

February 3, 2017

On the Horizon ...

- * The US Senate is likely to vote on the nomination of Rep. Tom Price to be Secretary of the U.S. Department of Health and Human Services in the coming week.
- * On February 7 the House Energy and Commerce Committee will likely mark up a series of bills on insurance markets (e.g. widening age rating bands, pre-existing conditions).
- * The House is scheduled to gavel in on Monday, Feb. 6, and then gavel out on Tuesday, Feb. 7.

U.S. CONGRESS

1. AAFP Joins Other Medical Societies in Advocating to Congress to Preserve Health Coverage

On February 2, AAFP President John Meigs, Jr., MD, joined physician leaders of the American Osteopathic Association, the American College of Physicians, the American Academy of Pediatrics, and the American Congress of Obstetricians and Gynecologists, to advocate in the US Senate for preserving the health coverage gains achieved under current law. As the debate in Congress over the future health reform continues, the five leaders met jointly with eight Senate offices to express a set of recommendations, including that any replacement package should not increase the number of uninsured Americans. The recommendations also include preserving consumer protections (such as the ban on denying coverage based on pre-existing conditions), as well as preserving the overall viability of the health-care safety net. The leaders, whose societies represent over 500,000 physicians and medical students, also held a joint press conference with Washington reporters. The AAFP's statement can be read [here](#).

2. Budget Resolution Deadline on ACA Repeal Lapses; Final deadline April 1

Last month, the House and Senate passed the fiscal year 2017 budget resolution ([S.Con.Res. 3](#)) as a first step toward repealing the *Affordable Care Act* (ACA). Under a process known as "budget reconciliation," the resolution requires four Congressional committees (Senate Finance, Senate HELP, House Ways and Means, and House Energy and Commerce) to submit legislative recommendations by January 27 to the respective Senate and House Budget Committees. The Budget Committees are subsequently expected to produce legislation that could pass the Senate by a simple majority under the fast-track procedure. Despite the deadline, the four committees have not yet submitted their recommendations to the Budget Committees. The deadline is not binding, but confirms news reports that Congressional Republicans are struggling to coalesce around the overall strategy and elements of their ACA "repeal and replace" process. During an advocacy meeting on February 2, Senate Leadership staff told AAFP President John Meigs, Jr. that the opportunity to use the fast-track procedure becomes null and void April 1.

3. Senate Committee Advances President’s Nominee for Health and Human Services

On February 1, the Senate Committee on Finance approved the nomination of Rep. Tom Price, M.D. (R-GA) to be Secretary of Health and Human Services. In an unprecedented move, all 12 Committee Democrats boycotted the vote, prompting Chairman Orrin Hatch (R-UT) to suspend the rules of the committee—which require at least one member of each party to be present in order to conduct business. After suspending the rules, all 14 Republicans on the committee voted to approve Dr. Price—an orthopaedic surgeon and a member of the House Ways and Means Subcommittee on Health. The nomination of Dr. Price now proceeds to the full Senate, where a vote could occur as early as next week.

4. AAFP Expresses Support for Bill to Reduce Prescribing Burden on Family Physicians

On January 30, the AAFP joined over 20 other stakeholders in a [joint letter](#) to Congress in support of the Restoring Access to Medication Act ([S 85/HR 394](#)). The bipartisan bill would repeal the rule requiring holders of tax-preferred health-care accounts such as Flexible Savings Arrangements (FSAs) and Health Savings Accounts (HSAs) to obtain a physician’s prescription to use those funds to purchase over-the-counter (OTC) medications. The bill was introduced earlier this month by Sens. Pat Roberts (R-KS) and Heidi Heitkamp (D-ND), and Reps. Lynn Jenkins (R-KS) and Ron Kind (D-WI). This legislation passed Congress in 2016, as part of the *Restoring Americans’ Healthcare Freedom Reconciliation Act* ([HR 3762](#))—the name of the GOP’s vehicle to repeal key sections of the ACA—which was vetoed by President Obama. The bill is likely to be included again in a 2017 reconciliation package to repeal and replace the ACA.

5. House Committee Hears Criticism and Praise of the ACA

On February 1, the House Committee on Education and the Workforce held a hearing entitled "Rescuing Americans from the Failed Health Care Law and Advancing Patient-Centered Solutions." Committee Chair Virginia Foxx (R-NC) pledged to continue hearings on the ACA as they work to repair it.

6. House Subcommittee Explores Medicaid Program Integrity, Reform Ideas

On January 31, the House Energy and Commerce Oversight and Investigations Subcommittee held a [hearing](#) entitled “Medicaid Oversight: Existing Problems and Ways to Strengthen the Program.” The hearing focused principally on ways to prevent improper Medicaid payments.

