

July 21, 2017

On the Horizon ...

- * The Senate may vote next week to proceed to legislation on the *Affordable Care Act*.
- * On July 26:
 - + House Committee on Oversight and Government Reform will hold a hearing on the reauthorization of the Office of National Drug Control Policy.
 - + Senate Aging Committee will hold a hearing to examine research to cure Type I Diabetes.
 - + House Energy and Commerce Health Subcommittee will examine the Medicare Advantage Special Needs Plans.

TAKE ACTION

1. Tell the Senate to Reject the Better Care Reconciliation Act

The Congressional Budget Office (CBO) released an [estimate](#) of the impact of the most recent version of Senate's version *Better Care Reconciliation Act* (HR 1628). CBO found that spending for Medicaid would be reduced by 26% by 2026 under the bill. Also, the uninsured rate for those below 65 would almost double by 2026 from 10% to 18% under BCRA. The AAFP urges the Senate to reject this bill and pass common-sense reforms to preserve health care coverage. Please click [here](#) to call your Senators today.

U.S. CONGRESS

1. Obamacare Repeal Rollercoaster Continues

The Senate plan to repeal and replace the *Affordable Care Act* collapsed this week, after four Senators announced their opposition to the motion to proceed to debate the bill. Both moderate and conservative Republicans came out against the bill. Yet, Republicans continue to search for a way forward on ACA repeal with some insisting on total repeal and others looking to reform the law. Senate Majority Leader Mitch McConnell (R-KY) has said that he will hold a vote soon. On July 17, the AAFP [urged](#) the Senate to move beyond this current debate toward bipartisan solutions to improve our health care system.

2. House Committee Advances FY18 HHS Spending Bill

The House Appropriations Committee approved the [draft](#) fiscal year 2018 Labor, Health and Human Services, and Education (LHHS) funding bill on a party-line vote of 28-22. The bill is \$5 billion below the current enacted spending level and \$21.6 billion above the President's [budget](#) request. All Democrats' amendments offered on the Agency for Healthcare Research and Quality (AHRQ), family planning and gun violence were defeated.

The House LHHS Bill for FY18 provided funding for the following AAFP priorities:

- \$300 million for AHRQ; down \$24 million from the FY17 level, but above the President's FY18 budget request of \$272 million.

- \$1.04 billion for CDC Chronic Disease Prevention; \$74 million below FY17 (including a cut of \$55 million from tobacco programs) but \$89 million above the budget request.
- \$744 million for CDC Immunization & Respiratory Diseases; s \$50 million cut from FY17 but \$44 million above President's request.
- \$3.5 billion for Centers for Medicare & Medicaid Services (CMS) program management; \$219 million below FY17 and \$136 below the President's request.
- \$39 million for Primary Care Training Enhancement Title VII Sec. 747. This is level-funding even though the President proposed eliminating the Title VII program.
- \$156 million for the Health Resources and Services Administration's (HRSA) Office of Rural Health; the same as FY17 and \$82 million above the President's request.
- The House bill zeros out Title X Family Planning as it has in previous years.
- Although the bill did not provide funding for the Substance Abuse and Mental Health Services Administration funding for Prescription Drug Monitoring Program (PDMP) grants, the FY18 Commerce, Justice, Science bill included \$14 million for PDMP grants.

The Senate has not acted on the LHHS bill but has set a higher spending allocation for that bill which is an increase of \$3.04 billion above the FY17 overall level.

3. House Committee Asks for Details on Improving the 340B Drug Discount Program

On July 18, the House Oversight and Investigations Subcommittee held a [hearing](#) to review the 340B drug discount program that provides covered entities (mostly safety net hospitals) with discounts on outpatient drugs. The program has come under scrutiny after reports from the HHS Office of the Inspector General and Government Accountability Office [detailed](#) fraud, duplicate discounts, noncompliance, inaccurate reporting, and drug diversion. The HHS OIG witness [recommended](#) greater price transparency, patient eligibility, hospital qualifications, and program intent. There was consensus among members that additional legislative authority is necessary.

4. House Committee Reviews a Series of Medicare Bills

On July 20, the House Energy and Commerce, Health Subcommittee held a [hearing](#) to review 12 Medicare "improvement" bills, including the following highlighted below:

- [HR 3120](#), would eliminate the requirements that CMS' **Meaningful Use** program tighten over time. Reps. Mike Burgess (R-TX) and Debbie Dingell (D-MI) are the lead sponsors.
- [HR 3263](#), introduced by Reps. Mike Burgess (R-TX) and Debbie Dingell (D-MI), would extend the **Medicare Independence at Home Medical Practice Demonstration Program** for home-based primary care services for high risk patients with chronic health conditions. In 2016, the AAFP wrote a [letter](#) of support for this proposal.
- [HR 849](#), introduced by Reps. Phil Roe (R-TX) and Raul Ruiz (D-CA), would repeal the **Independent Patient Advisory Board** authorized under the ACA.
- [HR 2557](#), introduced by Reps. Larry Bucshon (R-IN) and Bobby Rush (D-IL), would require **Medicare coverage for DNA Specimen Provenance Assay exam tests** now considered "quality assurance" rather than a diagnostic test.

