

May 23, 2014

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NEXT WEEK IN WASHINGTON...

- * The House and Senate will observe Memorial Day on Monday, May 26. The House will reconvene on Wednesday, May 28. The Senate is in recess through June 1.

1. HOUSE WAYS & MEANS COMMITTEE EXPLORES HOSPITAL ISSUES

On Wednesday, May 20, the House Ways and Means Subcommittee on Health held a hearing focused on issues relevant to hospitals in the Medicare program, in particular on “the unintended consequences of . . . auditing by RACs, a massive backlog of Medicare appeals and excessive growth of outpatient observation stays.”

Several committee members engaged Sean Cavanaugh, Deputy CMS Administrator and Director of the Center for Medicare, on the 3-day stay rule. Mr. Cavanaugh mentioned that while CMS is bound by the 3-day stay requirement until Congress changes the requirement, CMS also is operating two demonstration programs (Pioneer ACO and Bundled Payments for Care Improvement) under which the 3-day stay requirement is waived for demonstration purposes. Mr. Cavanaugh said that CMS is watching to see whether waiver of the requirement can lead to decreased program costs without compromising patient safety.

2. HOUSE PANEL EXPLORES SITE-NEUTRAL PAYMENT

On Wednesday, May 21, the Health Subcommittee of the Energy and Commerce Committee held a hearing on site-of-service Medicare payment reforms. The hearing focused on several proposals to change the way Medicare pays for services in the hospital-outpatient and post-acute settings.

During his opening statement, Subcommittee Chairman Rep. Joe Pitts (R-PA) entered a [statement for the record](#) from the AAFP expressing support for site-neutral payment and questioning the Medicare requirement that care in a skilled nursing facility be preceded by a 3-day inpatient hospital stay.

Mark Miller, director of the Medicare Payment Advisory Commission (MedPAC), gave several examples of services that Medicare pays substantially more for in the hospital outpatient department, as compared to the physician office (for example, cataract surgery and echocardiograms). Reps. Mike Rogers (R-MI), and Tim Murphy (R-PA) expressed concern not only with the resulting unnecessary burden to the taxpayer but also with the increased cost sharing by the Medicare beneficiary. Mr. Miller confirmed that beneficiaries often incur substantially higher cost-sharing for the same service in the same place, merely because a hospital system purchases a physician practice. Rep. Renee Ellmers (R-NC) described how this phenomenon has occurred in her district.

Several members also focused on the need to reign in overspending in the post-acute sector (skilled nursing, home health, etc.). Mr. Miller recommended that, at a minimum, Congress should put in place a methodology to collect and analyze sophisticated data on utilization so that the various post-acute payment systems can be intelligently redesigned. Rep. Jan Schakowsky (D-IL) discussed her concern with the growth in observation stays, and the result of Medicare beneficiaries discharged from hospital stays that are not eligible for skilled nursing.

3. FamMedPAC MAINTAINING HIGH PROFILE WITH CONGRESS FOR AAFP

FamMedPAC, with over \$700,000 collected in donations from AAFP members since January 1, 2013, has over \$400,000 in the bank. While continuing to support key Congressional legislators, the PAC Board is looking beyond incumbents to open seat and challenger races in several states. The updated [PAC Candidate Questionnaire](#) is posted on the PAC web site for AAFP members to share with candidates, and several have returned completed questionnaires to the PAC Board for consideration. The PAC supported the following legislators this week:

- **Rep. Allen Lowenthal (D-CA)**, a psychologist in his first term, who is married to an AAFP member and was supported by the PAC in his first campaign.
- **Rep. Denny Heck (D-WA)**, in this first term, Rep. Heck worked closely with the Washington AFP during his tenure in the state legislature.
- **Rep. Rodney Davis (R-IL)**, another legislator in his first term whom the PAC supported in his first campaign, Rep. Davis has met several times with Illinois AAFP members.
- **Rep. Diana DeGette (D-CO)**, the senior Democrat on the House Energy and Commerce Subcommittee on Oversight and Investigations, she is a long-time champion of health professions training and cosponsor of the annual Title VII Dear Colleague letter.
- **Rep. Sam Farr (D-CA)**, a member of the House Appropriations Committee, is a co-signer of the Title VII Dear Colleague letter. Dr. Christine Ponzio, an AAFP member, attended an event for Rep. Farr in California on behalf of FamMedPAC.

4. HHS NOMINEE RECEIVES STRONG ENDORSEMENT FROM SENATE COMMITTEE

On Wednesday, May 21, the Senate Finance Committee overwhelmingly approved Sylvia Mathews Burwell's nomination to be secretary of the US Department of Health and Human Services. The vote was 21 to 3, with opposition from Senators Pat Roberts (R-KS), John Cornyn (R-TX) and John Thune (R-SD). Ms. Burwell's nomination now moves to the full Senate. A vote has not yet been scheduled but is expected to take place in early June.

