

December 9, 2016

### **On the Horizon ...**

- \* The 114<sup>th</sup> Congress finished legislative action and adjourned.
- \* Government transition in the executive and legislative branches of government will continue.
- \* The 115<sup>th</sup> Congress will convene on January 3, 2017.

## **U.S. CONGRESS**

### **1. Sweeping 21<sup>st</sup> Century Cures Act Heads to the President's Desk for Enactment**

On December 7, the Senate approved the *21<sup>st</sup> Century Cures Act* (HR 34) by a [vote](#) of 94 to 5. The House approved the bill on November 30 by a [vote](#) of 392 to 26. The legislation includes provisions to promote precision medicine and varied medical innovations. HR 34 provides \$2.8 billion to the National Institutes of Health over 10 years, \$430 million for U.S. Food and Drug Administration reform, and \$6.3 billion for the Biden Cancer Moonshot initiative. It also includes the *Helping Families in Mental Health Crisis Act* (HR 2646) which would improve primary care and mental health integration, strengthen mental health parity and require new HIPAA mental health guidance. The AAFP [weighed](#) in on key provisions, including language to improve health IT interoperability. The president is [expected](#) to sign the 990-page bill soon.

### **2. Stopgap Spending Bill**

The House passed the *Further Continuing and Security Assistance Appropriations Act, 2017* ([HR 2028](#)) on Thursday, December 8 by a vote of 326 to 96 to continue funding the federal government through April 28, 2017. The Senate passed the same bill 63-36 around 11:30 last night, avoiding a government shutdown at midnight. The continuing resolution or CR includes an across-the-board cut of 0.19% to comply with *Budget Control Act of 2011* spending limits requirements and creates uncertainty about the future of vital federal health agencies and programs. The AAFP reiterated to legislators our federal spending priorities in a [letter](#) and will call on the 115<sup>th</sup> Congress to preserve the integrity and fiscal stability of public [health](#) programs that support care to all Americans particularly those in rural and urban underserved communities. In addition, the AAFP will urge the incoming Congress to provide the resources necessary to support a strong family physician workforce and for primary care research at the Agency for Healthcare Research and Quality (AHRQ).

### **3. Congress Finally Approves Flint Water Crisis Relief**

The House of Representatives approved the *Water Infrastructure and Improvement for the Nation Act* ([S 612](#), [WIIN](#)) on December 8 by a vote of 361 to 61. Last night, the Senate cleared the legislation in a [78-21](#) vote. The law authorizes water infrastructure projects including \$170 million in relief for the city of Flint, Michigan and \$17.5 million for a lead registry, \$2.5 million for a Lead Advisory Council, \$15 million for the U.S. Centers for Disease Control and Prevention's

Lead Poisoning Prevention Program, and \$15 million for the Healthy Start Initiative. In February, the AAFP [supported](#) comprehensive Flint relief recommendations.

#### **4. House Approves Bill to Support Graduate Medical Education in the VA**

On Tuesday, December 6, the House unanimously passed (by a vote of 419-0) the *Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016* ([HR 6416](#)). Among the many reforms in the 144-page bill is an amendment to the *Veterans Access, Choice and Accountability Act of 2014* (VACAA), which expanded the graduate medical education mission of the Veterans Health Administration (VHA). VACAA gave the VHA authority to fund 1,500 new FTEs over a 5-year period, with “priority to residency positions and programs in primary care, mental health, and any other specialty the Secretary determines appropriate.” (Before VACAA, the VHA already supported over 10,000 FTEs; VACAA added these 1,500 new “expansion” positions with an emphasis on primary care and mental health.) The Miller-Blumenthal bill would convert the 5-year period to a 10-year period, thus allowing the VHA more time to use fill all the expansion positions. The bill was not taken up by the Senate prior to adjournment.

### **CENTERING ON THE STATES**

1. There are 31 states that have begun to prefile bills ahead of the 2017 Legislative Sessions. The Center for State Policy will continue to provide weekly reports on bills of interest.

- Legislative Interference – Texas [SB 104](#) would prohibit any physician, other than a psychiatrist, from inquiring into, or ask a patient to disclose, whether a firearm is located or stored on property owned by or under the patient's control, including the patient's home. The Board can take disciplinary action against a physician who violates this provision if this measure were to become law.
- Medicaid Payment Rates – Nevada [SB 28](#) requires an annual review of the adequacy of rates paid by Medicaid in Nevada. The report will propose reimbursement rates to be paid by Medicaid at "appropriate, consistent and competitive levels which accurately reflect the required costs of providing health and human services" in Nevada.
- Prescription Drug Abuse – Arkansas [HB 1024](#) modifies the definition of chronic nonmalignant pain in the [Combating Prescription Drug Abuse Act](#), which was passed in 2015. This definition change will alter when a physician must check the prescription drug monitoring program and when they must initiate a pain contract.
- Direct Primary Care (DPC) – Montana [LC 87](#) authorizes DPC provider plans and establishes requirements for DPC provider plans. The bill clarifies DPC provider plans are not health insurance, and therefore not subject to insurance regulations, while ensuring DPC provider plans are subject to consumer protection laws.
- Legal Issues related to Stark Law – New Jersey [S 2724](#) permits a health care practitioner to refer patients to a health care service in which the practitioner has beneficial interest when the referral is related to the alternative payment model (APM) registered with and approved by the Department of Health. Current law prohibits a health care practitioner from referring a patient to a health care service in which the practitioner or an immediate family member has a significant beneficial interest, with limited exceptions. This bill would create an additional exception for referrals made within the context of an APM.
- Legal Issues related to Price Transparency – Texas [HB 307](#) requires a health care facility or practitioner to disclose the prices and fees related to health care services before a patient receives the services. The estimated prices and fees should be based on the patient's health plan cost-sharing policy (i.e., deductibles, copays, and coinsurance).

