in approximately 200 Community Health Centers nationwide. Funds are intended to help Community Health Centers establish or expand behavioral health services for people living with mental illness, and drug and alcohol problems.
- On December 12, CMS [announced](#) that individuals currently enrolled in the federal Pre-Existing Condition Insurance Plan (PCIP) who have not yet secured other health insurance have the option to remain in the federal PCIP for the month of January. For those enrolled in state PCIPs, CMS indicated they are working with states to extend contracts through the end of January 2014.

## 11. MEDICAID EXPANSION UPDATE FROM IOWA

This week, HHS approved the Medicaid Expansion plan that Iowa Governor Terry Brandstad (R) submitted to CMS. The state plans to provide private health insurance coverage to newly eligible Medicaid beneficiaries by enrolling some into plans available on the health insurance exchange, and charging premiums to those with incomes over 100 percent of the Federal Poverty Level (FPL). Under the plan, Iowans with incomes up to 100 percent of the FPL would receive the same benefits as state employees, while those with incomes between 101 percent and 133 percent of the FPL will be eligible for coverage in the state-federal health insurance marketplace.