

June 7, 2013

IN THIS REPORT...

1. IOM Releases Proposed Research Agenda on Gun Violence
2. FamMedPAC Donations Strong, Continues to Support Key Legislators
3. Family Doc Completes MedPAC Service
4. House Passes Track and Trace Legislation.
5. House Holds Hearing on SGR Reform
6. Greater Choice and Competition in Marketplaces
7. AAFP Sends CMS Letter with Concerns on Open Payments Program
8. AAFP Comments On Electronic Health Records Arrangements
9. AAFP Supports HIPAA Change to Allow Reporting to NICS
10. TransforMED presents at Health Reform Innovation Summit in DC
11. Wisconsin Legislature Rejects Medicaid Expansion
12. Nevada Governor Signs NP Independent Practice Bill into Law
13. Regulatory Briefs

NEXT WEEK IN WASHINGTON...

- * On Wednesday, June 12, the Health Subcommittee of the House Energy and Commerce Committee will hold a hearing on “the Need for Medicaid Reform: A State Perspective.”

1. IOM RELEASES PROPOSED RESEARCH AGENDA ON GUN VIOLENCE

The IOM [released their report](#) on research priorities on firearm-related violence this week. The report, *Priorities for Research to Reduce the Threat of Firearm-Related Violence*, contains recommendations for a robust research agenda well as a compilation of research to date on the health effects of firearms. The committee’s proposed research agenda focuses on the characteristics of firearm violence, risk and protective factors, interventions and strategies, the impact of gun safety technology, and the influence of video games and other media. The report was prepared at the request of the Centers for Disease Control and Prevention.

2. FamMedPAC DONATIONS STRONG, CONTINUES TO SUPPORT KEY LEGISLATORS

So far this year, 981 AAFP members contributed over \$241,000 to the PAC. This has allowed the PAC to make \$230,000 in donations to 61 candidates and committees. The PAC Board is optimistic that they will reach their goal of \$1 million in donations by the end of 2014.

FamMedPAC supported the following candidates this week:

- **Rep. Ed Markey (D-MA)**, candidate for the open Senate seat in Massachusetts. PAC Board member, Dr. Hugh Taylor, attended a reception for Rep. Markey in Boston.
- **Rep. Michelle Lujan Grisham (D-NM)**, serving her first term in Congress. FamMedPAC supported her in her initial campaign.
- **Rep. Mike Rogers (R-MI)**, a member of the Health Subcommittee of the House Energy and Commerce Committee.

- **Rep. Mike Thompson (D-CA)**, a member of the Health Subcommittee of the House Ways and Means Committee. Rep. Thompson spoke with the Commission on Governmental Advocacy at their May meeting in Washington.

3. FAMILY DOC COMPLETES MEDPAC SERVICE

Family physician Thomas M. Dean, MD who has practiced in Wessington Springs, SD, since 1978, finished his term or service on the Medicare Payment Advisory Commission (MedPAC) last month. On May 30, the Comptroller General of the United States and head of the U.S. Government Accountability Office (GAO), [announced](#) the appointment of one new member and the reappointment of five existing members to the MedPAC which was established by Congress in 1997 to analyze key issues affecting Medicare and provide relevant advice to Congress.

4. HOUSE PASSES TRACK AND TRACE BILL

H R. 1919 the Safeguarding America's Pharmaceuticals Act of 2013 was adopted by the House of Representatives by a voice vote earlier this week. With over 4 billion prescriptions filled each year in the United States, lawmakers agreed upon a bill that they hope will safeguard the distribution supply chain to protect citizens against counterfeit pharmaceuticals and improve security. This bill addresses the current patchwork of multiple state laws with a uniform national standard that will improve safety and eliminate duplicative regulations. It will establish a collaborative, transparent process between the FDA and stakeholders in order to better understand how and when to move to unit-level traceability. This track and trace bill enjoys support from both sides of the aisle and Energy and Commerce Committee Chair, Fred Upton (R-MI) stated that he is hopeful that a bill will make it to the president's desk by the August recess.

