



GOVERNMENT AFFAIRS WEEKLY

AAFP Division of Government Relations — 2021 Massachusetts Avenue, NW — Washington, DC 20036

July 29, 2011

IN THIS REPORT...

1. Hundreds of Family Physicians Contact Congress on SGR, GME
2. AAFP Expresses Disappointment to CMS on Observation Care Codes
3. Health Measures Approved by House Subcommittee
4. CMS Urged to Revise Language in Transmittal on Teaching Physician Policy
5. AAFP Joins Others on Comments Urging Changes to Electronic Prescribing
6. Regulatory Briefs
7. State Issues
8. FamMedPAC Brings Family Medicine's Message to 8 Critical Legislators

NEXT WEEK IN WASHINGTON...

- * On Monday, August 1, at 4:30 pm., HHS Secretary Kathleen Sebelius, Tina Tchen, Executive Director of the White House Council on Women and Girls and Mayra Alvarez, Director of Public Health Policy in the Office of Health Reform at the U.S. Department of Health and Human Services will host a conference call to discuss "an important Affordable Care Act announcement." To participate, call 888-968-3518; the passcode is HHS.
- * On Tuesday, August 2, the Senate Health, Education, Labor and Pensions Committee will hold a hearing titled "Health Reform and Health Insurance Premiums: Empowering States to Serve Consumers."
- * On August 2, the Department of Veterans' Rural Health Advisory Committee meets by teleconference, details in Regulatory Briefs
- * On Wednesday, August 3, CMS hosts a conference call on the transition to ICD-10, details below

1. HUNDREDS OF FAMILY PHYSICIANS CONTACT CONGRESS ON SGR, GME

Family physicians are contacting their legislators on the importance of including a permanent fix to the Medicare physician payment formula (i.e., the Sustainable Growth Rate or SGR) in the debt ceiling bill and to press for excluding primary care programs from cuts to Graduate Medical Education (GME). Right now, 372 letters have gone to legislators on the SGR and 1,070 letters on GME. Today, we will launch our "Family Medicine Matters" [grassroots campaign](#) at the National Conference for Students and Residents. The focus of the current campaign is to encourage students and residents to tell their legislators to prevent cuts to programs that help increase the family medicine workforce. The campaign highlights Section 747 Health Professions Grants, which support family medicine training, the National Health Service Corps and GME.

2. AAFP EXPRESSES DISAPPOINTMENT ON OBSERVATION CODES

In a [letter](#) sent July 25, the AAFP responded to the CMS [proposed](#) “Five-Year Review of Work Relative Value Units (RVUs) under the Physician Fee Schedule.” The AAFP supported the CMS proposal to follow the Relative Value Scale Update Committee’s (RUC) recommendations to increase the work value for Nursing Facility Discharge Day Services and supported the CMS proposal to publish the RVUs for preventive medicine services codes.

However, the AAFP expressed extreme disappointment that CMS maintained the work RVU values for observation care codes since the RUC had recommended increases to most of these codes. CMS claims that “the acuity level of the typical patient receiving outpatient observation services would generally be lower than that of the inpatient level. We [CMS] believe that if the patient’s acuity level is determined to be at the level of the inpatient, the patient should be admitted to the hospital as an inpatient.” The AAFP countered that CMS’s perception of what “should be” bears no resemblance to what “is” when it comes to patients’ inpatient or observational care status. AAFP also argued that CMS’s belief that the acuity level of the typical patient receiving outpatient observation services would generally be lower than that of the inpatient level is not based on evidence.

Physicians representing the AAFP (Walt Larimore, MD), American College of Physicians, the American Geriatrics Society, and the American College of Emergency Physicians pressed this issue further in a meeting with CMS officials on Tuesday July 19. A final regulation on this topic is expected in the next few months.

3. HOUSE SUBCOMMITTEE APPROVES HEALTH MEASURES

On Tuesday, July 26, the House Energy and Commerce Subcommittee on Health approved, by voice vote, a measure (HR 1852) to reauthorize appropriations for the Children’s Hospitals’ graduate medical residency training programs through fiscal 2016. By separate voice vote, the panel passed the *Synthetic Drug Control Act* (HR 1254) to designate certain synthetic drugs that imitate the hallucinogenic or stimulant properties of drugs like marijuana, cocaine or methamphetamines as Schedule I controlled substances. The subcommittee also approved the *Pandemic All-Hazards Preparedness Act* (HR 2405) to reauthorize public health programs designed to protect the US from pandemics and chemical, biological, radiological and nuclear threats. All three bills now will proceed to the full Committee for further debate.

