

June 6, 2014

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### NEXT WEEK IN WASHINGTON...

- \* The Health and the Oversight Subcommittees of the House Ways and Means Committee plan to hold a hearing on Tuesday, June 10 to examine potential fraud in the *Affordable Care Act*.
- \* The Senate Appropriations Committee is set to consider the FY 2015 Labor-HHS-Education spending bill in subcommittee on June 10 and full Committee on June 12.
- \* On June 11, the House Energy and Commerce Health Subcommittee will continue to examine biomedical innovation at a hearing that will consider what additional incentives are necessary to accelerate treatment and cures for patients.
- \* On Thursday, June 12, the Health Subcommittee of the House Energy and Commerce Committee will hold a hearing, titled "President's Health Care Law Does Not Equal Health Care Access."

## 1. SENATE CONFIRMS NEW HHS SECRETARY

The Senate confirmed Sylvia Mathews Burwell to be next secretary of the U.S. Department of Health and Human Services on Thursday, June 5 by a vote of 78 to 17. She is scheduled to be sworn in as Secretary on Monday, June 9.

## 2. HOW DOES THE MEDICAID PAY INCREASE AFFECTS FAMILY PHYSICIANS

Earlier this week, AAFP launched a campaign to collect stories about how Medicaid primary care payments help our members' practice, their patients, and their community.

The *Patient Protection and Affordable Care Act (ACA)* increases payment for certain Medicaid primary care services to at least Medicare levels for 2013 and 2014. This provision is set to expire at the end of the year unless Congress votes to extend it.

[Share your story to help protect the Medicaid pay increase provision by June 13.](#)

The AAFP will use the stories with Congress this summer to convey how important continued funds are to the delivery of timely and quality health care. We will collect stories until June 13. So far, we have heard from sixteen states.

### 3. FamMedPAC SUPPORTS TWO SENATE LEADERS AND LOCAL EVENTS

FamMedPAC participated in events in Washington, D.C. this week for two Senators who are leaders in promoting federal support for the education and training of primary care physicians. Both are long-time supporters of increased funding for the Title VII program that provides grants for departments of family medicine, for faculty development, and for family medicine residency programs. In addition, AAFP members delivered PAC checks to their local Representatives in the local district. The PAC made the following contributions this week:

- **Sen. Jack Reed (D-RI)**, who serves on the Senate Appropriations Committee, is the author of the letter currently circulating in the Senate seeking support for continued Title VII funding. FamMedPAC was the sponsor of this event for the physician PAC community.
- **Sen. Chuck Schumer (D-NY)**, a co-signer of the Title VII letter, also is interested in increasing the number of residency slots available across the country. The physician community hosted a breakfast discussion with the Senator in Washington.
- **Rep. Rodney Davis (R-IL)** is a cosponsor of the *Primary Care Workforce Access Improvement Act* (HR 487). Jerry Kruse, MD, MSPH, Careyana Brenham, MD, Tabatha Wells, MD, and Janet Albers, MD from the Illinois Chapter attended a local event for the Congressman.
- **Rep. Mark Amodei (R-NV)**, another cosponsor of HR 487, met with AAFP Board of Directors member Dr. Dan Spogen and spoke with faculty and students at the University of Nevada School of Medicine in Reno, Nevada.

### 4. AAFP SUPPORTS FDA TOBACCO DEEMING AUTHORITY

In a [letter](#) sent to the FDA on June 2, the AAFP responded to the proposed rule, titled “Deeming Tobacco Products to Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Regulations on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products.” In this regulation, the FDA takes an initial step to “deem” that its authority to regulate nicotine delivery devices includes electronic cigarettes (e-cigarettes), cigars, pipe tobacco, nicotine gels, waterpipe (or hookah) tobacco, and dissolvables. The regulation also proposes to prohibit the sale of “covered tobacco products” to individuals under the age of 18 and to require the display of health warnings on cigarette tobacco, roll-your-own tobacco, and on covered tobacco product packages and in advertisements.

The AAFP wholeheartedly supports the FDA’s assertion of authority over all nicotine delivery devices and we agree that tobacco products should not be sold to anyone under the age of 18. Given that nicotine is an addictive drug, AAFP [policy](#) specifies that the FDA must have full jurisdiction over all tobacco products and nicotine delivery devices.

The AAFP response discussed that although e-cigarettes may be less toxic than smoking combustible tobacco cigarettes, there is inadequate empirical evidence supporting the efficacy of e-cigarettes as a smoking cessation device. Therefore, the AAFP called for rigorous research with randomized controlled trials of e-cigarettes to assess their safety, quality, and efficacy as a potential cessation device. The AAFP also recommended that the marketing and advertising of e-cigarettes to children and youth cease immediately. Finally, the AAFP urged the FDA to promulgate promptly a final rule and begin in earnest to regulate the manufacture, distribution and safety of e-cigarettes and other nicotine delivery devices.