5. Ways and Means Oversight Panel Explores New Restriction on Prescribing Authority

On Tuesday, July 19, the House Ways and Means Oversight Subcommittee held a hearing entitled: "Efforts to Combat Waste, Fraud, and Abuse in the Medicare Program." The two witnesses were James Cosgrove, Director of Health Programs at the Government Accountability Office (GAO), and Jonathan Morse, Director of the Center for Program Integrity at the Centers for Medicare and Medicaid Services.

CENTERING ON THE STATES

1. Missouri Creates Prescription Drug Monitoring Program

On July 17, Missouri Gov. Eric Greitens (R) [signed](#) an executive order mandating that the Department of Health and Senior Services (DHSS) create a Prescription Drug Monitoring Program (PDMP) in the state. The program, implemented in two phases, will begin by requiring

pharmacy benefit management organizations to analyze prescription administration and dispensing data for schedule II-IV controlled substances and monitor any inappropriate activity. The second phase will require dispensers to submit controlled substance prescription and dispensation information to DHSS for review. Missouri is the final state to implement a PDMP.

2. Massachusetts Governor Pushes to Reduce State Medicaid Spending

Massachusetts Gov. Charlie Baker (R) signed the state's \$39.43 billion budget into law July 17. However, Gov. Baker is [urging lawmakers](#) to revisit his previous proposal to curb state Medicaid spending. In June, Gov. Baker introduced a [plan](#) aimed at reducing Medicaid spending by shifting 140,000 low-income MassHealth beneficiaries onto commercial insurance plans. Lawmakers initially rejected this proposal but now face a two-month deadline to either revisit the proposals or face other spending cuts.

3. New Hampshire Issues Notice of Hearing Regarding Section 1332 Waiver Application

New Hampshire issued a [draft](#) of their upcoming Section 1332 waiver application along with a notice of hearing on July 19. The waiver will institute a state-based reinsurance program under the administration of the New Hampshire Health Plan. This program is aimed at stabilizing the individual insurance market. Estimates signify that the reinsurance mechanism and waiver will decrease premiums by 7.3%. The state's public comment period will close August 18 and the final application is expected to be filed August 25.

4. Maryland Involved with Lawsuit Against Generic Drug Lobby

The Association for Accessible Medicines filed a [lawsuit](#) on July 6 to block a new Maryland [law](#) that aims to control price increases of generic drugs in the state. The law was passed in May and allows the Maryland attorney general to sue companies for "unconscionable" increases in generic drug prices. Aimed at limiting price gouging, the law also authorizes the state to collect a \$10,000 fine per violation and for a judge to require companies to reverse the price increase. Drug firms challenge that law has both vague wording and violates commerce clauses. They argue it hurts consumers by "reducing choice and limiting access to essential medicines."

EXECUTIVE BRANCH

1. CMS releases 2018 proposed Medicare Physician Fee Schedule

On July 13, CMS released the 2018 proposed [Medicare Physician Fee Schedule](#), as well as a related [press release](#) and [fact sheet](#). The AAFP issued a [media statement](#) recognizing that CMS included several AAFP-recommended administrative simplification provisions. If finalized, these provisions will significantly reduce the burden of primary care practices when participating in the Medicare program. These favorable steps include CMS proposals to:

- Overhaul and modernize evaluation and management documentation guidelines.
- Begin implementing site-neutral provisions to *new* off-campus provider-based departments.
- Delay the Appropriate Use Criteria program for advanced diagnostic imaging services until January 1, 2019.
- Lower the maximum amount of risk under the 2018 Value Modifier program from 4.0% to 1.0% for practices of fewer than 10 physicians.
- Retroactively reduce the number of 2018 Physician Quality Reporting System measures from nine to six to further align with Merit-based Incentive Payment System quality measure reporting requirements.

Despite these favorable proposals, the AAFP expressed disappointment that CMS failed again to achieve the required, minimum net expenditure reduction through identifying misvalued codes. Since these changes do not meet the misvalued code target required by law, physicians will not receive the full positive 0.5% update in 2018 called for in the *Medicare Access and CHIP Reauthorization Act* (MACRA). The proposed 2018 Medicare conversion factor is estimated to be \$35.9903, an increase of only \$0.10 (0.31%) from the 2017 conversion factor of \$35.8887.

The AAFP will continue to remind CMS to strengthen primary care to support the system-wide reforms taking place.

The AAFP created an [executive summary](#) of this proposed rule. The AAFP is currently analyzing the regulation's impact on family physicians and will provide extensive feedback to CMS before their comment deadline of September 11, 2017. The agency is expected to issue the final version of this regulation in the fall of 2017.

2. Joint letter sent to the FDA on “NNN”

In a July 10, [letter](#) to the FDA, the AAFP and others strongly supported the FDA's proposed rule establishing a tobacco product standard for N'-Nitrosornicotine (“NNN”) in finished smokeless tobacco products and urge FDA to promulgate a final rule as soon as possible.

3. Regulatory Briefs

- On July 13, CMS released a proposed [rule](#) that updates payment rates and policy changes in the Hospital Outpatient Prospective Payment System (OPPS) and the Ambulatory Surgical Center (ASC) Payment System. Among the provisions in this rule, CMS is proposing to change the payment rate for certain Medicare Part B drugs purchased by hospitals through the 340B program.
- On July 17, GAO released [Medicare: CMS Should Evaluate Providing Coverage for Disposable Medical Devices That Could Substitute for Durable Medical Equipment](#).
- On July 17, the CDC [announced](#) that it will award 20 states and the District of Columbia funds to track and prevent opioid-related overdoses.