

May 16, 2014

IN THIS REPORT...

1. HHS Nominee Faces the Senate Finance Committee
2. Senate Narcotics Control Caucus Examines Opioid Abuse
3. AAFP Nominates Seven Family Physicians to USPSTF
4. Senate Committee Pushes FDA to Regulate E-Cigarettes
5. FQHC Payment Rule Summarized for AAFP Members
6. HHS promotes Special Enrollment Periods for Health Insurance Marketplaces
7. Regulatory Briefs
8. Medicaid Expansion Update: Indiana

NEXT WEEK IN WASHINGTON...

- * On Tuesday, May 20, the House Ways and Means Health Subcommittee will hold a hearing on current Medicare issues relating to hospitals including the CMS two-midnight policy, short inpatient stays, outpatient observation stays, auditing and appeals.
- * On May 20, the House Energy and Commerce Health Subcommittee will hold a hearing on Drug Innovation as part of the Chairman's 21st Century Cures initiative.
- * On Wednesday, May 21, the House Energy and Commerce Health Subcommittee will hold a hearing "Keeping the Promise: Site of Service Medicare Payment Reforms" with Mark Miller of the Medicare Payment Advisory Commission.

1. SENATE FINANCE COMMITTEE EXAMINES NOMINEE FOR HHS SECRETARY

On Wednesday, May 14, the Senate Finance Committee held a confirmation hearing for the Obama Administration's nominee for Secretary of Health and Human Services, Sylvia Matthews Burwell. She is currently Director of the Office of Management and Budget (OMB) and is expected to win confirmation. Ms. Burwell has received bipartisan praise for her service as OMB Director, including from Sen. Tom Coburn (R-OK), who introduced her to the Committee.

Given the breadth of issues overseen by HHS, it is notable that Sen. Wyden's first question was about repeal of the Medicare Sustainable Growth Rate (SGR) formula. He noted that it is "urgent business" and that "we can get it now at rock-bottom prices." Ms. Burwell stated that she was "excited about the opportunity that we can work together to get a permanent solution that has both reforms that helps our physicians have predictability through time." Wyden's abiding ambition to repeal SGR, if realized, would pave the way to tackle "the single biggest challenge for Medicare's future—that is, dealing with chronic disease."

Sen. Johnny Isakson (R-GA) also mentioned SGR repeal and the "need to finally fix it now that we have a window of opening." Referring to financing repeal, he said: "I would like for you to consider leaving all options on the table . . . in terms of where we find the money to do so." According to Sen. Isakson some structural reforms "... can bring about tremendous savings

without hurting beneficiaries. That could be a part of the equation that helps us to find a way to pay for the SGR, permanently fix it, and never again be stuck in these one-year renewals over and over again.”

Sen. Pat Roberts (R-KS) asked the nominee whether she would support repeal of the Independent Payment Advisory Board (IPAB), given her recent projection that IPAB would not trigger any Medicare cuts in the foreseeable future. She responded rather vaguely that Medicare needs “belts and suspenders in place . . . to get us to the place where we need to be with regard to reducing health-care costs.”

Sen. Tom Carper (D-DE) asked Burwell about her views on using prevention to reduce health spending. She responded: “Prevention is such an important part of reducing costs.” Referring to her work as head of the Wal-Mart Foundation, she stated that having rigorous analytics around obesity, diabetes, and other chronic illnesses are how to make health care “cheaper, better, and easier” and that she has seen what tools help nudge people toward healthier eating and lifestyle habits.

Sen. Maria Cantwell (D-WA) brought up the implementation of the physician value-based payment modifier in the *Affordable Care Act* (ACA) stating that “We don’t want to go slow, we want to go faster.” Sen. Cantwell also discussed Graduate Medical Education (GME) and “filling that gap of primary-care physicians that we need. . . . We’re not going to get there if we don’t have a GME expansion.” Burwell responded that the president’s budget proposal does “target the help to primary care and where we have shortages in specialties . . . not just the physicians themselves, but also physician assistants and nurses, in terms of some of the primary-care needs we need.” Cantwell ended the colloquy with: “We think it’s a good start but hopefully we’ll have a discussion about how big the need is, as it relates to implementing a medical home for people.”