## **5. AAFP URGES PRESIDENT TO ALLOW FAMILY PHYSICIANS TO TREAT VETERANS**

In a [letter](#) sent to the White House on June 3, the AAFP wrote to discuss the challenges facing access to health care services for veterans. The letter expressed concern that so many veterans may face significant barriers accessing primary care in the VA health system. To assure all veterans have access to timely health care services, the AAFP recommended five actions as an intermediate step that the VA should allow civilian family physicians:

- To provide primary care services to eligible veterans
- To write prescriptions that could be filled at VA pharmacies
- To order diagnostic tests at VA facilities
- To refer patients to specialist physicians and other health care providers at VA facilities
- To provide care to eligible veterans under the protections of the Federal Tort Claims Act.

## **6. AAFP COMMENTS TO AGENCIES ON PROVIDER NON-DISCRIMINATION**

In a [letter](#) sent June 4, 2014 to the Centers for Medicare & Medicaid Services (CMS), Internal Revenue Service, and Employee Benefits Security Administration, the AAFP responded to a request for information regarding implementation of a provider non-discrimination provision within the *Affordable Care Act*. In summary, the AAFP believes that a Frequently Asked Question (FAQ) document issued by HHS on April 29, 2013 is an accurate interpretation and the AAFP continues to support and recognize state authority in licensing and certifying health care professionals. This provision makes it illegal under federal law for private individual and group health plans and state-based health insurers to make qualification distinctions among varying groups of physicians and other health care professionals.

## **7. CMS RELEASES EDUCATIONAL SLIDES ON SUNSHINE REGISTRATION PROCESS**

On June 3, CMS released a PowerPoint [presentation](#) containing further details regarding the physician registration process for new Open Payments (or the Physician Sunshine Act) system. CMS encourages physicians to register now in the Enterprise Portal. Registration must be completed to view the physician's Open Payments data during a 45-day review period, which begins in July. Payments and transfers of value from group purchasing organizations and drug/device manufacturers to physicians and teaching hospitals will be made public later this year as part of the Open Payments Program.

CMS will host a related call on the registration process on June 12; [registration](#) for the call is required. Further information can be found on the AAFP's dedicated Open Payments/ Physician Sunshine [website](#).

## **8. MEDICAID ENROLLMENT SURGES**

Medicaid enrollment has grown as a result of the *Affordable Care Act* (ACA). In the months leading up to the April 1 coverage deadline, there were over 6 million new Medicaid enrollees. Of those, nearly 3 million people who have signed up for Medicaid coverage as part of health reform still have not had their applications processed.

## **9. STATES MAY PAY AN ENHANCED MEDICAID PAYMENT FOR PRIMARY CARE**

Across the nation, many states have been looking to address an extension of the enhanced Medicaid primary care payment. The current provision from the ACA, which brought Medicaid payments for certain primary care services to parity with Medicare rates, is set to expire on December 31. Maryland was the first state to look at guaranteeing Medicaid parity without federal payment. In Michigan and Connecticut, provisions were included in the state budgets to support the enhanced Medicaid primary care payment; however, neither budget has been finalized. There also was legislation proposed in California, New Mexico, and Nevada that has yet to progress.

## 10. REGULATORY BRIEFS

- On June 2, HHS [released](#) its first annual update to the Medicare hospital charge data, or information comparing the average amount a hospital bills for services that may be provided in connection with a similar inpatient stay or outpatient visit.
- On June 3, HHS [announced](#) the availability of up to \$300 million to help the nation's community health centers expand service hours, hire more medical providers, and add oral health, behavioral health, pharmacy, and vision services. Health center grantees requesting expanded services funds must demonstrate how these funds will be used to expand primary care medical capacity and services to underserved populations in their communities.
- On June 5, HHS' Office of the National Coordinator for Health Information Technology [proposed](#) a broad framework and 10-year vision for achieving an interoperable health IT infrastructure.
- CMS will host several free educational calls, [registration](#) is required for each:
  - Medicare Shared Savings Program ACO, June 10, 2:30p ET.
  - Open Payments (the Sunshine Act): Registration Overview, June 12, 1:30p ET.
  - PQRS: 2014 Qualified Clinical Data Registry, June 17, 1:30p ET.
  - New Medicare PPS for Federally Qualified Health Centers, June 25, 1:30p ET.