#### **2. Antitrust Trial on Anthem-Cigna Merger Begins**

On December 5, U.S. Department of Justice (DOJ) lawyers delivered opening arguments in their lawsuit to block Aetna's proposed acquisition of Humana. If the merger were permitted to proceed, it could create the nation's second largest insurance company, based on market

share. In addition, the merger would create the largest seller of Medicare Advantage (MA) plans, covering more than 4.1 million seniors (8% of all Medicare beneficiaries). Consequently, the DOJ argued if Aetna acquired Humana, it "would lead to higher health insurance prices, reduced benefits, less innovation, and worse service for over a million Americans." Aetna argues that the merger would not hurt competition in MA plans because seniors can always opt for traditional Medicare. A ruling on the lawsuit is expected sometime in early 2017. The Aetna-Humana trial follows a similar antitrust lawsuit over the proposed merger of Anthem and Cigna; that trial began November 21, 2016.

## **THE EXECUTIVE BRANCH**

### **1. Surgeon General Issues Landmark Report on E-cigarettes**

On December 8, U.S. Surgeon General Vivek Murthy, MD issued a report indicating that use of electronic cigarettes, also known as e-cigarettes; carry health risks for youth, young adults, pregnant women, and developing fetuses. According to the report, e-cigarettes put users and those exposed to its vapors at risk for potential neurological damage and cognitive impairment. During a press conference highlighting the report, Dr. Murthy highlighted the human health concerns and provided strong recommendations to educate and protect vulnerable populations. The AAFP and four other medical associations [applauded](#) the report.

### **2. Regulatory Briefs**

- On December 2, CMS released its 2015 National Health Expenditures [report](#).
- On December 2, the CMS Acting Administrator provided [remarks](#) at the MACRA MIPS/APM Summit.
- On December 2, GAO released a [report](#) titled, "Improved Monitoring Needed for Effective Oversight of Care for Women Veterans."
- On December 7, CMS [released](#) Medicare spending and utilization data for all Part B drugs (drugs administered in [doctors' offices](#) and other outpatient settings) and Part D drugs (drugs patients generally administer themselves) for 2011 to 2015.
- On December 8, CMS and AHRQ [announced](#) two new models from the CMS Innovation Center that will increase patient [engagement](#) in care decisions by putting more information in the hands of Medicare beneficiaries. These two Beneficiary Engagement and Incentives (BEI) Models are the [Shared Decision Making Model](#) (SDM Model) and the [Direct Decision Support Model](#) (DDS Model).
- CMS will host the following free educational call, [registration](#) is required:
  - 2016 Hospital Appeals Settlement Update Call, December 12 at 1:30pm.
  - IRF-PAI Therapy Information Data Collection Call, January 12 at 1:30 pm.

## **TAKE ACTION**

### **1. Help FamMedPAC finish out the year strong.**

The PAC has achieved its highest fundraising total ever, with over \$950,000 contributed by AAFP members. We can still reach our 2016 election-cycle goal of \$1million with your help. The surprise Presidential election results surely mean that enormous change is on the horizon in Washington. To protect our livelihoods and the best interests of those we serve, it is critical to ramp up AAFP's engagement and remain a prominent voice in the upcoming Congressional debates over the future of healthcare. Please consider making a year-end contribution to FamMedPAC, or adding to your already generous support. Adequate funding will put us in a strong position to hit the ground running in the 115<sup>th</sup> Congress and allow us to continue to support family medicine friendly candidates. Please click on the [FamMedPAC Donation Page](#) to contribute on-line and help us fight for you and your patients!

### **2. Join a Thunderclap to Defend Health Insurance Coverage Gains**

Discussion about the fate of the Affordable Care Act (ACA) has dominated Washington since the election, but to repeal the ACA without a viable replacement plan runs the risk of rescinding

coverage for millions of Americans. In order to send a clear message that family physicians support health care for all, pledge your social media account to the [#KeepAmericaCovered Thunderclap](#) by Monday morning. Thunderclap is an aggregation platform through which a user “pledges” his or her social media account to link with others’ for one simultaneous message. When the designated time arrives, Thunderclap instantly posts a user’s pre-written message from the pledged account. Click [here](#) to pledge your Facebook, Twitter or Tumblr to communicate that coverage gains should not be rescinded.