5. SGR REFORM TOPIC OF HOUSE HEARING

The Energy and Commerce and Ways and Means Committees in the House have been working on a plan to create a better system for paying physicians treating Medicare patients. A permanent repeal of the Sustainable Growth Rate (SGR) while moving toward a Medicare reimbursement system that rewards quality over volume is the goal. A draft legislative framework was released by the House Energy and Commerce Committee on May 28, and the purpose of the hearing on June 5 was to review the draft. Subcommittee leadership reminded those present that the discussion draft is not a complete reform proposal, but rather an opportunity to continue to work closely with members and stakeholders toward a permanent repeal of the SGR. In addition, noticeably missing from the framework is any "pay-fors" specifically not included so as not to make the mistake made in recent years of discussing how to pay for reform before the policy is developed.

Four witnesses appeared at the hearing; Cheryl Demberg, PhD., Professor, Pardee RAND Graduate School, William Kramer, Executive Director for National Health Policy, Pacific Business Group on Health, Jeffrey Rich, M.D., Immediate Past President of the Society of Thoracic Surgeons, and Tomas Foels, M.D., M.M.M., Executive Vice President, Chief Medical Officer, Independent Health. During questioning, Dr. Foels, a primary care physician working within a "primary connection model" similar to a Patient Centered Medical Home (PCMH) said that fee for service reimbursement inhibits coordination and leaves quality out of the equation. On the role of nurses and other non-physician providers in care delivery, Rep. Capps (D-CA) engaged some witnesses in discussion. Dr. Cheryl Danberg said that practices should be looking at how they use non physicians and that if they can meet the needs of the patient, they should also be required to meet the same measures expected of physicians performing that same function.

Rep Schakowsky (D-IL) told her colleagues that she was concerned that the legislative framework seemed to hold some providers, like Podiatrists, Optometrists and Chiropractors to

different quality measures and incentives and hoped that would be modified in any final bill. Rep. Cassidy (R-LA) in questioning Dr. Damberg asked her what she thought might drive change. He is interested in allowing physicians to be entrepreneurial, to come up with alternate payment models that would work for their patients and their communities, after all, who better to understand what is needed than those delivering care. It might not be one size fits all, but it probably shouldn't be.

6. GREATER CHOICE AND COMPETITION IN MARKETPLACES

The White House on May 30 released a [memo](#) detailing new insurance choices for consumers in states with federally facilitated health insurance marketplaces. Consumers will find more options and greater competition among insurers, especially in states where existing insurance choices are limited. To date, more than 120 issuers have applied to offer qualified health plans in the federally facilitated marketplaces, and more than 31 states will offer some type of multi-state plan.

7. AAFP SENDS CMS LETTER WITH CONCERNS ON OPEN PAYMENTS PROGRAM

The AAFP sent the Centers for Medicare & Medicaid Services (CMS) a [letter](#) on May 29 pertaining to the agency's implementation of the Sunshine Act, now referred to CMS as the Open Payments program. In the letter, the AAFP voiced concern that CMS is creating a data collection mechanism which directly pertains to an individual physician's financial information without first providing physicians with the ability to review and correct the interim data. As a way for CMS to help ensure that only accurate transparency reports are published, the AAFP strongly encouraged CMS to create a mechanism for physicians to review, correct, and dispute their interim data during a pre-CMS submission review period. If CMS offered this mechanism, all physicians could then, as needed, review their reports and make corrections with the specific manufacturer prior to the federal government aggregating a physician report across multiple applicable manufacturers.

8. AAFP COMMENTS ON ELECTRONIC HEALTH RECORDS ARRANGEMENTS

On June 5, the AAFP sent a [letter](#) to the Centers for Medicare & Medicaid Services (CMS) and the Office of Inspector General (OIG) in response to two related proposed rules pertaining to physicians' referrals to health care entities with which they have financial relationships, exceptions for certain electronic health records (EHR) arrangements, and policies surrounding the EHR safe harbor under the anti-kickback statute.

In the CMS proposed rule, the agency proposes to update the provision under which EHRs are deemed interoperable, to remove the requirement related to electronic prescribing capability from the exception, and to extend the sunset date of the exception. The OIG proposed rule amends the current safe harbor by proposing to update the provision under which EHRs are deemed interoperable, to remove the requirement related to electronic prescribing capability from the safe harbor, and to extend the sunset date of the safe harbor.

