

May 20, 2016

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NEXT WEEK IN WASHINGTON...

- * On Tuesday, May 24, the House Ways and Means Committee will consider a hospital reform bill.
- * Also on Tuesday, the House Energy and Commerce Committee's Oversight and Investigations Subcommittee will hold a hearing on combatting improper Medicare and Medicaid payments and ineligible providers.
- * On Wednesday, May 25, the House Science, Space and Technology Committee has scheduled a hearing on the science of Zika.
- * Also on Wednesday, the House Energy and Commerce Subcommittee on Health will hold a hearing to examine cybersecurity responsibilities at HHS.

1. CONGRESS ACTS ON ZIKA FUNDING

The Senate on Thursday, May 19, by a vote of 89 to 8, approved spending legislation for the Departments of Transportation and Housing and Urban Development (HR 2577), which included a \$1.1 billion plan to combat the Zika virus. This contrasts with House's stand-alone *Zika Response Appropriations Act* (HR 5423) that would reallocate current public health spending to devote only \$622 million to fighting the virus. The House passed its bill on Wednesday, May 18 by a largely partisan 241 to 184.

Three months ago, President Obama requested \$1.9 billion to combat Zika, accelerate vaccine research, and help countries fight the virus. The AAFP and a coalition of medical and public health groups sent a [letter](#) on May 18 urging Congress to support the President's request and opposing offsetting cuts to other health priorities. The White House has signaled that the President would accept the Senate compromise measure but has issued a [veto threat](#) on the House bill.

Adding urgency to the request, on Friday, May 20, the Centers for Disease Control and Prevention (CDC) reported in the [Morbidity and Mortality Weekly Report](#) that Zika has infected at least 157 pregnant women in the U.S. states and 122 pregnant women in U.S. territories.

2. SENATE COMMITTEE PASSES FDA SPENDING BILL

The Senate Appropriations Committee unanimously approved its FY2017 agriculture spending bill (S 1800) on Thursday, May 19. The measure funds the Food and Drug Administration (FDA) providing \$2.8 billion in discretionary funding for the agency in FY2017, \$39 million over the FY2016 level and slightly above the \$2.7 billion approved by House appropriators last month. The Senate explicitly recognized that FDA had the authority to regulate tobacco. This establishes a point of contention with the House bill since it would exempt premium cigars and already marketed e-cigarettes and other tobacco products from FDA oversight. The Senate's bill does include a House-approved provision to prevent FDA from approving gene editing research that modified inheritable traits in human embryos.

3. SENATE, HOUSE REACH A DEAL ON REGULATING TOXIC SUBSTANCES

The Senate and House legislators have agreed on a deal to overhaul the 1976 *Toxic Substances Control Act* which would revise how the Environmental Protection Agency (EPA) regulates toxic substances. The bill makes sweeping reforms that require new safety measures from both EPA and chemical companies, while giving states some flexibility to act on their own if the federal government moves too slowly. A final measure could land the bill on the president's desk before the Memorial Day recess.

4. HOUSE PANEL EXAMINES PLAN TO SUPPORT DIRECT PRIMARY CARE

On Tuesday, May 17, the House Ways and Means Subcommittee on Health held a discussion of various proposals to use federal taxes to improve health care. Of note to family medicine, Rep. Eric Paulsen (R-MN) highlighted a provision of his *Health Savings Act* (HR 4469), which would allow Americans with Health Savings Accounts (HSAs) to enter into contracts with direct primary care (DPC) practices to use their HSA dollars to pay for the monthly DPC fees. Rep. Paulsen referred to DPC as "an innovative alternative payment model offering low monthly membership-based payments for integrated primary care services." Under current tax policy, the IRS bars the use of HSAs to pay direct primary care arrangements. Rep. Paulsen's bill closely resembles the *Primary Care Enhancement Act* (S 1989), sponsored by Sen. Bill Cassidy (R-LA) and Sen. Maria Cantwell (D-WA), which the AAFP has [supported](#).

