

November 11, 2016

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

- \* The Trump transition team is staffing and gearing up.
- \* Congress reconvenes next week.
- \* On Wednesday, November 30, the Senate Judiciary Committee plans a hearing to examine the reported settlement agreement between the Justice Department and EpiPen maker Mylan.

## **THE EXECUTIVE BRANCH**

### **1. AAFP sends letter to President-elect Trump**

On November 9, the AAFP wrote President-elect Donald J. Trump a [letter](#) articulating that the Academy looks forward to working closely with the new Administration and the 115th Congress to ensure that all Americans have access to high-quality, efficient health care. The AAFP letter contains specific recommendations about what the incoming administration can do to help family physicians better care for their patients.

### **2. CMS releases 2017 final Medicare physician fee schedule, AAFP summary available**

On November 2, 2016, the Centers for Medicare & Medicaid Services (CMS) released the [2017 final Medicare physician fee schedule](#). This regulation addresses changes to the physician fee schedule (PFS) and other Medicare Part B payment policies to ensure that Medicare payment systems are updated to reflect changes in medical practice and the relative value of services. This regulation is effective on January 1, 2017. As part of this release, CMS also posted a [press statement](#), [fact sheet](#), [fact sheet](#) specific to the Medicare Diabetes Prevention Program (MDPP) Expanded Model, and a [blog](#) by the CMS acting administrator titled, “A Healthier Medicare: Focusing on Primary Care, Mental Health, and Diabetes Prevention.”

The AAFP sent a 56-page comment [letter](#) to CMS in response to the proposed version of this regulation on August 19. Upon the final rule release, the AAFP issued a [media statement](#) that:

- Commended the creation of new primary care codes;
- Strongly supported the expansion of the Medicare Diabetes Prevention Program;
- Expressed disappointment that CMS only finalized misvalued code changes that achieve 0.32 percent in net expenditure reductions. Since these changes do not fully meet the misvalued code target required by law, physicians will not receive the Medicare Access and CHIP Reauthorization Act (MACRA) positive 0.5 percent update in 2017. The 2017 Medicare PFS conversion factor will be \$35.89, an increase of only \$0.09 from the 2016 conversion factor. The AAFP statement called this a violation of the spirit of MACRA.
- Expressed increasing concerns that CMS is adding regulatory burdens to primary care physicians. For instance, CMS is requiring primary care physicians to consult appropriate use criteria for advanced diagnostic imaging and not aligning this program with the Merit-Based Incentive Payment System (MIPS).

The AAFP created a [summary](#) of the 2017 final Medicare physician fee schedule.

### **3. CMS letter to AAFP on patient satisfaction measures**

In a [letter](#) from CMS sent to the AAFP on October 20, the agency responded to an AAFP [letter](#) that urged CMS to only utilize patient experience measures for the purposes of providing payment incentives and not for the purposes of implementing financial penalties. The CMS response outlined how the agency selects quality measures.

### **4. AAFP letter to FDA on sodium reduction goals**

The AAFP sent a [letter](#) to the FDA on October 26 in response to the “Voluntary Sodium Reduction Goals: Target Mean and Upper Bound Concentrations for Sodium in Commercially Processed, Packaged, and Prepared Foods.” This guidance describes voluntary short-term and long-term goals for sodium reduction in a variety of identified categories of foods that are commercially processed, packaged, or prepared. The AAFP applauded the FDA for releasing this guidance and agreed with the FDA and expert advisory panels that scientific evidence supports the value of reducing sodium intake in the general population.

### **5. CMS releases final 2017 OPPS that incorporates AAFP suggestions**

On August 24, the AAFP sent CMS a [letter](#) in response to the a proposed rule that would, among several other policy changes, revise the Medicare hospital outpatient prospective payment system (OPPS) and the Medicare ambulatory surgical center (ASC) payment system for 2017. Of particular interest to family physicians, this proposed rule would:

- Implement section 603 of the *Bipartisan Budget Act of 2015* relating to payment for items and services furnished by certain off-campus outpatient departments of a provider.
  - The AAFP supported CMS implementing proposals to better align payment policies for physicians in independent practice with those owned by hospitals which will lead to a more level economic playing field and be more equitable for patients. The AAFP encouraged CMS to consider site-of-service payment parity polices from a broader perspective and not pay significantly more for the same services in different settings.
- Change the Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs.
  - The AAFP supported the agency’s proposal to change the EHR reporting periods in 2016 for returning participants from the full 2016 to any continuous 90-day period within 2016. The letter applauded the agency for being responsive to stakeholder feedback, including feedback from the AAFP, which requested that CMS allow a 90-day EHR reporting period for eligible professionals (EPs), eligible hospitals and CAHs in 2016 in order to reduce the reporting burden and increase flexibility in the program.
- Remove the HCAHPS Pain Management dimension from the Hospital Value-Based Purchasing (VBP) Program.
  - To mitigate the perception that there is financial pressure to overprescribe opioids, the AAFP supported the proposal to remove the HCAHPS survey pain management questions from the hospital payment scoring calculation. The AAFP called on CMS to extend this laudable policy to all patient experience measures.

On November 1, CMS finalized the rule as proposed.

