

March 25, 2016

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### NEXT WEEK IN WASHINGTON...

\* Both chambers of Congress are in recess next week. The Senate will return on April 4, and the House will reconvene on April 12.

## 1. AAFP URGES CAUTION ON BILL TO RESTRICT ANTITRUST AUTHORITY

On Wednesday, March 23, the House of Representatives approved, by a vote of 235-171, the Standard Merger and Acquisition Reviews through Equal Rules Act (HR 2745). The measure would curb the authority of the Federal Trade Commission (FTC) to evaluate mergers and acquisitions in the health care marketplace. Prior to the vote, the AAFP [advised](#) Congressional leaders that they should be wary of restricting the ability of the FTC to use administrative courts to block mergers in the health care industry, especially in light of the unprecedented level of mergers in the current environment.

## 2. CBO REPORTS ON HEALTH INSURANCE COVERAGE

The Congressional Budget Office (CBO) [reported](#) that the *Affordable Care Act* (ACA) will cost the federal government far less money over the next decade than CBO had originally anticipated before the law's passage. The report attributes the lower spending in part to the slowdown in health care spending and to lower-than-anticipated enrollment in the ACA's health insurance marketplaces. From 2016-19, the CBO now estimates that ACA health insurance will cost \$466 billion, a 25-percent reduction from the agency's original estimate.

An average of about 244 million residents under age 65 will have health insurance in any given month in 2016, according to the CBO estimates. Approximately 12 million people will be enrolled in insurance marketplaces at the end of 2016. Marketplace enrollment is projected to increase to 18 million by 2018, and reach a peak of 19 million people by 2019. On average, about 27 million people under age 65 or 10 percent of that population will be uninsured in 2016.

### **3. APPROPRIATIONS STYMIED BY BUDGET INACTION**

On March 10, AAFP joined over 170 other organizations on a letter urging [House](#) and [Senate](#) leaders of the Labor, Health and Human Services, Education, and Related Agencies Appropriations Subcommittee to reverse the cut sustained in the previous funding measure and restore the budget of the Agency for Healthcare Research and Quality to \$364 million. The AAFP also signed a joint March 21 [letter](#) from the Health Professions and Nursing Education Coalition recommending \$524 million for the Health Resources and Services Administration's Title VII and Title VIII programs which support training grants for family medicine programs.

At Wednesday's Appropriations Subcommittee hearing on the budget for the Centers for Disease Control and Prevention (CDC), Rep. Nita Lowey (D-NY) said she will push for Congress providing \$10 million to the CDC for research into gun violence. Labor-HHS Subcommittee Chair Tom Cole (R-OK) disagreed because he wants the bill to be noncontroversial.

### **4. HIPAA HARMONIZATION IDENTIFIED AS A PRIORITY DURING A HEALTH IT HEARING**

On March 22, the House Oversight and Government Reform Committee held a [hearing](#) on how to advance health information technology. Cyber security, telehealth, patient records, and interoperability were common themes, but committee leaders were most concerned about barriers associated with the *Health Insurance Portability and Accountability Act* (HIPAA). Dr. Karen DeSalvo, National Coordinator for Health Information Technology, described the challenges that occur with HIPAA interpretations. She noted that data blocking was a problem and that the administration is working with the National Governors Association on an initiative to harmonize HIPAA standards.

Matthew Quinn, who testified on behalf of Intel Corporation, spoke about the need for payment reform and value-based care, which was consistent with the AAFP's 2015 Senate committee [testimony](#).

### **5. CONSTITUTIONAL CONCERNS RAISED WITH MEDICAL LIABILITY REFORM BILL**

The House Judiciary Committee considered a medical liability reform bill, the *Help Efficient, Accessible, Low-cost, Timely Healthcare "HEALTH" Act* (HR 4771) on Tuesday, March 22. AAFP [wrote](#) to the bill's sponsor, Rep. Trent Franks (R-AZ), to support the measure, which seeks reduce the excessive burden the liability system places on the delivery of health care. Some legislators raised constitutional questions about the bill, suggesting it might violate states' rights to set their own liability laws. The chairman of the Judiciary Committee postponed further debate on the measure.

### **6. AAFP COMMENTS ON EXPANDED USE OF MEDICARE DATA**

In a [letter](#) sent to CMS on March 23, the AAFP responded to a proposed rule in which CMS would expand how qualified entities use and disclose data. In addition, it would set out how qualified entities may create non-public analyses. In general, the AAFP supported the proposals since providing these data and analyses has the potential to improve the patient experience of care, improve the health of populations, and reduce the cost of health care.

### **7. AAFP RESPONDS TO PROPOSED ACO REGULATION**

On March 23, the AAFP sent CMS a [letter](#) responding to a proposed rule that would make changes to the Medicare Shared Savings Program (MSSP), including provisions relating to benchmarking and beneficiary assignment which affects payments to Accountable Care Organizations (ACOs) participating in the MSSP. The AAFP expressed appreciation that CMS continues to improve ACO regulations since we remain concerned that only large or established integrated health systems, which already possess the necessary capital and infrastructure, can be successful participants in the MSSP.

