

May 19, 2017

On the Horizon ...

* On May 22, the Family Medicine Advocacy Summit opens. Participants will urge Congress to defend coverage gains, reauthorize teaching health centers and join the primary care caucus.

* On May 23, the House Energy and Commerce, Oversight and Investigations Subcommittee will hold a hearing on the U.S. public health response to the Zika virus.

* On May 24, the House Budget Committee will hold a full committee hearing on President Trump's FY2018 budget request, widely expected to be released the day before. The revised CBO score for the American Health Care Act is also expected May 24.

U.S. CONGRESS

1. AAFP Presses Senate on Health Care Coverage

The AAFP and five other frontline physician groups continue to press Congress to protect access to health care coverage. AAFP President John Meigs, MD and leaders of the American Academy of Pediatrics, the American College of Physicians, the American Congress of Obstetricians and Gynecologists, the American Osteopathic Association and the American Psychiatric Association met with Sens. Jeff Flake (R-AZ) and Dean Heller (R-NV) on May 11. They also met with staff in the offices of Sens. Roy Blunt (R-MO), Cory Gardner (R-CO), Lisa Murkowski (R-AK), and Rob Portman (R-OH). Please use the [AAFP Speak Out tool](#) to urge your Senators to work toward real bipartisan solutions that lower the costs of health care, starting with ensuring greater access to comprehensive primary care.

2. Senate Finance Committee Approves Bipartisan Bill on Chronic Illness

On May 18, the Senate Committee on Finance approved a bipartisan bill aimed at improving Medicare policy for beneficiaries with chronic illness. The bill, entitled the *Creating High-Quality Results and Outcomes Necessary to Improve Chronic (CHRONIC) Care Act of 2017*, passed out of the committee unanimously, after the adoption of three non-controversial amendments.

The bill is the culmination of a years-long process that began in May 2015; AAFP has participated since its inception. The bipartisan Chronic Care Working Group (CCWG) received several documents from the AAFP, including an initial [response](#) to the working group's request for information (in mid-2015), and a [response](#) to the working group's options document (in early 2016). AAFP staff also met with members of the CCWG and committee staff at various points during the development of the bill. For this week's final stage of the process, the AAFP submitted a [statement for the record](#) to the committee.

The bill makes changes to Medicare payment policy in order to better target the treatment of beneficiaries with multiple chronic conditions. The bill extends the Independence at Home demonstration program, and expands the use of telehealth services in Medicare Advantage and Medicare Accountable Care Organizations (ACOs). The bill also provides for the prospective

attribution of beneficiaries to ACOs. Although it was part of the CCWG Options document, the bill does not include a provision to waive cost-sharing for beneficiaries for the new Chronic Care Management (CCM) and related services. The amendments would require the GAO to perform a study on dually eligible beneficiaries, and require CMS to create a new group to study long-term cost drivers to Medicare related to obesity, tobacco use, and other factors leading to chronic illness. The bill now awaits action before the full Senate.

3. Senate HELP Approves Caregiver, FDA User Fee Bills, Plans Drug Pricing Hearing

On May 11, the Senate Health, Education, Labor, and Pensions Committee held an executive session where members approved two bills: the *Recognize, Assist, Include, Support, and Engage (RAISE) Act* ([S. 1028](#)) and the *U.S. Food and Drug Administration User Fee Reauthorization* bill ([S. 934](#)). The AAFP [supported](#) the RAISE Act, which was approved by voice vote and would direct the HHS Secretary to establish a plan for supporting the 40 million caregivers who provide care for family members.

The FDA user fee bill, approved 21-1, would update the regulatory agreements negotiated with drug and medical device manufactures and the fees collected from manufacturers of prescription drug, generics, medical devices, and biosimilars. These user fees allow FDA to hire personnel to alleviate the agency's regulatory review backlog. S. 934 included a provision to require risk evaluation and mitigation strategies that require manufacturers to inform physicians about the addiction risks associated with abuse-deterrent opioid drugs. The opioid provision is consistent with the *Opioid Risk Transparency Act* ([S. 1049](#)) sponsored by Sens. Maggie Hassan (D-NH) and Todd Young (R-IN).

Policymakers in both the House and Senate have been working to keep the FDA User Fee Reauthorization free from controversial drug pricing provisions. The committee did approve a generic drug pricing amendment offered by Sens. Susan Collins (R-ME) and Al Franken (D-MN) to require an expedited review process for generic drug applications when there is inadequate competition. The legislation follows the Senate Aging Committee's [recommendations](#) for lowering drug prices for older, off-patent drugs. Prior to the session, Sens. Franken and Cassidy sponsored a bipartisan [letter](#) urging action to examine the nation's drug pricing crisis. In response, Chairman Lamar Alexander (R-TN) pledged that the Senate HELP Committee would plan a drug price hearing "in the near future."

