

March 4, 2016

## IN THIS REPORT...

1. AAFP Engages Senate Leaders on Prescription Drug Abuse Bill
2. Medicare Should Pay for Access to Telehealth Services according to MedPAC
3. Medicaid Fraud Is Issue in Bill Approved by House
4. Federal Zika Virus Response Efforts Scrutinized by House Panel
5. Long-Term Care Financing and Delivery Are Considered by Subcommittee
6. Supreme Court Says States Cannot Impose Reporting Requirements on ERISA Plans
7. HHS Announces Progress on ACA Coverage and Payment for Value
8. FamMedPAC Helps Promote AAFP's Agenda with Key Legislators
9. AAFP Calls for FDA to Review New Nicotine Products
10. AAFP responds to CMS on Draft Measure Development Plan for MIPS and APMs
11. State Legislative Bills of Interest
12. Regulatory Brief

### NEXT WEEK IN WASHINGTON...

- \* The House of Representatives is in recess until Monday, March 14.
- \* On Thursday, March 10, the Senate Finance Committee is holding a hearing to review the operation of HealthCare.gov and the enrollment in ACA health plans.
- \* Also on March 10, the Investigations Subcommittee of the Senate Homeland Security and Governmental Affairs Committee will hold a hearing to review the Affordable Care Act's health insurance CO-OP program.

## 1. SENATE DEBATES OPIOID ADDICTION LEGISLATION

The AAFP sent a [letter](#) to Senate leaders on the *Comprehensive Addiction and Recovery Act* (CARA, S 524) on Tuesday, March 1 prior to Senate floor debate on the measure. The AAFP expressed support for many of the provisions in CARA, like the grants to address prescription opioid abuse and heroin use and direction to the Department of Health and Human Services (HHS) to convene a Pain Management Best Practices Inter-Agency Task Force to develop best practices for pain management and prescribing pain medication, as well as a strategy for disseminating such best practices. The letter encouraged Congress to fund the “prescription drug monitoring programs and the interstate exchange of registry information as called for under the *National All Schedules Prescription Electronic Reporting* (NASPER) Act.” And the AAFP urged the Senate to avoid mandating specific Continuing Medical Education programs as a requirement for prescribing Schedule II drugs.

The Senate on Wednesday, March 2, blocked an amendment to add \$600 million in funding to provide the resources to support the programs authorized by the bill. As a result, the measure offers no additional funding and relies on current appropriated funds tagged for drug abuse programs. Senate consideration of CARA and related amendments will continue next week.

## **2. MedPAC PUSHES FOR BROADER TELEHEALTH SERVICES**

On Thursday, March 3, members of the Medicare Payment Advisory Commission (MedPAC), a Congressional advisory body, urged greater acceptance of telehealth services by Medicare. Commissioners said they are concerned that current reimbursement policies are limiting access to more convenient access to physicians. Medicare now largely limits telehealth payments through its traditional fee-for-service program to cases where people live some distance from physicians, thus largely restricting this service to rural areas. Medicare Advantage programs and demonstration programs such as accountable care organizations also can provide medical consultations via computer or phone.

## **3. HOUSE VOTES TO CURB MEDICAID FRAUD**

By a vote of 406-0, the House on Wednesday, March 2, approved legislation to improve program integrity in Medicaid and CHIP. The *Ensuring Terminated Providers Are Removed from Medicaid and CHIP Act* (HR 3716) would help states identify providers who were dropped from Medicaid or CHIP in another state. The Congressional Budget Office says the legislation would save Medicare some \$28 million over 10 years.

## **4. HOUSE COMMITTEE REVIEWS FEDERAL ZIKA VIRUS RESPONSE EFFORTS**

On Wednesday, March 2, the House Energy and Commerce's Oversight and Investigations Subcommittee held a hearing to review current prevention and response efforts to address the Zika virus. Policy makers highlighted the need to learn lessons from the 2014 Ebola virus and the West Nile virus. During the hearing, Dr. Nicole Lurie, a primary care physician and the HHS Assistant Secretary for Preparedness and Response, testified about the administration's efforts to coordinate among agencies, to manage international requests for support, and to slow the spread of the virus. Dr. Anthony Fauci, Director of the National Institutes of Allergy and Infectious Diseases, said that three vaccine candidates are in phase II clinical trials.

## **5. HEALTH SUBCOMMITTEE REVIEWS LONG-TERM CARE FINANCING**

On Wednesday, March 2, the House Energy and Commerce's Health Subcommittee held a hearing to discuss the need to address access to long term care. Rep. Joe Pitts (R-PA) indicated that a [proposal](#) was included in the *Affordable Care Act*, but was [repealed](#) in a 2013 bill. Rep. Pitts acknowledged that consumers and their families need access to these services, but Congress should not create new entitlement programs. Rep. Doris Matsui (D-CA) indicated that long term care can cost about \$140,000 per year for those without Medicaid or private insurance coverage. She highlighted three bipartisan proposals for improving Medicaid's Long Term Care program, building a consumer-friendly private insurance market, and supporting families with catastrophic long-term care costs. Rep. Frank Pallone (D-NJ) said that he plans to introduce legislation to improve access to long-term care later this year.

## **6. SUPREME COURT FINDS ERISA PREEMPTS STATE CLAIMS REPORTING**

The U.S. Supreme Court ruled Tuesday, March 1 that reporting requirements of the *Employee Retirement Income Security Act* (ERISA) supersede those of individual states, like Vermont's requirement that self-insured employee health plans must report claims data to the state.