5. HEALTH SUBCOMMITTEE REVIEWS MEDICARE PART B DRUG DEMONSTRATION

On May 17, the House Energy and Commerce's Health Subcommittee held a briefing to examine the Centers for Medicare and Medicaid Service's (CMS) Medicare Part B drug demonstration program. CMS announced in March that it would implement a value-based payment system that would lower the reimbursement rate for outpatient drugs from an average sales price (ASP) plus 6 percent to the ASP plus 2.5 percent and a flat fee of \$16.80. The second phase would implement value-based purchasing tool utilizing comparative effectiveness and strategies to better evaluate if expensive or new drugs are more effective than other comparable treatments. Rep. Larry Buchson (R-IN) introduced [legislation](#) to block the administration's proposal.

6. FamMedPAC PROMOTIONAL VIDEO AVAILABLE

The FamMedPAC promotional video is now available to download for showing to AAFP members to encourage them to support the PAC. The video is great for chapter meetings. This is a useful tool to help FamMedPAC reach the \$1 million goal for this election cycle.

Download the video here: <https://vimeo.com/137842747>
Password (all caps): AAFP2015

The PAC supported the following legislators this week:

- **Rep. Michael Burgess, MD (R-TX)**, a member of the Health Subcommittee of the House Energy and Commerce Committee, who also is a member of the GOP Physicians Caucus.
- **Rep. Pat Meehan (R-PA)**, a member of the House Ways & Means Committee.
- **Rep. Denny Heck (D-WA)**, a member of the Primary Care Caucus, Recruitment Chair of the DCCC, and member of the New Democrat Coalition.

7. STATE LEGISLATION OF INTEREST IN THE 2016 SESSION

- **Health Care Coverage**—This week, California [SB 75](#) was implemented. SB 75, a California AFP-supported bill, passed last year and will offer full-scope Medi-Cal benefits to children under age 19, regardless of immigration status. This measure makes more than 170,000 undocumented children eligible to access comprehensive health services.
- **Medicaid Expansion**—[Oklahoma](#) is considering Medicaid expansion after years of resistance due to a \$1.3 billion budget deficit. Currently, the Oklahoma Health Care Authority, which oversees the state's Medicaid program, has proposed a 25-percent rate cut for providers that would go into effect June 1. Legislators are hoping to prevent that cut by expanding Medicaid, which will bring federal dollars into the state. Oklahoma Governor Mary Fallin (R) is calling for a cigarette tax increase of \$1.50 per pack to help fund the state's share of expansion. Medicaid expansion would open eligibility to over 600,000 individuals. The Oklahoma legislature is set to adjourn May 27.
- **Preceptor Tax Credits**—Colorado has sent [legislation](#) to the Governor creating an income tax credit for rural primary care preceptors in areas with health care workforce shortages. The Colorado AFP has been actively advocating on behalf of this measure.
- **Women's Health Issues**—
 - Maryland Governor Larry Hogan (R) signed the [Contraception Equity Act](#) into law last week. This makes Maryland the first state to require insurers to pay for over-the-counter contraceptives. The bill eliminates co-payments and prior authorization for most contraceptive methods, including emergency contraception and vasectomies for Medicaid beneficiaries and individuals enrolled in state-regulated insurance plans. Additionally it requires carriers to cover a single dispensation of a six-month supply of prescription contraceptives. Some 12 states introduced legislation regarding access to contraception this year.
 - On April 19, the Oklahoma legislature passed [SB 1552](#) that makes performing an abortion a felony. Under the bill, doctors who perform an abortion could face up to three years in prison and lose their medical license. The only exception is if it is medically necessary to preserve the life of the mother. The bill has been sent to Gov. Fallin (R) for her approval or veto.

8. REGULATORY BRIEFS

- On May 17 CMS posted [data](#) that shows suppliers in non-competitive bidding areas have continued to accept the new, adjusted durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) payment rates as payment in full. Earlier in 2016 CMS phased in new rates in non-competitive bidding areas.
- On May 20, the FDA finalized the new Nutrition Facts label on packaged foods and released a [press release](#) and [fact sheet](#) that provides education and outreach on the new label and what it means for consumers and families. While this FDA announcement is on packaged foods, in 2010 the AAFP [commented](#) on "Implementation of the Menu Labeling Provisions" and "Voluntary Registration by Authorized Officials of Non-Covered Retail Food Establishments and Vending Machine Operators Electing to Be Subject to the Menu and Vending Machine Labeling Requirements."