4. Ways and Means Panel Looks at Medicare During First Hearing of 2017

On May 18, the House Ways and Means Subcommittee on Health held its first hearing of 2017, entitled: "Hearing on the Current Status of the Medicare Program, Payment Systems, and Extenders." The sole witness was Mark Miller, Executive Director, Medicare Payment Advisory Commission (MedPAC). The hearing was designed to give members an opportunity to explore both MedPAC's [2017 Report to the Congress](#) and a series of expiring programs.

In terms of issues that most closely impact family physicians, Chairman Pat Tiberi (R-OH) mentioned in his opening statement that he hears from providers in his district that "overbearing regulations are burdening providers and are driving out small providers in particular." Ranking Member Sander Levin (D-MI) used his opening to lament that they had held no hearings on the impact of the *American Health Care Act*, which he stated would take health coverage away from 24 million Americans and deprive the Medicare Hospital Insurance Trust Fund of \$75 billion. Reps. Ron Kind (D-WI) and Diane Black (R-TN) asked the witness which alternative payment models were succeeding, to which Mr. Miller responded that there is "not yet a tremendous amount of evidence" to conclude that APMs are an unqualified success.

Rep. Terri Sewell (D-AL) used her time to focus on the primary-care shortages in rural Alabama. Noting that "America will be short as many as 30,000 primary-care doctors by 2025," she asked Mr. Miller to expound on the March Report's statement that Medicare undervalues primary care,

creating “a salary disparity between primary care and specialty care.” Mr. Miller described how the fee-for-service system allows proceduralists to create newer and more expensive codes, and derive more income through high volumes of procedures. He added that since the expiration of the Medicare Primary Care Incentive Payment in 2015, that MedPAC has issued a recommendation that Congress add a per-beneficiary payment for primary care, which would help “rebalance the payments toward the primary-care side.”

5. AAFP Urges Congress to Increase Investment in Public Health Programs, Workforce

On May 8, the AAFP joined nearly 800 organizations on a [letter](#) urging the leadership of the House and Senate Appropriations Committees to increase the fiscal year 2018 302(b) subcommittee allocation" for the Departments of Labor, Health and Human Services, and Education and Related Agencies.

6. House FDA User Fee Bill Approved

On May 18, the House Energy and Commerce, Health Subcommittee [approved](#) its *FDA User Fee Reauthorization bill*. The subcommittee approved four amendments, including one provision sponsored by Reps. Gus Bilirakis (R-FL) and Kurt Schrader (D-OR) to allow expedited generic drug approvals. The [amendment](#) is consistent with the Franken-Collins amendment approved in the Senate HELP Committee. The full committee will meet to approve the legislation and may take up additional bipartisan drug pricing bills and a proposal to improve over-the-counter drug safety protocols.

7. AAFP Supports Smoke-Free VHA Facilities Bill

On May 11, the AAFP joined 43 medical and health organizations to support [HR 1662](#), to prohibit smoking at Veterans Health Administration facilities. The policy is consistent with the AAFP's 2016 [letter](#) supporting the U.S. Housing and Urban Development's smoke-free public housing regulation. The House Veterans Affairs, Health Subcommittee held a March 27 [hearing](#) to review this legislation.

8. Major Regulatory Reform Bill Advances Despite Worries from Public Health Groups

On May 17, the Senate Homeland Security and Government Oversight Committee approved the *Regulatory Accountability Act* ([S. 951](#)) by a vote of 9 to 5. The bill adds new requirement to the federal rulemaking process under the *Administrative Procedures Act*. The legislation has raised [concerns](#) among public health advocates who commented that the legislation represents an “attack” on agencies’ abilities to protect the public’s health and safety and to implement evidence-based rules. The AAFP will monitor this issue as it progresses. A similar bill, the *Reducing Regulatory Burdens Act* ([HR 953](#)), may be considered by the full House of Representatives next week.

CENTERING ON THE STATES

1. Bills of Interest

Following are a few bills that may be of interest:

- **Medicaid** – Gov. Asa Hutchinson (R) signed [legislation](#) to amend the Arkansas Medicaid waiver: Arkansas Works. The waiver will lower eligibility for expansion adults from 138% FPL to 100% FPL and would mandate work requirements. The state plans to submit the waiver amendment to the Centers for Medicare and Medicaid Services (CMS) by June with the new requirements going into effect as early as January 1, 2018.
- **Medical Malpractice** – Iowa medical malpractice legislation has been signed into [law](#) by Gov. Terry Branstad (R). The legislation establishes a \$250,000 cap on noneconomic damages, strengthens expert witness standards, creates a certificate of merit in all medical liability suits, and expands early communication and resolution protections. [Kentucky](#) also passed medical malpractice reform this year.
- **Reinsurance Program** – Gov. Steve Bullock (D) vetoed [legislation](#) which would have created a reinsurance program, which would have reimbursed insurers for high-cost

patients. The legislation would have let the state's Insurance Commissioner seek a Section 1332 waiver. Gov. Bullock rejected the legislation because it would have allowed the commissioner to unilaterally apply for a waiver without the Governor's oversight.