The Finance Committee is expected to vote on Director Burwell next week, paving the way to a vote in the full Senate shortly thereafter.

2. SENATE NARCOTICS CONTROL CAUCUS EXAMINES OPIOID ABUSE

The Senate Caucus on International Narcotics Control hosted a discussion of the increasing domestic abuse of prescription painkillers and related spike in heroin use on May 14. The panel of federal officials involved in fighting the epidemic of opioid abuse was nearly identical to the one which testified at the April 29 hearing before the House Energy and Commerce Oversight and Investigations Subcommittee. Caucus co-chair Sen. Dianne Feinstein (D-CA) suggested that the abuse of prescription pain medications and heroin are not separate problems but represent a larger opiate addiction epidemic.

Caucus co-chair Sen. Charles Grassley (R-IA) highlighted a database with which the maker of OxyContin, Purdue Pharma LP, monitors physicians who engaged in reckless prescribing practices. Sen. Grassley expressed his frustration that “many state medical boards” and the Centers for Medicare and Medicaid Services didn’t know about this database which he feels should be used to take action against irresponsible doctors.

Senate Minority Leader Mitch McConnell (R-KY) acknowledged that close to 100 Kentuckians are lost every month in drug-related deaths and called for leveraging federal resources to combat this problem.

3. AAFP NOMINATES FAMILY PHYSICIANS TO IMPORTANT PREVENTIVE TASK FORCE

On May 12, the AAFP sent a letter to the Agency for Healthcare Research and Quality that nominated seven highly qualified family physicians to fill vacancies on the U.S. Preventive

Services Task Force (USPSTF). The AAFP letter expressed the belief that the family physician candidates' clinical and research expertise would further enable the USPSTF to make recommendations in prevention and evidence-based medicine and to conduct scientific evidence reviews in a broad range of clinical preventive health care services. The AAFP nominated Drs. Brian S. Alper, Doug Campos-Outcalt, Frederick Chen, Patricia Fontaine, Valerie J. King, Alexander H. Krist, and Richard G. Roberts.

4. SENATE COMMITTEE EXAMINES FEDERAL RULES ON E-CIGARETTES

On Thursday, May 15, family physician and AAFP member Tim McAfee, MD, MPH, director of the Office on Smoking and Health at the Centers for Disease Control and Prevention (CDC), and Mitch Zeller, director of FDA's Center for Tobacco Products, testified at a hearing of the Senate Health, Education, Labor and Pensions (HELP) Committee focused on e-cigarettes. Dr. McAfee emphasized that e-cigarettes should not be marketed to or used by children regardless of how different e-cigarettes are from tobacco cigarettes. He noted that the most recent surgeon general's report found that nicotine is strongly suggested to have harmful effects on adolescent brain development and said that children are watching advertising that glamorizes tobacco use.

Mr. Zeller told senators that the FDA has proposed a [rule](#) that deems electronic cigarettes as a nicotine delivery system that the agency has the authority to regulate. He noted that e-cigarettes "have the potential to do good and they have the potential to do harm." He said there are far more questions than answers about e-cigarettes' safety, ingredients and users, and that the agency is funding dozens of studies to provide some clarity. HELP Committee Chairman Senator Tom Harkin (D-IA) said he was disappointed that the proposed rule did not address "some of the most egregious practices of e-cigarette manufacturers," citing a [report](#) he and other Democrats released last month that found companies marketed them in flavors that appeal to youth. AAFP is currently drafting comments to the FDA's proposed e-cigarette regulations.

