GOVERNMENT AFFAIRS WEEKLY

AAFP Government Relations — 1133 Connecticut Avenue, NW (Suite 1100) — Washington, DC 20036

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IN THIS REPORT…

NEXT WEEK IN WASHINGTON…

* On July 29, the Institute of Medicine will release the report of the Committee on the Governance and Financing of Graduate Medical Education at a briefing and webinar.
* On July 30, the Senate Aging Committee will hold a hearing titled "Admitted or Not? The Impact of Medicare Observation Status on Seniors."
* On July 31, the House Energy & Commerce Subcommittee on Oversight and Investigations will hold a hearing titled "PPACA Implementation: Updates from CMS and GAO."
* On July 31, the House Small Business Subcommittee on Health and Technology will hold a hearing titled "Telemedicine: A Prescription for Small Medical Practices?"

1. WAYS AND MEANS COMMITTEE REVIEWS MEDICARE ADVANTAGE PROGRAM

On Thursday, July 24, the House Committee on Ways and Means, Subcommittee on Health, held a hearing titled "The Future of Medicare Advantage Plans," focusing on the impact of scheduled reductions in payments to Medicare Advantage (MA) plans under the *Affordable Care Act*. Rep. Kevin Brady (R-TX), who chairs the subcommittee, pointed to the Administration as having acted to blunt the force of the ACA payment reductions to delay, for political reasons, the disruption that they would cause. The discussion centered around the anticipated impact of upcoming cuts to providers and patients.

The senior Democrat, Rep. Jim McDermott (D-WA), on the other hand, characterized the cuts as reducing overpayments to plans and stated that the reductions give plans the incentives ~~to~~ figure out how to do it more efficiently." Rep. McDermott also stated that MA enrollment continues to climb, suggesting that the program remains healthy despite the scheduled reductions. Joe Baker, president of the Medicare Rights Center, testified that MA plans remain robust and are actively competing to get into markets—not pull out of them. In another exchange with Rep. Mike Thompson (D-CA), Mr. Baker testified that ~~m~~id-year provider

changes" were a challenge within MA that needed to be addressed, referring to the trend among some MA plans to narrow their networks.

Rep. Sam Johnson (R-TX) elicited an acknowledgment from Jeff Burnich, MD, testifying on behalf of CAPG (which represents physician organizations practicing capitated, coordinated care) that declining payment amounts to MA plans could ultimately lead to more primary-care access problems. Dr. Burnich, an internist and Senior Vice President of Sutter Health, said that primary-care physicians find it ~~"h~~ard to run a practice" based on traditional Medicare, and thus diminishing payments to MA plans could ultimately translate into more difficulty for Medicare enrollees to find primary care.

2. SENATE FINANCE COMMITTEE EXPLORES THE IMPACT OF CHRONIC ILLNESS

On Tuesday, July 15, the Senate Finance Committee held a hearing entitled ~~"C~~hronic Illness: Addressing Patients' Unmet Needs." Senator Ron Wyden (D-OR), who chairs the committee, in highlighted how Medicare, since its inception in 1965, has been transformed from a program that pays primarily for hospitalization to one that is dominated by chronic illnesses like cancer diabetes and heart disease. The senior Republican on the committee, Sen. Orrin Hatch (R-UT), agreed that management of chronic conditions presents an opportunity to reform delivery, noting that ~~"h~~ealth care costs put enormous strain on the federal budget." The hearing further signals the interest of Sen. Wyden to look at chronic care as focal point for efforts to reform payment and delivery in Medicare and lower its costs. Earlier this year, he introduced a bipartisan Medicare-Medicaid delivery-reform proposal called *The Better Care at Lower Cost Act* (S 1932), with fellow Finance Committee member Sen. Johnny Isakson (R-GA).

The hearing was notable in that it featured testimony not only from the health-care provider community but also from patients and caregivers. Among the witnesses was Stephanie Dempsey, a Medicare enrollee who testified that she suffers from multiple chronic conditions including seizures, lupus, arthritis, and heart disease. Ms. Dempsey testified that her many caregivers rarely speak to each other and that she acts as her own care coordinator. She also told the Committee that her primary-care physician recently ~~"c~~onverted to cash-only" and that she had to find a new primary-care physician who is now learning her conditions for the first time. The AAFP submitted written testimony to the Committee.

3. HOUSE COMMITTEE APPROVES LAWSUIT AGAINST PRESIDENT OBAMA

On Thursday, July 24, the House Rules Committee voted along party lines to allow the House of Representatives to vote next week on a measure that would authorize a lawsuit against any executive branch official, including President Obama. The Republican majority in the House is expected to pass the resolution to proceed with the lawsuit against the Administration for failing to carry out their duties under the Constitution in connection with implementation of the *Affordable Care Act*. For the lawsuit to proceed, Congress will need to convince a federal judge that it has the required standing to bring the case.