4. CMS URGED TO REVISE TRANSMITTAL AFFECTING TEACHING PHYSICIAN POLICY

Presidents of the organizations that make up the Council of Academic Family Medicine (CAFM) and the AAFP sent CMS a [letter](#) on July 26 requesting CMS immediately withdraw or revise problematic language contained in a CMS [transmittal](#). With no notice, CMS changed the requirements for the primary care exception to the teaching physician rule. Historically, the rule has been that teaching physicians (preceptors) could not bill under the primary care exception for visits performed by PG1’s in their first six months, unless the teaching physician was present for the key portion of the service. A ratio of one preceptor to no more than four residents was required, with the preceptor having no other duties during that time. The new language still requires one preceptor for 4 residents, but if more than one of the four is a PG1, then an additional preceptor now would be required.

5. AAFP JOINS IN COMMENTS URGING CHANGES TO ELECTRONIC PRESCRIBING

In addition to a July 18 comment [letter](#) that the AAFP sent to CMS, the AAFP joined other national and state physician organizations in a July 25 [letter](#) responding to the CMS [proposed](#) “Changes to the Electronic Prescribing Incentive Program.” While appreciative that CMS took steps to modify these programs, the groups expressed concern that more changes are needed,

including establishing an additional electronic prescribing reporting period in 2012 and not applying penalties until 2013.

6. REGULATORY BRIEFS

- On July 25, the Medicare Payment Advisory Commission released its [2011 Data Book: Health Care Spending and the Medicare Program](#).
- On July 28, CMS announced details regarding the [loans](#) for the Consumer Operated and Oriented Plans (CO-OPs) and posted further information [online](#). CMS had proposed the CO-OP [rule](#) on July 20.
- On July 28, the CMS Office of the Actuary released its annual [report](#) on national health expenditures, which was published online in the journal Health Affairs.
- On August 2 from 2 – 4pm ET, the Department of Veterans Affairs will conduct a conference call [meeting](#) of the Veterans' Rural Health Advisory Committee. To participate, dial 1-800-767-1750 and use access code 19929#. The Committee will discuss its annual report to the Secretary and the agenda for an October 2011 meeting in Portland, Maine.
- On August 3 from 1 to 3 pm ET, CMS will conduct a conference call on the implementation strategies for physicians to transition to ICD-10. [Registration](#) is required.
- On August 16 from 1:30 – 3pm ET, CMS will hold a call on the Physician Quality Reporting System & Electronic Prescribing Incentive Program. The agency will discuss the 2010 incentive payments and feedback reports for both the PQRS and the eRx programs. Registration information will be made available soon.
- On August 18 from 1:30 to 3pm ET, CMS will conduct a free call on the Medicare and Medicaid EHR Incentive Programs. Registration for this call is required and details eventually will be posted [online](#).

7. STATE ISSUES

- **Oregon AFP Helps Students Bike to Raise PC Workforce Shortage Awareness**
Three second-year medical students are on a thousand-mile long bike trip around Oregon to help raise awareness of the health care challenges facing rural areas of the state. Matthew Sperry, Wes Fuhum and Nathan Defrees will hold community meetings with local physicians and leaders to discuss solutions to the primary care workforce shortage and the importance of health care on the economic development of rural communities. The students left Oregon Health & Science University in early July and anticipate concluding their trip on August 5. The trip is co-sponsored by the Oregon Academy of Family Physicians (OAFP), the Oregon Office of Rural Health at OHSU, the Oregon Rural Health Association and the Oregon Area Health Education Centers (AHEC). The coalition is working to pass a series of bills during this legislative session in Oregon, including proposals for loan forgiveness and loan repayment; creating a medical residency network; and developing a visiting doctors program. The students are [blogging](#) about the trip.
- **Rhode Island Family Physician Will Head Department of Health**
Governor Lincoln Chafee (I) nominated Michael D. Fine, MD, a family physician and past president of the Rhode Island AFP, to be director of the Rhode Island Department of Health. Dr. Fine has been working as interim health director since David R. Gifford, MD left the post in February, while continuing in his job as medical program director for the state Department of Corrections. His appointment as health director requires Senate approval. The \$150-million department is responsible for licensing and regulating medical professionals and healthcare institutions; inspection of food establishments,

beaches and nursing homes; and tracking illness, distributing vaccines and performing autopsies.