5. SUMMARY OF FQHC PAYMENT REGULATION PREPARED FOR MEMBERS

The Centers for Medicare & Medicaid Services (CMS), on April 29, published the "Medicare Program; Prospective Payment System for Federally Qualified Health Centers (FQHCs); Changes to Contracting Policies for Rural Health Clinics; and Changes to Clinical Laboratory Improvement Amendments of 1988 Enforcement Actions for Proficiency Testing Referral" [final rule](#). When the regulation was released, CMS issued a related [press release](#) and [fact sheet](#).

According to member [data](#), 8.1 percent of AAFP members' primary patient care location is in a FQHC. To inform them of these payment changes, the AAFP prepared a [summary](#) of this final rule which implements methodology and payment rates for a prospective payment system (PPS) for Medicare Part B services at a FQHC beginning on October 1, 2014. According to CMS, the new PPS could enable FQHCs to receive as much as a 32-percent increase in Medicare payments for services furnished to Medicare beneficiaries. In 2012, FQHCs, accounted for more than 9,000 service sites serving 21 million people throughout the United States. Medicare accounted for approximately 9 percent of total FQHC billing.

6. SPECIAL ENROLLMENT PERIODS FOR MARKETPLACES

HHS recently promoted options for individuals to get coverage in the Health Insurance Marketplaces outside of open enrollment. On a dedicated [website](#) on [healthcare.gov](#), HHS details how a qualifying life event or a complex situation may relate to applying in the Marketplace. Examples of qualifying life events include:

- Marriage, having a baby, adopting a child or placing a child for adoption or foster care, moving your residence, gaining citizenship, leaving incarceration

- Losing other health coverage—due to losing job-based coverage, divorce, the end of an individual policy plan year in 2014, COBRA expiration, aging off a parent’s plan, losing eligibility for Medicaid or CHIP, and similar circumstances. Important: Voluntarily ending coverage does not qualify someone for a special enrollment period. Neither does losing coverage that does not qualify as minimum essential coverage.
- For people already enrolled in Marketplace coverage: Having a change in income or household status that affects eligibility for premium tax credits or cost-sharing reductions
- Gaining status as member of an Indian tribe. Members of federally recognized Indian tribes can sign up for or change plans once per month throughout the year.

Otherwise the Open Enrollment period for 2015 coverage is November 15, 2014 to February 15, 2015. Coverage can start as soon as January 1, 2015.

7. REGULATORY BRIEFS

- On May 9, CMS [announced](#) a restructuring of the Quality Improvement Organization (QIO) to allow two Beneficiary and Family-Centered Care (BFCC) QIO contractors to support the program’s case review and monitoring activities separate from the traditional quality improvement activities of the QIOs. The two BFCC QIO contractors are Livanta LLC, located in Annapolis Junction, Maryland, and KePRO, located in Seven Hills Ohio. In a second phase, expected in July, CMS will award contracts to organizations that will directly work with providers and communities on data-driven quality initiatives to improve patient safety, reduce harm, and improve clinical care and transparency at local, regional, and national levels through Quality Innovation Network and Value, Incentive and Quality Reporting support contractors.
- CMS will host several free educational calls, [registration](#) is required for each:
 - Individualized Quality Control Plan for CLIA Laboratory Non-Waived Testing on May 19, 2:00p ET
 - National Partnership to Improve Dementia Care in Nursing Homes on May 20, 1:30pm ET
 - Review of the New Medicare PPS for Federally Qualified Health Centers, May 21, 12:30p ET
 - Stage 2 Meaningful Use Requirements, Reporting Options, and Data Submission Processes for Eligible Professionals, May 29, 1:30p ET.
 - More ICD-10 Coding Basics, June 4, 1:30p ET.

8. MEDICAID EXPANSION UPDATE

- **Indiana:** Gov. Mike Pence (R) announced on Thursday, May 15, a proposal for the expansion of Medicaid in Indiana. The proposal would expand the state-run Healthy Indiana Program to cover an estimated additional 350,000 low-income residents. The proposal includes elements such as the private option for enrollees, requiring some enrollees to pay premiums, and conditioning enrollment on some payment into a health savings account. Indiana’s alternative model will still need the approval of the Department of Health and Human Services before moving forward.