4. HOUSE COMMITTEE ENGAGES ON GRADUATE MEDICAL EDUCATION

In the wake of the recent waiting-list scandal at the Veterans Health Administration, the House Committee on Veterans Affairs held a hearing on Wednesday, July 16, titled ~~"C~~reating Efficiency through Comparison: An Evaluation of Private Sector Best Practices and the VA Health Care System." The Committee explored a number of methods to alleviate the current backlog, as well as the question of whether the VA can play a larger role in alleviating the nation's health-care workforce shortage.

Rep. Mark Takano (D-CA), noting shortages of physicians in his southern California district, initiated a discussion about *The Underserved Veterans Access to Health Care Act* (HR 4292), recently introduced by Rep. Dina Titus (D-NV), that would establish 2,000 new medical

residency positions within the VA. Notably, Rich Umbdenstock, President and CEO of the American Hospital Association, responded that the physician shortage is not the only problem in the delivery of health care, since ~~"~~the maldistribution of specialties" also creates access challenges. He continued: ~~"~~We have a particular problem in the primary-care area. . . . We know that people tend to practice in areas where they typically receive their training, so we want to see those residencies strategically placed too, to encourage that distribution." Witness Daniel F. Evans, President and CEO of Indiana University Health, also acknowledged the primary-care shortage and stated: ~~"~~We have to give tax credits to get people to go places that they don't want to go. We offer tax incentives in all other areas of the economy—why don't we [do this to] get primary-care doctors into underserved areas?" These and several other witnesses also discussed the role that nurse practitioners and physician assistants can play in alleviating the primary-care shortage.

5. JOIN AAFP IN SUPPORTING REGULATORY OVERSIGHT OF E-CIGARETTES

Last week, AAFP launched a petition in support of the U.S. Food and Drug Administration's (FDA) proposed rule to regulate all nicotine delivery devices, regardless of flavor. As nicotine is an addictive drug, the AAFP's position specifies that the FDA must have full regulatory authority on all tobacco products and nicotine delivery devices, and must be permitted to use the same procedures it uses to regulate tobacco.

The AAFP sent a letter in support of the proposed rule on June 2 and launched a petition when the FDA extended the period for public comment until August 8. So far, more than 375 family physicians will be listed in a letter to the FDA, voicing concern about the current lack of regulatory oversight of the manufacture, distribution and safety of e-cigarettes. Please sign the petition today.

6. AAFP COMMENTS ON DME PRIOR AUTHORIZATION PROPOSED RULE

In a letter sent July 24, the AAFP commented on a CMS proposed rule titled ~~"~~Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items." This regulation would establish a prior authorization process for certain DMEPOS items that are frequently subject to unnecessary utilization and would add a CMS contractor's decision regarding prior authorization of coverage of DMEPOS items to the list of actions that are not initial determinations and therefore not appealable.

The AAFP response first recognized that DMEPOS has an unfortunate history of being a haven for those wishing to commit Medicare fraud and abuse. It then discussed a belief that physicians, their patients, and DMEPOS suppliers hope for a prior authorization process that helps determine appropriate care based on the patient's established coverage, but that it unfortunately appears that CMS increasingly utilizes prior authorizations for DMEPOS items as an enforcement mechanism. The AAFP response also urged CMS to provide appeal rights for the prior authorization decisions and to account accurately for the burden on physicians as the agency develops a final rule.

7. FamMedPAC MAINTAINING HIGH PROFILE FOR AAFP

FamMedPAC participated in several events for legislators with an interest in family medicine, helping to keep AAFP's issues in front of key legislators. Discussions continue to focus on the need to replace the Medicare physician payment formula, reforms to veterans' health care, and funding for important family medicine training programs. The PAC supported the following members:

- **Rep. Jan Schakowsky (D-IL)**, a member of the House Energy and Commerce Committee's Health Subcommittee, Rep. Schakowsky has met several times with AAFP members in Illinois and DC.

- **Rep. Mike Thompson (D-CA)**, a member of the Health Subcommittee of the House Ways and Means Committee, Rep. Thompson is a sponsor of the GME legislation supported by AAFP.
- **Sen. Jerry Moran (R-KS)** is the senior Republican on the Labor, HHS, and Education Subcommittee of the Senate Appropriations Committee.
- **Sen. Jeanne Shaheen (D-NH)**, a member of the Senate Appropriations Labor, HHS, and Education Subcommittee.
- **Rep. Ron Kind (D-WI)**, a member of the Health Subcommittee of the House Ways and Means Committee.
- **New Democrat Coalition** is the political action committee for moderate Democrats in the House. FamMedPAC and the American College of Cardiology co-hosted a physician event attended by Rep. Ron Kind (WI), Rep. Ami Bera (CA), Rep. Gerry Connolly (VA), Rep. Scott Peters (CA), and Rep. Lois Capps (CA).

8. ASSISTANT PHYSICIAN LEGISLATION PASSES IN MISSOURI

On July 16, Missouri Governor Jay Nixon (D) signed two bills into law. Both contained troubling ~~"~~Assistant Physician" legislation. The legislation enables graduates of an accredited medical school to practice medicine and prescribe drugs within a collaborative practice agreement with a physician for a short amount of time. The intent of the legislation is to assist in alleviating a shortage of physicians in rural areas of the state. However, the AAFP, the AMA, and a number of other physician organizations generally oppose legislation like this because it fails to meet numerous patient-safety standards, including integral residency training before receiving full independent practice authority. The AAFP is currently working on resources to disseminate to chapters to assist in fighting this type of proposal if it arises in the upcoming legislative session.