- **Liability Victory for North Carolina Family Physicians**

The North Carolina Academy of Family Physicians and the North Carolina Medical Society saw their top priority of enacting meaningful malpractice reform come to fruition in two bills. One had a broader emphasis on all types of tort reform ([House Bill 542](#)) and was signed into law. The primary medical reform in this bill allows for a jury to hear information about actual bills paid, as opposed to only charges billed (such as in an Explanation of Benefits). The second bill ([Senate Bill 33](#)) had a number of key medical provisions, but was vetoed by the Governor. On Monday, July 25, the legislature voted to override the governor's veto. The key provisions of the bill include:

- A \$500,000 cap on non-economic damages adjusted for inflation with some exceptions
- Special rules for claims arising from emergency medical conditions requiring that negligence is proven by "clear and convincing" evidence
- Bifurcation of trials with Phase 1 focusing on negligence and Phase 2 targeted at the severity of the injury for which damages should be awarded
- Strengthening expert review provisions
- Time limits on malpractice claims for minors under 10 years of age.

- **Georgia AFP Pushes Primary Care-Based Medicaid Reform**

The Georgia government currently is reviewing and considering a revamp of its Medicaid delivery system. This week, the Georgia Academy of Family Physicians, along with other physician organization colleagues, sponsored a group of senior leaders from Community Care of North Carolina (CCNC) to brief high ranking members of the Georgia State Legislature on North Carolina's Medicaid delivery model. CCNC representatives included AAFP/NCAFP members Allen Dobson, MD, CCNC's President and CEO, and Annette DuBard, MD, Director of Quality, Evaluation and Informatics.

Among the legislators attending the briefing were the chairmen of the Georgia House Committees on Appropriations and Ways and Means and the chairman of the Appropriations subcommittee with jurisdiction over Medicaid. One of the highest priorities of the Georgia AFP is to work with key stakeholders to reform the state's Medicaid program around the patient-centered medical home.

8. FamMedPAC REACHES EIGHT CONGRESSIONAL LEGISLATORS THIS WEEK

To advocate for family medicine's priorities, like improved Medicare payment for primary care physicians and protection of GME payments for primary care, Government Relations staff participated in meetings with eight targeted legislators this week.

- **Rep. Dave Camp (R-MI)**, who chairs the House Ways and Means Committee. He expressed his commitment to getting a resolution to the SGR but is not confident a permanent fix is within reach this year.
- **Rep. Wally Herger (R-CA)**, who chairs the House Ways and Means Health Subcommittee. Rep. Herger believes that the House will propose "a long-term fix to SGR and it will probably occur in the fall."
- **Rep. Mike Thompson (D-CA)**, who is a member of the House Ways and Means Subcommittee on Health. He has been a friend of primary care; he said at the meeting that he had no idea what would transpire with the debt reduction talks but doubted SGR would be a part of it.

- **Rep. Lucile Roybal-Allard (D-CA)**, who is a member of the House Appropriations Subcommittee on Labor, HHS and Education. She has vigorously supported Title VII primary care appropriations over the years.
- **Sen. Bernard Sanders (I-VT)**, who is a member of the Senate Health, Education, Labor and Pensions Committee. He spoke knowledgeably about family medicine and primary care (the shortage, maldistribution, cost-savings, “we are the only country in the world that doesn’t rely on primary care,” etc.). He strongly supports Title VII and the National Health Service Corps.
- **Sen. Ben Cardin (D-MD)**, who is a member of the Finance Committee. He predicted that the debt ceiling debate would be resolved in time, but that it would not include an SGR fix, despite his attempts to have it included.
- **Sen. Al Franken (D-MN)**, who is on the Senate Health, Education, Labor and Pensions Committee. He spoke of his commitment to improving health care efficiency through quality improvement.
- **Rep. Martin Heinrich (D-NM)**, who is running for the U.S. Senate. He particularly supports improved Medicaid payment for primary care and GME payment for primary care residencies.