## 8. WISCONSIN ACADEMY ADVOCATES FOR MENTAL HEALTH

The Wisconsin Academy of Family Physicians (WAFP) successfully advocated for [SB 293](#), which was signed into law by Governor Scott Walker (R) last month. Senate Bill 293 improves access to mental health care for patients in Wisconsin by creating three new proposals: a behavioral health care coordination pilot project; a psychiatric consultation reimbursement project; and grant access to information on availability of inpatient psychiatric beds. WAFP released a statement explaining that “Senate Bill 293 is a step in the right direction – one that recognizes the need to increase access to mental health care; understands the benefits of coordinated care; and acknowledges the need to reform the conventional health care payment model.”

## 9. FamMedPAC BOARD APPROVES SUPPORT FOR SOME NON-INCUMBANT RACES

Thanks to increased support from AAFP members for the PAC in this election cycle, the FamMedPAC Board is able to consider contributions to candidates for open congressional seats and challengers to sitting legislators. This week, the Board approved contributions to three physician-candidates. All three candidates completed the Candidate Questionnaire and met with staff. While the majority of PAC contributions go to sitting legislators, the PAC Board will continue to look for other opportunities to back first-time candidates for office who are supportive of AAFP's issues. The PAC supported the following candidates/legislators this week:

- **Dena Minning, MD, PhD (D-FL)**, an internist, who is running for the open seat of retiring Rep. Alan Grayson.
- **Roger Marshall, MD (R-KS)**, an OB-Gyn, who is running against Rep. Tim Heulskamp in the Republican primary.
- **Matt Heinz, MD (D-AZ)**, an internist and former state legislator, who is running against Rep. Martha McSally (R).

In addition to these challengers, the PAC contributed to:

- **Rep. Kathy Castor (D-FL)**, a member of the Health Subcommittee of the House Energy and Commerce Committee.

## 10. STATE LEGISLATIVE BILLS OF INTEREST

Following are bills of interest in the 2016 session:

- **Aid-In-Dying**—California [AB 2810](#) would require coverage for an aid-in-dying drug prescription to be provided to a Medi-Cal beneficiary who meets the qualifications of the End of Life Option Act and who requests a prescription in accordance with that act, and would require the cost for those services to be provided with state-only funds. Five states (CA, MT, OR, VT, WA) have Death with Dignity laws. 19 states introduced legislation regarding Death with Dignity this legislative session.
- **Direct Primary Care**—Virginia [HB 685](#), which defines direct primary care outside insurance regulations, has passed both chambers and awaits approval for the Governor Terry McAuliffe (D). The Governor has until April 10 to take action on the measure.
- **Health Reform**—Minnesota [HF 2405](#) requires the Commissioner of Human Services to seek a federal waiver to allow MinnesotaCare enrollees to access advanced premium tax credits and cost-sharing reductions.
- **Prescription Drug Abuse**—Governor Scott Walker (R) signed eight bills, [AB 364](#), [AB 365](#), [AB 366](#), [AB 367](#), [AB 658](#), [AB 659](#), [AB 660](#), [AB 766](#), into law as a part of the Heroin Opioid Prevention and Education (H.O.P.E.) Agenda. The bills focused on numerous aspects of fighting heroin and opioid abuse: opioid treatment programs, the prescription drug monitoring program (PDMP), masking agents used in drug tests, reporting by methadone treatment programs, and pain clinic certification.
- **Scope of Practice**—[Idaho](#), [Iowa](#), [New York](#) and [Ohio](#) have introduced legislation that would grant psychologists the authority to prescribe certain medications.

## 11. REGULATORY BRIEFS

- On March 21 the HHS Office of Civil Rights [announced](#) the next phase of audits of covered entities and their business associates. The 2016 Phase 2 HIPAA Audit Program will review the policies and procedures adopted and employed by covered entities and their business associates to meet selected standards and implementation specifications of the Privacy, Security, and Breach Notification Rules.
- Upon AAFP's request, on March 22 CMS [posted](#) FAQs regarding the advance care planning service.
- On March 22 the CDC [released](#) roughly 1,900 diagnosis codes that will be added to the ICD-10 coding system for health care claims in fiscal year 2017. The large number of new codes is due to a partial freeze on updates to the ICD-10-CM and ICD-10 PCS codes prior to implementation of ICD-10 on Oct. 1, 2015.
- On March 22 the FTC [released](#) reports on 2013 cigarette and smokeless tobacco sales and marketing expenditures. The number of cigarettes sold by the largest cigarette companies in the United States to wholesalers and retailers in the U.S. declined from 267.7 billion in 2012 to 256.7 billion in 2013. The amount spent on cigarette advertising and promotion decreased from \$9.17 billion in 2012 to \$8.95 billion in 2013, due mainly to a decrease in spending on price. Smokeless tobacco sales rose from 125.5 million pounds in 2012 to 128.0 million pounds in 2013. The revenue from those sales increased from \$3.08 billion in 2012 to \$3.26 billion in 2013
- CMS will host the following free educational call, [registration](#) is required:
  - Medicare Shared Savings Program ACO: Preparing to Apply for 2017 Call on April 5, 1:30pm ET
  - Open Payments 2016: Prepare to Review Reported Data Call on April 12, 2:30pm ET
  - IMPACT Act: Data Element Library Call on April 14, 2:00pm ET
  - Medicare Shared Savings Program ACO Application Process Call on April 19, 1:30pm ET
  - National Partnership to Improve Dementia Care and QAPI Call on April 28, 1:30pm ET