9. AAFP CHANGES STATE ADVOCACY GRANT CRITERIA

After successful rounds of **Chapter Advocacy Day Assistance Grants** in 2013 and 2014, the AAFP has added requirements for small and medium chapters applying for 2015 awards. Grant winners will now be required to:

1. **Hold formal meetings with legislators –** Chapters must make every effort during the planning process to schedule formal meetings with their state legislators where their members discuss specific ~~"a~~sks" and ~~"i~~ssues."
2. **Have defined "asks" or legislative issues** – Chapters must agree on goals for the Lobby Day, including positions on legislation that will be discussed during the event, and prepare materials accordingly.
3. **Include an AAFP staff presentation –** Chapters will allocate at least 30 minutes during the event for the designated AAFP Government Relations staff member attending the event to make a presentation to the members.
4. **Consider a proposed format –** To increase impact and efficiency, Chapters will be given a sample Chapter Advocacy Day Agenda to consider using as the format of the chapter's event.

10. OVER 10 MILLION UNINSURED GAINED INSURANCE IN ACA MARKETPLACES

This week, Health and Human Services (HHS) Secretary Burwell announced the results of a study published in the *New England Journal of Medicine* that estimated that 10.3 million uninsured adults gained health care coverage following the first open enrollment period. According to the study, the uninsured rates for adults fell from 21 percent in September 2013 to 16.3 percent in April 2014. Coverage gains were concentrated among low-income adults in states expanding Medicaid and among those eligible for subsidies. The study also looked at access to care, and reported that within the first six months of gaining coverage, more adults (approximately 4.4 million) reported having a personal doctor and fewer (approximately 5.3 million) experienced difficulties paying for medical care.

11. REGULATORY BRIEFS

- On July 14, HHS announced the Medicaid Innovation Accelerator Program based on recent recommendations made by the National Governors Association's (NGA) Health Care Sustainability Task Force.
- On July 15, HHS announced the availability of $11 million to support the integration of high-quality HIV services into primary care through partnerships between health centers and state health departments in Florida, Massachusetts, Maryland and New York.
- On July 15, CMS announced plans to re-compete the supplier contracts awarded in Round 2 of the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program.
- On July 18, CMS awarded additional contracts as part of a restructuring the Quality Improvement Organization (QIO) Program. QIOs are private, mostly not-for-profit organizations staffed by doctors and other health care professionals trained to review medical care and help beneficiaries with complaints about the quality of care and to implement improvements in the quality of care across the spectrum of care.
- On Friday July 18, CMS issued revised guidance on Part D payment for drugs for beneficiaries enrolled in hospice. CMS is modifying earlier guidance to Part D sponsors to place a prior authorization for all drugs for hospice beneficiaries. CMS now instructs Part D sponsors to use prior authorization only on the four categories of drugs that the Inspector General, in consultation with hospice providers, identified as typically used to treat the common symptoms of pain, nausea, constipation and anxiety that hospice beneficiaries generally experience during the end of life, regardless of terminal diagnosis. The categories of drugs for which hospice-related prior authorization remains appropriate are analgesics, antinauseants, laxatives, and antianxiety drugs. Part D sponsors are no longer expected to place hospice-related prior authorization requirements on other categories of drugs. CMS expects the number of Part D claims for hospice beneficiaries for drugs in these four categories to be very few.
- On July 23 CMS announced the availability for group practices to access confidential 2012 Supplemental Quality and Resource Use Reports (QRURs) to group practices with 100 or more EPs that received group 2012 QRURs in the fall of 2013. These 2012 Supplemental QRURs provide medical group practices with summary level and detailed drill down information on payment-standardized, risk-adjusted clinical episodes of care that are attributed to the medical group, including information about Medicare providers who care for the patient during the episode both inside and outside the medical group. CMS will host a national call on August 13, 2014 from 1:30-3:00pm to discuss the confidential PY 2012 Supplemental QRURs, registration is required.

12. CALIFORNIA ACCELERATES MEDICAL SCHOOL TO ADDRESS SHORTAGE, DEBT

On Friday, July 18, Gov. Jerry Brown (D) signed a bill (AB 1838) that will allow students enrolled in accredited medical school programs in California to become physicians in less than four years. In early June, the California Assembly advanced the bill, which aims to address a growing physician shortage in the state. Assembly member Susan Bonilla (D-Concord), the bill's author, said the measure also is meant to ensure physicians have less student debt. An accelerated pilot program already is underway at the UC-Davis School of Medicine in conjunction with Kaiser Permanente, and the first six participants began classes in June. The measure will go into effect in January 2015 and will allow students at accredited medical school programs in California to graduate and become licensed physicians in three years instead of four. Only medical students who demonstrate high levels of scientific and medical understanding will be eligible for accelerated programs. The University of California and the Medical Board of California supported the bill.