In the response, the AAFP expressed overall support for these changes and since extending the two expiring sunset dates will further encourage medical practices to invest in the adoption of interoperable EHRs. The AAFP used this opportunity to note that many EHR systems lack capabilities to function within a patient-centered medical home and urged CMS and OIG to finalize policies that strengthen the use of core EHR features.

9. AAFP SUPPORTS HIPAA CHANGE TO ALLOW REPORTING TO NICS

In a joint [letter](#) sent to the U.S. Department of Health and Human Services (HHS) on June 6, the AAFP joined with the American Academy of Pediatrics, American Public Health Association, Association of Maternal & Child Health Programs, Doctors for America, and the National Association of County and City Health Officials to express our support for changes HHS

proposes in a regulation titled, “HIPAA Privacy Rule and the National Instant Criminal Background Check System.” This regulation proposes to modify HIPAA privacy rules to allow reporting information to the National Instant Criminal Background Check System (NICS), which is the federal government’s existing background check system for the sale or transfer of firearms by licensed dealers. As a step toward reducing gun violence, we support creating a permission within HIPAA privacy rules to allow states to report the identities of individuals subject to the mental health prohibitor to the NICS. The mental health prohibitor under federal law disqualifies individuals from possessing or receiving firearms who have been:

- Involuntarily committed to a mental institution, or
- Found incompetent to stand trial or not guilty by reason of insanity, or
- Otherwise have been determined, through a formal adjudication process, to have a severe mental condition that results in the individuals presenting a danger to themselves or others or being incapable of managing their own affairs.

The letter expressed appreciation that HHS sought ways to address the HIPAA barrier to NICS reporting without discouraging individuals from seeking needed mental health services.

10. TransforMED PRESENTS AT HEALTH REFORM INNOVATION SUMMIT IN DC

On June 6, Bruce Bagley, M.D., FAAFP, interim president and chief executive officer, TransforMED, presented at the National Journal’s policy summit titled “Health Reform Innovation: New Concepts in Care Delivery.” This two panel event began with a keynote address by Neera Tanden with the Center for American Progress which was followed by a discussion moderated by the Alliance for Health Care Reform.

11. WISCONSIN LEGISLATURE REJECTS MEDICAID EXPANSION

On Tuesday, Wisconsin Senate Republicans on the Joint Finance Committee voted to reject the expansion of Medicaid in the state. Expanding the program would have given more than 84,000 Wisconsin residents access to health care. Governor Scott Walker has proposed an alternate plan which lowers income eligibility for adults in Wisconsin’s existing BadgerCare Medicaid program from 200 percent of the federal poverty level to 100 percent. Governor Walker’s plan directs individuals making more than 100 percent of the federal poverty level, or \$11,490 per year, into the state’s federally facilitated health insurance marketplace.

12. NEVADA GOVERNOR SIGNS NURSE PRACTITIONER BILL INTO LAW

Nevada Governor Brian Sandoval signed into law AB 170, which grants prescriptive authority and allows patients to consult directly with nurse practitioners. Nevada now joins 24 other states and the District of Columbia where similar legislation has been signed into law.

REGULATORY BRIEFS

- On May 29, the Departments of Health and Human Services, Labor and the Treasury [issued](#) final rules on employment-based wellness programs. The final rules will be effective for plan years beginning on or after Jan. 1, 2014.
- On May 31, CMS released the latest Medicare Trustees report which projects that the trust fund that finances Medicare’s hospital insurance coverage will remain solvent until 2026, two years beyond what was projected in last year’s report.
- Also on May 31, CMS released a [report](#) titled, “Medicare Readmission Rates Showed Meaningful Decline in 2012.”
- On May 31, CMS released the final rule implementing the Small Business Health Options Program (SHOP). According to the CMS announcement, beginning Oct. 1, 2013, small employers will be able to choose from a range of coverage options through the SHOP for their employees for coverage beginning on January 1, 2014.

- On June 6, CMS announced that Medicare beneficiaries will soon see a redesigned “Medicare Summary Notice” statement. The redesign was conducted to help patients better spot potential fraud, waste and abuse.
- On June 20 from 1:30-3pm ET and on July 18 from 1-2:30pm ET, CMS will hold national educational calls on the Medicare Shared Savings program’s application process. [Registration](#) is required. An educational presentation will be posted prior to the calls.