## **7. MEDICARE ALTERNATIVE MODELS GROW AS DOES INSURANCE COVERAGE**

CMS on Thursday, March 3 [announced](#) that 30 percent of Medicare payments are now being made in alternative payment models, a point that President Obama echoed in his speech on the *Affordable Care Act* (ACA) in Milwaukee. This goal was reached some 11 months sooner than projected. The president also used his speech to announce that 20 million people have gained health insurance through the ACA.

## 8. FamMedPAC HELPS PROMOTE AAFP'S AGENDA WITH KEY LEGISLATORS

FamMedPAC participated in several events this week with key legislators and campaign committees in Washington, D.C.

- **Rep. John Shimkus (R-IL)** is a member of the Health Subcommittee of the House Energy and Commerce Committee.
- **Democratic Congressional Campaign Committee** is the committee that supports Democratic candidates for the U.S. House. The Chair of the Committee, **Rep. Ben Ray Lujan (D-NM)**, a member of the Primary Care Caucus and the Health Subcommittee of the House Energy and Commerce Committee, as well as **Rep. Frank Pallone (D-NJ)**, the senior Democratic member of the Energy and Commerce Committee, attended.
- **Rep. Phil Roe (R-TN)** is a physician and Co-Chair of the House Doctors Caucus. The House Majority Leader **Rep. Kevin McCarthy (R-CA)** also attended.

## 9. FDA CALLED ON TO REVIEW NEW NICOTINE PRODUCTS

In a February 26 [letter](#) to the FDA, the AAFP and others expressed growing concerns that major tobacco companies are introducing new tobacco products into the marketplace without the regulatory review required by the *Family Smoking Prevention and Tobacco Control Act* of 2009. The required premarket review provisions are intended to prevent the tobacco industry from continuing to introduce new tobacco products that are more harmful, more addictive and more appealing, particularly to young people. The letter chided the FDA for not taking the actions necessary to remove these products from the market because not doing so represents a serious failure to protect the public health.

## 10. AAFP RESPONDS TO MEASURE DEVELOPMENT PLAN ON MIPS AND APMS

In a February 29 [letter](#) to CMS, the AAFP responded to the draft quality measure development plan titled, "Supporting the Transition to the Merit-based Incentive Payment System (MIPS) and Alternative Payment Models (APMs)." In the response the AAFP discussed how more than other specialties, family physicians are disproportionately affected by the burden of quality measurement. This burden is needlessly compounded by the lack of measure alignment across payers, the variety of specifications adopted by payers on similar clinical topics, and the lack of value provided to family physicians by existing measures. The AAFP cited CMS' recognition of these issues and called for the agency to promote measure alignment and harmonization through the Core Measures Collaborative whose work is mentioned throughout the draft plan. The AAFP said CMS should encourage the development of measures that demonstrate the value of primary care and that are particularly focused on comprehensiveness of care and continuity. Even though the draft plan is specifically written to address and define measurement for clinical performance improvement activities under MIPS, the AAFP urged CMS to develop a plan focused on measures of utilization and resource use for public consideration.

## 11. STATE LEGISLATIVE BILLS OF INTEREST

Following are a few bills of interest in the 2016 session:

- **Interstate Medical Licensure Compact**—12 states enacted the compact last year. It has been introduced in 10 states this session – [Alaska](#), [Arizona](#), [Colorado](#), [Kansas](#), [Maryland](#), [Mississippi](#), [New Hampshire](#), [Oklahoma](#), [Rhode Island](#) and [Washington](#).
- **Medicaid Expansion**—Two bills have been filed seeking to block the plans of Governor Matt Bevin (R) to dismantle kynect, the state health exchange, and scale back the state Medicaid program. [HB 5](#) would require the state to continue to operate kynect and [HB 6](#) would require the state to continue Medicaid expansion at its current level. This comes a few weeks after former Governor Steve Beshear (D) launched "Save Kentucky Healthcare," a grassroots campaign aimed at keeping the current health program.
- **Payment Reform**—Massachusetts [HB 3931](#), the Fair Health Care Pricing Act, is set for a hearing next week. It prohibits a health insurance carrier from paying a health care

provider for a service at a price that is either more than 20 percent above the average relative price for that service or more than 10 percent below the average relative price for that service. Any net savings realized by the carrier are to be use to reduce subscribers' costs. In addition, every health care provider who does not agree to participate in a carrier's network must accept a rate equal to the carrier-specific average relative price for any covered out-of-network charges.

- **Prescription Drug Abuse**—States have introduced legislation that would put prescription restrictions on opioids. Mississippi [HB 704](#) would limit the number of prescribed oxycotin units to any patient in excess of 75 units per prescription. Vermont [SB 201](#) prohibits refills and future fill dates for opioid prescriptions, limits prescriptions for opioids to treat acute pain to a 72-hour supply under most circumstances, and limit prescriptions for opioids to treat chronic pain to a 30-day supply.
- **Public Health**—States are attempting to tackle obesity in varying ways. West Virginia [HB 4504](#) increases the excise tax on bottled soft drinks, syrups and dry mixtures. Maryland [HB 1498](#) requires at least 75 percent of packaged food and beverage options offered in a food and beverage vending machine on state property to be healthy options.

## 12. REGULATORY BRIEF

- On February 29 CMS [announced](#) issuing the final annual notice of benefit and payment parameters for the 2017 Marketplace coverage year.
- On March 1, the Department of Veterans Affairs (VA) [announced](#) that the VA will no longer require community providers in the Veterans Choice Program to submit a copy of a veteran's medical record before paying for care.
- CMS will host the following free educational call, [registration](#) is required:
  - National Partnership to Improve Dementia Care and QAPI Call on April 28 at 1:30pm ET