7. House Subcommittee Discusses Medicaid Reforms and Vulnerable Populations

On February 1, the House Energy and Commerce Health Subcommittee held a [hearing](#) entitled “Strengthening Medicaid and Prioritizing the Most Vulnerable.” The hearing centered on three bills to improve program integrity and to update administrative requirements. The bills would: (1) change how lottery winnings are factored into income calculations; (2) require spousal annuities to be counted as income within the 30-day review period; and (3) tighten citizenship verification requirements for Medicaid applicants. The savings achieved by the three bills would then be shifted to the Home and Community Based Services (HCBS) program, which is noted for long waiting lists. The AAFP submitted a [statement for the record](#) urging the Committee to adhere to a set of core principles as it considers making broad-based reforms to Medicaid. Those principles, reaffirmed by the AAFP Congress of Delegates in 2015, include first-dollar coverage for preventive services, and Medicaid physician payment at Medicare rates.

8. Senate HELP Committee Reviews Challenges in the Individual Insurance Market

On February 1, the Senate Committee on Health, Education, Labor, and Pensions (HELP) held a [hearing](#) entitled “Obamacare Emergency: Stabilizing the Individual Insurance Market.” The hearing focused on the challenges facing the 18 million Americans who are insured through the individual market—including 11 million through the ACA marketplaces.

9. Health Subcommittee Examines Need to Repair Obamacare Exchange Program

On February 2, the House Energy and Commerce Health Subcommittee held a [hearing](#) entitled “Patient Relief from Collapsing Health Markets.” The hearing focused on four draft bills that would modify *Affordable Care Act* rules governing the individual insurance market, for example rules governing age rating bands, eligibility verification, and preexisting condition coverage requirements. The Committee is likely to mark up and vote on these bills next week.

10. House Votes to Roll Back Gun Database Regulation

On February 2, the House of Representatives approved by a vote of 235-180 [H. J. Res 40](#), which would revoke an Obama Administration regulation that adds the names of Social Security beneficiaries who meet specific “mental impairment” criteria (including those found mentally incapable of managing their affairs) to the National Instant Criminal Background Check System (NICS). The Social Security Administration published the [final regulation](#) on December 19, 2016 to improve the national database of those restricted from purchasing firearms. The vote comes as part of a series taken under the 1996 *Congressional Review Act*, which allows Congress to invalidate recently finalized regulations, with presidential approval. The White House has also [announced its support](#) of H.J. Res. 40.

CENTERING ON THE STATES

1. Bills of Interest

- **Credentialing Reform** – Pennsylvania’s [HB 125](#) would standardize credentialing and set a 30-day limit for insurers to process an application to avoid provisional status.
- **Health Care Workforce** –Massachusetts lawmakers have introduced [legislation](#) which seeks to increase the number of family physicians training and practicing in the state. This bill would create a state-run grant program to fund additional family medicine residency positions at the state’s existing five family medicine residency programs. This is a Massachusetts-AFP priority bill.
- **Interstate Medical Licensure Compact** – To date, lawmakers in [Arkansas](#), [Michigan](#), [Nebraska](#), [North Dakota](#), and [Washington](#) have introduced legislation that would establish the Interstate Medical Licensure Compact. Eighteen states have already adopted the Interstate Medical Licensure Compact.
- **Medicaid Waiver** – Hawaii [SB 7](#) and [SB 749](#) would require the Department of Human Services and Department of Health to seek a Section 1115 waiver to provide supportive housing services for chronically homeless individuals.
- **Naturopathic Physicians Scope of Practice** – lawmakers in [Connecticut](#), [Hawaii](#), [North Dakota](#), [Oregon](#), and [Washington](#) have introduced legislation that would expand the scope of practice for naturopathic physicians. Legislators in [Colorado](#), [Illinois](#), [Indiana](#), and [Mississippi](#) have introduced legislation that would regulate naturopathic physicians.

2. 2017 ACA Marketplace Open Enrollment Ends

January 31 was the last day to enroll in health insurance for 2017 through an *Affordable Care Act* marketplace. The Trump Administration has not announced any special enrollment periods set for 2017, meaning that patients can now enroll based only on a qualifying event such as involuntary loss of other health coverage.

3. Governors Plan for Medicaid’s Future

Indiana has filed for an extension of its Section 1115 Medicaid Waiver until January 31, 2021. [Healthy Indiana 2.0](#) is a package of incentives and penalties that are intended to encourage Medicaid recipients to adopt healthy behaviors. Low-income and poor beneficiaries pay premiums, have health savings accounts and can lose their benefits if they miss payments. In Ohio, Governor John Kasich has submitted a two-year [budget](#) proposal maintaining Medicaid

health coverage for 3 million poor and disabled Ohioans. Governor Kasich's plan does not include an alternative plan if Congress repeals the ACA and Medicaid expansion funding.

