

January 15, 2016

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NEXT WEEK IN WASHINGTON...

- * The Senate is not in session until Tuesday, January 19. The House of Representatives is in recess until Monday, January 25.
- * On Wednesday, January 20, the Senate Health, Education, Labor and Pensions Committee will hold a hearing on improving the federal response to challenges in mental health care in America.
- * Also on January 20, the Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies has scheduled a hearing on the Justice Department's role in implementing new executive actions related to gun control.
- * On Thursday, January 21, the Senate Finance Committee will hold a hearing on health care CO-OPs to review the financial and oversight controls.

1. CONGRESS APPROVES CHILD-PROOF PACKAGING FOR LIQUID NICOTINE

On Monday, January 11, the House of Representatives passed the *Child Nicotine Poisoning Prevention Act* (S 142). Since the Senate had approved the bill on December 10, it will now head to President Obama to be signed into law. The measure will require liquid nicotine containers to be sold in child-resistant packaging. The AAFP has advocated for child-proof packaging for liquid nicotine as recently as last summer when we sent a [letter](#) to the FDA urging the agency to require such measures in its regulation of e-cigarettes.

2. MedPAC VOTES TO SUPPORT PENDING REDUCTION IN PHYSICIAN PAYMENT

The Medicare Payment Advisory Commission (MedPAC) held a meeting in Washington on January 14 and 15. After hearing from MedPAC staff that the supply of physicians participating in Medicare is adequate to ensure access to care—in general to the same extent as under

commercial insurance—the Commission voted to recommend that Congress not to make any changes to the physician payment schedule for 2017. CMS is required to reduce total physician spending in 2017 by 0.5 percent—either by reducing overvalued service codes or through a reduction to the conversion factor.

MedPAC also engaged in a discussion of the MACRA Alternative Payment Models (APMs). The staff generally summarized the legislation and confirmed that most of the details were unknown. According to the staff analysis, CMS likely will develop the principal MACRA regulations in 2016. Then, 2017 will be the first performance year under the Merit-Based Incentive Payment System (MIPS), as well as the year in which CMS unveils and certifies any APMs, and 2018 will be the first year of qualifying for APMs. The staff made clear to the Commission that it is not clear now which payment models, if any, will be certified as an eligible APM under MACRA.

3. PRESIDENT’S ADDRESS TO CONGRESS TOUCHES ON HEALTH ISSUES

In his final State of the Union Address on Tuesday, January 12, President Obama expressed a hope that Congress and his administration could work together on several health concerns. He said it was important to help those who are battling prescription drug abuse and heroin abuse. He tasked the Vice President with leading a work group on cancer research. One of the accomplishments he credited to America’s ability to “mobilize the world to work with us” was stopping the spread of Ebola in West Africa. In addition, he called for American leadership to see foreign aid as a means to prevent the next pandemic from reaching our shores as well as to end the scourge of HIV/AIDS and possibly even malaria.

4. BUDGET WILL ASK FOR GREATER FEDERAL SUPPORT FOR MEDICAID EXPANSION

President Obama will ask Congress to give states more time to benefit from full federal financing of Medicaid expansion in the budget proposal he will release on February 9.

Under the health care law, states were allowed to broaden Medicaid eligibility to people with income up to 138 percent of the federal poverty level. The federal government pays all the costs for covering the newly eligible from 2014 through 2016. The federal funding phases down starting in 2017, when states must pick up 5 percent of the costs. In 2020 and beyond, states must bear 10 percent of the expenses for the expansion population.

After Louisiana expands Medicaid, only 19 states will not have broadened the program as the health law allows. Already, governors in South Dakota, Virginia and Wyoming are calling for expansion as part of their budgets. The states that have not expanded are Alabama, Florida, Georgia, Idaho, Kansas, Maine, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin and Wyoming.

5. PACE OF SIGN-UPS FOR HEALTH INSURANCE SLOWS

About 74,000 people chose plans on HealthCare.gov in the 10th week of open enrollment, CMS [reported](#) on Wednesday, January 13. That bumps the total sign-up figure to about 8.7 million people since open enrollment started in November. Enrollment has grown at a much slower pace in the weeks following the mid-December surge of sign-ups. In the previous week, roughly 83,000 people chose plans through the federal website.

6. FamMedPAC CO-HOSTS EVENT FOR SPEAKER RYAN

As its first Washington, DC event of 2016, FamMedPAC joined with several medical specialty societies to co-host a breakfast with Speaker of the House **Rep. Paul Ryan (R-WI)**. Held the day after the State of the Union Address, the event gave the Speaker an opportunity to talk about his planned legislative agenda for the House in 2016 and about the upcoming election.

7. SENATE HELP APPROVES DR. ROBERT CALIFF'S FDA NOMINATION

On January 12, by voice vote, the Senate Health, Education, Labor and Pensions (HELP) Committee approved Dr. Robert Califf's nomination to lead the U.S. Food and Drug Administration (FDA). The Senate has not yet scheduled a vote on his nomination.

8. STATE LEGISLATURES CONVENE

This week, 20 state legislatures convened to start the 2016 state legislative session. The state legislatures in session and their convening dates are:

- January 11—Arizona, Georgia, Idaho, Iowa, Kansas, Washington
- January 12—Delaware, District of Columbia, Florida, New Jersey, South Carolina, South Dakota, Tennessee, Wisconsin
- January 13—Colorado, Illinois, Maryland, Michigan, Virginia, West Virginia

Three states are scheduled to go into session next week.