5. AAFP SIGNS ON TO LETTER URGING CONGRESS TO EXTEND MEDICAID PARITY

On Wednesday, May 21, the AAFP joined the American Academy of Pediatrics, the American College of Physicians, the American Congress of Obstetricians and Gynecologists and the American Osteopathic Association in sending a [letter](#) to Congressional leaders of the Senate Finance and House Energy and Commerce Committees urging the extension of the [enhanced Medicaid primary care payment](#). The provision, which brought Medicaid payments for certain primary care services to parity with Medicare rates, is set to expire on December 31.

6. AAFP SIGNS ON TO LETTER OF SUPPORT FOR TRICARE BILL

Last week, the AAFP joined several health care organizations on [a letter](#) supporting the *TRICARE Moms Improvement Act of 2014* (S.1994), which became part of the defense authorization bill. The legislation requires the TRICARE program to cover breastfeeding support and supplies, and counseling for breastfeeding mothers in military families, including women in the uniformed services as well as women who are military dependents. This legislation aligns with AAFP's policies on [breastfeeding](#).

7. ARIZONA GOVERNOR IS SUED OVER MEDICAID EXPANSION

Gov. Jan Brewer (R) has asked the Arizona Supreme Court to overturn a ruling filed by conservative legislators who claim that the Arizona Medicaid expansion was an unconstitutional breach of her authority. On Wednesday, May 21, the governor's lawyers asked the Arizona Supreme Court to overturn a lower court's ruling that these Republican lawmakers have standing to sue. The governor argued that allowing them to sue would open the door for lawmakers to submit legal claims whenever they are losing a legislative battle. Arizona Republicans, who opposed the expansion, contend that the governor ignored the constitutional requirement that approval of tax legislation requires a two-thirds majority. The expansion bill only secured a majority.

8. NEVADA SCRAPS HEALTH INSURANCE EXCHANGE, JOINS HEALTHCARE.GOV

Earlier this week, the Nevada state government announced plans to scrap its broken health insurance website, Nevada Health Link, after deciding it could not be salvaged. On Tuesday, May 20, the board of the Nevada health insurance exchange voted unanimously to scrap the exchange website and for 2015 will join [healthcare.gov](#). The board left the option open to retake control and create a new state based exchange after 2015.

9. REGULATORY BRIEFS

- On May 16, CMS released the final 2015 Marketplaces standards [rule](#) and related [fact sheet](#) and [FAQ](#). The AAFP had responded to the proposed version of this rule in a February 24 [letter](#) to CMS.
- On May 19, CMS issued the final 2015 Medicare Advantage and Part D prescription drug plans [rule](#) which the agency projects will save \$1.6 billion over 10 years. As advocated by the AAFP and others, the final rule did not remove the "protected" classification from antidepressants or antipsychotics though it does require Part D drug prescribers to enroll in Medicare or have a valid record of opting out, an issue the AAFP voiced concerns over in a February 26 [letter](#) to CMS.
- On May 20, CMS and ONC [released](#) a proposed rule that allows greater flexibility to providers participating in the EHR Incentive Programs. If finalized the rule would allow the 2011 edition of certified electronic health record technology (CEHRT) for calendar and fiscal year 2014. The proposed rule also includes a provision that would formalize CMS and ONC's recommended timeline to extend Stage 2 through 2016. If finalized, the earliest a provider would participate in Stage 3 of meaningful use would be 2017. The AAFP is reviewing the proposed rule and will provide comments which are due July 21.
- On May 22, HHS [announced](#) \$110 million total in funds to twelve potential recipients under the Health Innovation Awards program to test innovative models designed to deliver better care outcomes and lower costs. Examples include projects to provide better care for dementia patients, improve coordination between specialists and primary care physicians, and to improve cardiac care.
- Also on May 22, CMS [announced](#) plans to expand a demonstration for prior authorization for power mobility devices, test prior authorization in additional services in two new demonstration programs, and propose regulation for prior authorization for certain durable medical equipment, prosthetics, orthotics, and supplies. The

announcement expands the Medicare Prior Authorization of Power Mobility Device Demonstration which was launched in 2012. It established a prior authorization process for certain power mobility devices. Based on September 2013 claims data, monthly expenditures for certain power mobility devices decreased from \$12 million in September 2012 to \$4 million in August 2013 across the seven demonstration states (California, Florida, Illinois, Michigan, New York, North Carolina, and Texas). CMS seeks to extend the demonstration to an additional 12 states. These states include Arizona, Georgia, Indiana, Kentucky, Louisiana, Maryland, Missouri, New Jersey, Ohio, Pennsylvania, Tennessee, and Washington. This will bring the total number of states participating in the demonstration to 19.

- CMS will host several free educational calls, [registration](#) is required for each:
 - 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.
 - Medicare Shared Savings Program ACO: Application Review, June 10, 2:30p ET.
 - PQRS: 2014 Qualified Clinical Data Registry, June 17, 1:30p ET.