THE EXECUTIVE BRANCH

1. AAFP Criticizes Immigration Restriction on Travellers from Seven Muslim Countries

On January 27, the Trump Administration issued an [Executive Order](#) (EO) entitled: "Protecting the Nation from Foreign Terrorist Entry Into the United States." In the EO, President Trump immediately suspended entry into the United States for 90 days of all non-citizens previously designated as "countries of concern" under the visa-waiver program. At the time of the issuance of the order, those countries of concern (as designated by Congress and the Department of Homeland Security) included Iraq, Syria, Sudan, Iran, Libya, Somalia, and Yemen. The EO also suspends entry for Syrian refugees indefinitely, until further notice. The EO states that the purpose of the suspension is to allow the Department of Homeland Security, Department of State, and Director of National Intelligence to review the process of vetting those seeking entry into the United States from abroad. Although the EO on its face does not purport to apply to permanent residents (i.e. green card holders), in the days following the issuance of the EO, numerous media reports emerged of U.S. permanent residents being detained or sent out of the United States, including medical residents and other health providers. On January 31, the AAFP issued a [statement](#) in response to the EO, stating: "Discrimination based on religion and targeted at physicians and medical students, among many others, is simply un-American."

2. Administration Issues Order to Reduce Federal Regulation Compliance Cost

On January 30, the Trump Administration issued an [Executive Order](#) (EO) entitled: "Reducing Regulation and Controlling Regulatory Costs." The order establishes a framework designed to reduce the cost of compliance with federal regulations. First, the EO provides that federal agencies, when proposing a new regulation, must "identify at least two existing regulations to be repealed." Second, the EO requires that the incremental cost of any new regulation be "no greater than zero." The implementation of the EO will be left to the Office of Management and Budget (OMB), which is tasked with issuing guidance to the agencies to execute the order. Future rules governing Medicare physician payment (such as those implementing the Medicare Access and CHIP Reauthorization Act of 2015) could be shaped by this order. The AAFP [wrote](#) to the Trump Administration in response, highlighting the heavy regulatory burden that family physicians experience and inviting the Administration to work with the AAFP in "liberating physicians from the time and economic constraints of regulation."

3. Regulatory Briefs

- On January 30, the VA released a [statement](#) about Office of Inspector General review of implementation of the Veterans Choice Program.
- On January 31, CMS [announced](#) plans to consolidate all rounds and areas included in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program into a single round of competition.
- On February 1, CMS announced that the [Open Payments](#) system was available for physicians and teaching hospitals to register in order to review any payments and other transfers of value attributed to them.
- On February 1, CMS [proposed](#) updates to the Medicare Advantage (MA) and Part D programs through the 2018 Advance Notice and Draft Call Letter. CMS will accept comments through March 3, 2017.
- CMS will host the following free educational calls; [registration](#) is required:
 - Understanding and Promoting the Value of Chronic Care Management Services Call, on Feb 21, 1:30 pm ET.
 - Looking Ahead: The IMPACT Act in 2017 Call, Feb. 23, 1:30pm ET
 - Global Surgery: Required Data Reporting for Post-Operative Care Call, Apr. 25, 1:30pm ET

- CMS will host a [webinar](#) to discuss the Advancing Care Coordination through Episode Payment Models (EPMs); Cardiac Incentive Payment Model; and changes to the Comprehensive Care for Joint Replacement Model final rule on February 9, 2017, from 12:00 p.m. – 1:00 p.m. EST.

TAKE ACTION

1. FamMedPAC Contributes to First DC Events of the Cycle

Thanks to strong early fundraising in 2017, FamMedPAC is hitting the ground running in the 2018 election cycle. To make your 2017 contribution, please visit the [FamMedPAC Contribution Page](#). FamMedPAC participated in three events this week supporting key Senators. The events were organized by the physician PAC community in Washington, D.C. and conversations with the legislators revolved around the efforts to modify the Affordable Care Act. The PAC supported the following Senators:

- [Sen. Sherrod Brown \(D-OH\)](#): Sen. Brown serves on the Health Subcommittee of the Senate Finance Committee.
- [Sen. Chris Murphy \(D-CT\)](#): Sen. Murphy serves on the Health Subcommittee of the Senate Appropriations Committee and the Health, Education, Labor and Pensions Committee.
- [Sen. Tim Kaine \(D-VA\)](#): Sen. Kaine serves on the Health, Education, Labor and Pensions Committee as well as the Committee on the Budget.

2. Join the Family Physician Action Network

With the future of health care unclear, it is more important than ever for family medicine to stand united. That is why AAFP has formed a grassroots network to easily connect family physicians to their legislators. Join the [Family Physician Action Network](#) to gain access to members only content, training modules, and the tools to meaningfully impact policy in Washington, DC. Please contact Eric Storey (estorey@aaafp.org) for more information.