

January 19, 2018

On the Horizon ...

- * On January 23, the Senate HELP Committee will hold a hearing on disaster preparedness.
- * On January 29-30, the Council on Graduate Medical Education will hold a public meeting.
- * On January 30, the FDA Opioid Policy Steering Committee will have a hearing.

TAKE ACTION

Continuing Grassroots Advocacy for Congress to Reauthorize CHIP

The [AAFP Speak Out](#) urging Congress to provide stable, long-term funding for CHIP and Teaching Health Centers is still live, even with the pending shutdown. Please join the AAFP members who have already sent 141 emails and 19 tweets to Congress. [Speak Out now!](#)

U.S. CONGRESS

1. Partial Government Shutdown Looms as Senate Considers CR/CHIP Bill

On January 18, the House voted [230-197](#) to keep the government funded through February 16. However, the Senate is not expected to pass the stop-gap “Continuing Resolution” ([HR 195](#)) resulting in the expiration of federal discretionary spending at midnight January 19. HHS has released its FY 2018 [contingency plan](#) in the event of a shutdown. HR 195 would extend CHIP funding through fiscal year 2023, but not other AAFP priorities like Teaching Health Centers and the National Health Service Corps. The AAFP issued a [statement](#) on the CR/CHIP bill calling on Congress to provide long-term funding for all priority programs.

2. Congress Discusses Medicaid and Opioid Abuse

On January 17, the Senate Homeland Security and Government Affairs Committee held a [hearing](#) to explore whether access to low or no cost medications under Medicaid, particularly for low-income individuals in the 32 Medicaid expansion states, has contributed to the nation’s opioid epidemic. While Medicaid enrollees are more likely to experience a prescription drug overdose, [research](#) does not support the contention that access to Medicaid contributes to greater prescription drug abuse.

3. HHS Officials Outline Key Priorities for Disaster Preparedness Law Reauthorization

HHS officials outlined priorities for the upcoming *Pandemic and All-Hazards Preparedness Act* ([PL 109-417](#)) reauthorization process during a January 17 Senate Health, Education, Labor, and Pensions Committee [hearing](#). Dr. Robert Kadlec, a family physician and the HHS Assistant Secretary for Preparedness and Response, shared that the office’s four [priorities](#) will include developing a “national disaster health care system”, improving the medical countermeasure dispensing process, and increasing stockpiles of essential vaccines, medicines, and supplies.

4. U.S. House of Representatives Approves Born-Alive Abortion Bill

On January 18, the House approved the *Born-Alive Abortion Survivors Act* ([HR 4712](#)), which requires any physician to provide emergency medical care for any “born-alive” infant even if it is not medically indicated or is against parents’ wishes. If enacted, HR 4712 would subject physicians to new criminal and civil penalties for noncompliance.

CENTERING ON THE STATES

1. Bills of Interest

This week, 35 state legislatures, along with DC, Guam, and the Virgin Islands, are in session.

- **Drug Cost Transparency** – Nebraska introduced [LB 862](#), legislation requiring drug manufacturers to publicly report and justify price increases of at least 16% over a 12-month span for drugs costing \$40 or less. The bill would also require manufacturers to notify the state when launching a drug that costs more than \$670.
- **Drug Importation** – Utah’s [HB 163](#) establishes a state-run prescription drug importation program to allow drugs already licensed for sale in Canada to be sold in the state (similar legislation is pending in [CO](#), [MO](#), and [VT](#)). Because it is currently illegal to import drugs into the U.S. from Canada in most cases, this legislation would require HHS approval for it to take effect.
- **Opioid Alternatives** – Vermont introduced [HB 641](#), which would require that co-payments for certain treatments for pain, such as chiropractic services, physical therapy, acupuncture, and other nonpharmacological treatments, be no higher than co-payments for primary care services as part of health insurance.

2. Kentucky Becomes First State to Receive Approval for Work Requirements

On January 12, Kentucky received HHS approval of the Kentucky HEALTH section 1115 waiver. The waiver creates premiums which, if not paid, allow for termination from the program. The waiver also implements work requirements for certain enrollees, coverage lock-outs, waiting periods for enrollment, and eliminates retroactive coverage. Additionally, Governor Matt Bevin (R) signed an [executive order](#) to terminate Kentucky’s Medicaid expansion program if a court prohibits one or more of the waiver components from being enacted. Lawsuits against the decision are expected.

3. States Continue to Consider Right-to-Try

Thirty-eight states have passed right-to-try laws and so far seven states ([HI](#), [KS](#), [MA](#), [NJ](#), [NY](#), [PA](#), and [VT](#)) are considering legislation this session. Right-to-try laws allow terminally ill patients to access experimental treatment. The U.S. Senate [passed](#) a federal right-to-try bill, and it is being considered in the House. Despite state and federal movement, Johnson & Johnson’s pharmaceutical division Janssen [announced](#) that they will not consider right-to-try requests. They state that the mechanisms do not provide for FDA input, “which we consider critical for ensuring patient safety.”

EXECUTIVE BRANCH

1. CMS Highlights "Patients Over Paperwork" Effort That Include AAFP Requests

In a January 18 newsletter, CMS discussed progress on its Patients over Paperwork initiative, which aims to reduce administrative burden and improve the customer experience while putting patients first. AAFP has called for many of these efforts in multiple comment letters and meetings with the agency.

- **Quality Measures** – CMS is adopting policies that balance the meaningfulness of quality measurement data with efforts to limit provider burden and improve the doctor-patient relationship. The AAFP has called for CMS to exclusively use the core measure sets developed by the multi-stakeholder Core Quality Measure Collaborative.
- **Quality Payment Program (QPP)** – CMS is consolidating the data submission experience under QPP so that clinicians no longer need to submit data in multiple systems under the various legacy programs, a concern raised by the AAFP.

- Merit-based Incentive Payment System (MIPS) – CMS took AAFP's recommendation to implement a mechanism for solo practitioners and small groups with 10 or fewer clinicians to form virtual groups to report under the MIPS program.
- Advancing Care Information – To allow more time for the migration, clinicians participating in MIPS may continue to use 2014 Edition Certified HER Technology (CEHRT) in 2018. Clinicians that exclusively use the 2015 Edition CEHRT will receive a bonus in their advancing care information category score. CMS added new hardship exceptions for the advancing care information performance category: for small practices, for those who work in ambulatory surgical centers, and for those whose CEHRT has become decertified.
- Appropriate Use Criteria for Advanced Diagnostic Imaging - To ensure adequate time to prepare for meeting the requirements, CMS finalized a delayed effective date of January 1, 2020 for the AUC consultation and reporting requirements for advanced diagnostic imaging services.

2. AAFP Responds to 2019 Proposed Part C and D Regulation

On January 16, the AAFP sent a [letter](#) to CMS expressing appreciation of revised regulations to improve the Medicare Advantage program (Part C) and Prescription Drug Benefit program (Part D), and implement provisions of the *Comprehensive Addiction and Recovery Act (CARA)* and the *21st Century Cures Act*. The AAFP suggested several administrative simplification policies as part of this response.

3. AAFP Comments to FDA Opioid Policy Steering Committee

On January 16, the AAFP [submitted comments](#) to the FDA on a public hearing of the Opioid Policy Steering Committee on “Prescribing Intervention—Exploring a Strategy for Implementation.”