### **6. CMS invites two family physicians to join MEDCAC**

CMS recently invited Steven R. Brown MD, FAAFP and Mark H. Ebell MD, MS to join Medicare Evidence Development & Coverage Advisory Committee (MEDCAC). MEDCAC provides advice and guidance to HHS and CMS concerning the adequacy of scientific evidence available to CMS in making coverage determinations under the Medicare program. The AAFP had nominated them for this position in a September 1, 2016 letter.

### **7. Family physicians nominated to CDC immunization advisory committee**

On November 1, the AAFP sent letters supporting of Jennifer Hamilton MD, PhD, FAAFP and Melissa Martinez MD, FAAFP for the Advisory Committee on Immunization Practices (ACIP).

## 8. Family physicians nominated to FDA tobacco committee

On November 9, AAFP nominated Conrad Flick MD, FAAFP, Douglas Kamerow MD, MPH, FAAFP, and Sarah Mullins MD to the FDA's Tobacco Products Scientific Advisory Committee.

## 9. Regulatory Briefs

- On October 21, CMS and the VA [announced](#) the inclusion of Veterans Administration hospital performance data on CMS' Hospital Compare website.
- On October 25, CMS [announced](#) additional opportunities for clinicians to join care approaches under the Quality Payment Program.
- On October 26, CMS and the state of Vermont jointly [announced](#) the Vermont All-Payer Accountable Care Organization (ACO) Model, a new initiative aimed at accelerating delivery system reform for Vermont residents.
- On October 31, CMS [awarded](#) the next round of Medicare Fee-for-Service Recovery Audit Contractor (RAC) contracts to:
  - Region 1 – Performant Recovery, Inc.
  - Region 2 – Cotiviti, LLC
  - Region 3 – Cotiviti, LLC
  - Region 4 – HMS Federal Solutions
  - Region 5 – Performant Recovery, Inc.
- On October 31, CMS made an [announcement](#) regarding prescriber enrollment requirements in Medicare. Prescribers must be enrolled in an active status or validly opted out, except in very limited circumstances, in order for their written prescriptions to be covered under Part D. CMS previously announced that enforcement of the prescriber enrollment requirement would begin on February 1, 2017 but announced that full enforcement of the Part D prescriber enrollment requirement will begin January 1, 2019.
- On November 9, CMS [announced](#) \$66.1 million to support Zika related services.
- On November 9, the VA and SSA [announced](#) an effort to speed up disability decisions.
- CMS will host the following free educational call, [registration](#) is required:
  - Quality Payment Program Final Rule Call, November 15, 1:30pm
  - 2016 Hospital Appeals Settlement Call, November 16, 1:30pm
  - Medicare Diabetes Prevention Program Model Expansion, November 30, 1:30pm
  - IRF and LTCH Quality Measure Report Call, December 1, 1:30pm
  - National Partnership to Improve Dementia Care and QAPI, December 6, 1:30pm
- Regarding MACRA calls, CMS will host the following and [registration](#) is required:
  - Quality Payment Program final Rule, November 15 at 1:30pm.

## U.S. CONGRESS

### 1. Obamacare Repeal Tops 115<sup>th</sup> Congress Agenda

Senate Majority Leader Mitch McConnell (R-KY) has indicated that the Senate would move swiftly to repeal Obamacare next year now that the GOP Congress will have a Republican president. Republican leaders in both chambers will be able to use the budget reconciliation process to repeal all or parts of the *Affordable Care Act*. Congress attempted this before with the passage of the *Restoring Americans' Healthcare Freedom Reconciliation Act* ([HR 3762](#)) but was unable to overcome President Obama's veto. Reconciliation does not require a 60 vote majority in the Senate.

### 2. Teaching Health Center Resolution Makes Progress

The bipartisan resolution in support of the Teaching Health Center Graduate Medical Education Program ([HRes 899](#)) gained new cosponsors over the Congressional recess. The resolution expressing "the sense of the House of Representatives that the Teaching Health Center Graduate Medical Education (THCGME) Program should be protected and sustained" was introduced by Rep. Dave Reichert (R-WA). The American Academy of Family Physicians (AAFP) is working in coalition with the Council of Academic Family Medicine, the American

Osteopathic Association, and the American Association of Colleges of Osteopathic Medicine to garner more cosponsors for this measure.

## **CENTERING ON THE STATES**

### **1. Private Payer Mergers Resource Available**

The AAFP Center for State Policy has released a new resource on [private payer mergers](#). This resource aims to help chapters as they continue to advocate on behalf of family medicine.

### **2. Feedback Requested for State Legislative Toolkits**

The Center for State Policy is looking into creating state legislative toolkits to help chapters advocate on priority issues. The toolkits could include model legislation, SpeakOut templates, social media campaigns, draft letters of support, and draft editorials. Please take our [survey](#) to help determine which subjects matter most to you and your chapter.

## **TAKE ACTION**

### **1. Elections Have Consequences – Give to FamMedPAC**

FamMedPAC had a great 2016 election cycle, with 89% of [FamMedPAC](#)-supported candidates winning. The PAC made a record \$1,017,700 in contributions this cycle to 154 candidates or committees. This includes contributions to candidates, to the bipartisan House and Senate campaign committees and other partisan PACs, and independent expenditures for two physician-candidates. Thanks to strong fundraising, the PAC was able to support ten first-time or challenger candidates, five of whom won. The PAC is close to its highest fundraising total ever, with over \$920,000 contributed by AAFP members. Please help us reach our goal of \$1 million before the end of the year. This will put us in a great 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!