- **Tobacco 21** – This year, 19 states have introduced [legislation](#) which would raise to 21 the minimum legal sale age of tobacco products. So far, only Hawaii and California have passed such measures, which were considered in prior sessions.

2. Governors Ask for Extension of the Children's Health Insurance Program

On May 11, the National Governors Association sent a bipartisan [letter](#) asking for a quick extension of federal funding for the Children's Health Insurance Program (CHIP). The letter requests a five year extension. CHIP finances care for close to 8 million children. The last federal payment to states for the block grant will be sent September 30.

3. States Engage on *House v. Price*

On May 18, attorneys general from 15 states and the District of Columbia filed a [motion](#) to intervene in *House v. Price*, formerly known as *House v. Burwell*. The case was filed by the Republican-led House of Representatives against the federal government in an effort to cut off subsidy payments to insurers for the individual plans created by the *Affordable Care Act*. The states' motion argues that allowing the lower court's order ending the cost sharing reduction payments until Congress appropriates funding, and subjecting future payments to an unpredictable appropriations process, would lead to higher insurance costs for consumers and to more insurers abandoning the individual health insurance market. They argue that this would hurt uninsured individuals and directly burden the States.

EXECUTIVE BRANCH

1. Comprehensive Primary Care Plus (CPC+) Round 2 Region Announcement

On May 17, CMS [announced](#) a second round of solicitations for payers to partner with CMS and practices to participate in CPC+ from 2018 to 2022. Following payer applications and selections, four regions were selected for CPC+ Round 2:

- Louisiana: Statewide
- Nebraska: Statewide
- North Dakota: Statewide
- New York: Greater Buffalo Region (Erie and Niagara Counties)

Eligible practices located in these regions may apply to participate in CPC+ Round 2 from May 18, 2017 to July 13, 2017. The AAFP is excited that CMS extended the program to new regions of the country and we will be working aggressively to recruit family physicians and new practices to participate in the CPC+ program.

2. Joint letter sent on the Social Security Number Removal Initiative (SSNRI)

In a May 11 sign-on [letter](#) sent to CMS, physician organizations expressed concern over the agency's planned enactment of the Social Security Number Removal Initiative (SSNRI). The letter explained how the initiative has the potential to significantly disrupt patient care and physician payment before providing recommendations that CMS should pursue including a mechanism for providers to quickly and securely access Medicare beneficiary identification numbers to avoid disruptions in access to care.

3. Joint letter to HHS on the FDA deeming rule

A [letter](#) was sent on May 17 to Secretary Price expressing concern that the administration appears to be taking steps to reconsider the U.S. Food and Drug Administration (FDA) "deeming rule" extending the agency's regulatory jurisdiction to electronic cigarettes, cigars and other tobacco products not previously regulated. The letter also urges against delaying implementation of important provisions of the rule.

4. AAFP letter to FDA on batteries in electronic cigarettes

The AAFP sent a [letter](#) on May 17 to the FDA in response to their request for comments on battery safety concerns in electronic nicotine delivery systems. The letter cited AAFP policy on electronic cigarettes and AAFP's position paper titled, "Tobacco: Preventing and Treating Nicotine Dependence and Tobacco Use" before calling on the FDA to reduce the risk for injury by requiring changes in the design of the devices.

5. Regulatory Briefs

- On May 8, CMS released a [tool](#) to help clinicians determine if they must participate in the Merit-based Incentive Payment System. Physicians, physician assistants, nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists should participate in MIPS for the 2017 transition year if they annually bill more than \$30,000 in Medicare Part B allowed charges and provide care for more than 100 Part B-enrolled Medicare beneficiaries. CMS recently sent letters notifying clinicians of their MIPS participation status.
- On May 9, Scott Gottlieb, MD was confirmed by the Senate as Commissioner of FDA in a vote of 57 to 42.
- On May 9, Gopal Khanna was appointed the new Director of the Agency for Healthcare Research and Quality (AHRQ.)
- On May 9, the Department of Veterans Affairs [announced](#) it is adopting American Cancer Society breast cancer screening guidelines that give women a choice to begin screening at age 40. The guidelines also recommend starting yearly mammograms by age 45 and then every other year from age 55.
- On May 9, CMS [announced](#) a three-year extension for state Medicaid programs to meet the Home and Community Based Services settings requirements for settings operating before March 17, 2014.
- On May 16, the Department of Agriculture [announced](#) they will accept applications for rural telemedicine grants through July 17 for grants of up to \$500,000 each for equipment and technical assistance to provide telemedicine services in rural areas.

TAKE ACTION

1. Teaching Health Center GME Needs Your Help!

The Teaching Health Center Graduate Medical Education (THCGME) program directly addresses the shortage of primary care physicians by training residents in community-based settings. However, without Congressional action, this important program will expire on September 30, 2017. Use this [AAFP Speak Out](#) to tell your legislators to reauthorize the THCGME program and provide sustainable program funding to ensure its continued success.