9. LOUISIANA GOVERNOR EXPANDS MEDICAID

Louisiana Governor John Bel Edwards (D) signed an Executive Order on January 11, expanding Medicaid coverage in the state under the provisions of the *Affordable Care Act*. It is estimated that there will be 300,000 more people added to Louisiana's Medicaid program. The state's expansion is set to be implemented by July 1, 2016.

10. STATE LEGISLATIVE BILLS OF INTEREST

State Government Relations staff will be monitoring legislation throughout the 2016 session.

Following are a few bills of interest:

- **Direct Primary Care**—Florida [HB 37](#) and [SB 132](#), Nebraska [LB 817](#), and Virginia [HB 685](#) establish direct primary care agreements, stating that the states' insurance laws do not apply to them.
- **Medicaid/Medicare Parity**—Washington [SB 6272](#) requires Medicaid payment for primary care services furnished by a nurse practitioner, a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine or provided by subspecialists within these primary specialties, on a fee-for-service basis as well as through managed health care systems, to be at a rate not less than 100 percent of the payment rate that applies to those services and providers under Medicare.
- **Prescription Drug Abuse**—Virginia [HB 290](#) directs the Director of the Department of Health Professions to develop criteria for indicators of unusual patterns of prescribing or dispensing of covered substances by prescribers or dispensers and authorizes the Director to disclose information about the unusual prescriber or dispensing of a covered substance by an individual prescriber or dispenser to law enforcement.
- **Scope of Practice**—Virginia [HB 900](#) and Washington [HB 2343](#) authorize the licensure of an associate physician. An associate physician is an individual who has successfully completed a course of study, has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination, but has not completed a medical internship or residency program.
- **Scope of Practice**—Arizona [SB 1112](#), Indiana [SB 231](#), and New Hampshire [HB 325](#) allow pharmacists to administer certain vaccines.

11. AAFP COMMENTS ON 2017 MARKETPLACE PROPOSALS

In a January 11 [letter](#) sent to CMS, the AAFP commented on proposed guidance for the federally facilitated marketplaces (or exchanges) for 2017. The AAFP response supported the requirement that qualified health plans using a provider network must "maintain a network that is sufficient in number and types of providers, including providers that specialize in mental health and substance use disorder services, to assure that all services will be accessible to enrollees

without unreasonable delay” and then reiterated longstanding concerns that insurance issuers are dropping physicians arbitrarily from networks

The AAFP letter also expressed concern that some states are not properly reviewing and enforcing network adequacy and then commented on two proposed network adequacy metrics that states could adopt as an acceptable metric. The AAFP encouraged CMS, to the greatest extent possible, to establish national network adequacy standards for plans offered in the federally facilitated marketplaces as a means to reduce consumers’ confusion.

12. AAFP CALLS FOR SMOKE-FREE PUBLIC HOUSING

In a January 13 [letter](#) to the U.S. Department of Housing and Urban Development, the AAFP commented on a proposed to create smoke-free public housing. The AAFP strongly supported this proposal to help protect the public health, especially that of children, in our nation’s most vulnerable populations. The AAFP also called on HUD to include in the final rule the exclusion of electronic nicotine delivery systems and waterpipe tobacco (hookahs) in restricted areas and that the regulation should apply to all government-subsidized housing rather than just all government-owned housing. The AAFP asked the final rule require government-subsidized housing authorities refer residents to Quit-line services.

13. AAFP DISCUSSES FUTURE OF MEANINGFUL USE WITH CMS

In a January 13 [letter](#) to CMS, the AAFP reinforced recent comments about the Meaningful Use program. The AAFP shares the Acting Administrator’s perspective that the Meaningful Use program may have “served its usefulness,” and should be “replaced with something better.” The AAFP also noted the current frustrations of physicians and commended CMS for acknowledging in such a public manner that it needs to “get the hearts and minds of physicians back.”

14. CDC ISSUES 2016 GUIDELINE FOR PRESCRIBING OPIOIDS

In a January 13 [letter](#) to the CDC, the AAFP responded to the proposed 2016 guideline for prescribing opioids for chronic pain. After acknowledging the destructive opioid epidemic, the AAFP pointed out that CDC’s recommendations are not graded at a level consistent with currently available evidence.

15. REGULATORY BRIEFS

- On January 11, CMS announced 121 new participants in Medicare Accountable Care Organization (ACO) initiatives and stated that ACOs are:
 - Represented 49 states and the District of Columbia;
 - Serving nearly 8.9 million beneficiaries;
- CMS recently posted a [document](#) that states there will be 209,000 providers subject to a 2016 penalty under Medicare for failing to demonstrate Meaningful Use in 2014 and that 44,579 providers who did not submit physician claims to Medicare.
- CMS recently [issued](#) revised 2016 Medicare physician fee schedule (PFS) payment files following technical corrections. The 2016 Medicare physician fee schedule is \$35.8279, a reduction from the previous amount of \$35.8043.
- On January 11, the GAO released a [report](#) titled, “Health Care Workforce: Comprehensive Planning by HHS Needed to Meet National Needs.”
- CMS will host the following free educational calls, [registration](#) is required:
 - ESRD QIP: Payment Year 2019 Final Rule Call, January 19, 2:00pm
 - Collecting Data on Global Surgery as Required by MACRA Listening Session, January 20, 2:30pm
 - IMPACT Act: Connecting Post-Acute Care across the Care Continuum Call, February 4, 1:30pm