AMERICAN ACADEMY OF FAMILY PHYSICIANS
STRONG MEDICINE FOR AMERICA

# WASHINGTON UPDATE

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**On the Horizon** …

* The House Budget Committee may meet to consider the *American Health Care Act* to supplant the *Affordable Care Act.*
* On March 13, the Senate will vote on the nomination of Seema Verma to be administrator of the Centers for Medicare & Medicaid Services.
* On March 15, the House Education and the Workforce Committee will hold a hearing on improving federal student aid to better meet the needs of students.
* On March 16, the House Energy and Commerce Subcommittee on Environment will hold a hearing in *Safe Drinking Water Act* infrastructure and improvement efforts.

## U.S. CONGRESS

### 1. Two House Committees Approve ACA Repeal

***Ways & Means***

Early on March 8, the House Ways and Means Committee completed a mark-up of draft recommendations to the House Budget Committee as part of the *Affordable Care Act* (ACA) "repeal and replace" process. After 16 hours of review and debate, the panel approved the Republican draft *American Health Care Act* on a party-line vote. The AAFP sent a letter expressing concerns about the legislation. In brief, the legislation does the following:

Repeals many of the ACA subsidies, taxes and mandates.

- Repeals ACA tax penalties for not having minimum essential health coverage (a.k.a. the individual mandate and the employer mandate).
- Repeals ACA taxes (e.g. excise tax on medical devices, tax on tanning services, 3.8% tax on high-income earners, tax on brand drug makers, tax on health insurers, and others).
- Repeals ACA tax credits beginning January 2020. During an interim period (2018-19), any excess tax credits will be recaptured, and the use of tax credits is expanded to some off-exchange coverage.
- Delays start date of excise tax on high-cost health plans "Cadillac tax" to January 2025.
- The Joint Committee on Taxation valued these cuts at $600 billion over ten years.

Establishes a new system of tax credits to help Americans purchase health insurance.

- The tax credit will apply to all Americans in the individual market (i.e. those who lack health coverage through employer or public programs like Medicare or Medicaid).
- The tax credit will range from $2,000 to $4,000 per year based on age. The credits can be added together, up to $14,000 per family.
- The IRS would administer the credit in the form of advance payments to eligible health plans (both on and off exchanges). Any excess payment could roll over to a health savings account (HSA).

- Those with annual income of $75,000 or less (or $150,000 for joint filers) would receive the full tax credit; the credit phases down gradually for those with higher incomes.

Expands the role of Health Savings Accounts.

- Effective January 2018, contribution limits for HSAs increase from $2,250 to $6,550 (for self-only coverage) and $4,500 to $13,100 (family coverage) to allow HSA enrollees to use HSA dollars for all out-of-pocket expenses up to the limit of a high-deductible plan.
- Adds incidental rules facilitating the establishment and use of HSAs, e.g. (1) allowing both spouses to make catch-up contributions, (2) removing requirement to get a prescription to use HSA funds to buy over the counter products (AAFP supports this provision) and (3) repealing the ACA tax increase on HSA distributions.

***Energy and Commerce***

On March 9, the House Energy and Commerce Committee approved provisions in its jurisdiction for the draft *American Health Care Act* making recommendations for the ACA replacement. The Committee held 28 hours of debate before voting 31-23 to send the recommendations to the House Budget Committee for the next step in the reconciliation process. The AAFP sent a letter expressing concerns about the bill's potential to reduce coverage and negatively impact patients. The draft bill includes the following provisions:

- Eliminates the law's individual mandate penalty
- Removes the ACA's insurance coverage penalty for employers
- Ends the individual subsidy and replaces it with an income-based tax credit
- Repeals the Public Health and Prevention Fund's mandatory funding
- Transitions Medicaid from an entitlement program with a higher (90%) ACA federal match rate to a financing model where states are reimbursed based on a limited, fixed amount per Medicaid enrollee (per capita cap)
- Repeals ACA Medicaid Disproportionate Share Hospital payment cuts
- Provides $10 billion over 5 years (2018-22) to non-expansion states in safety-net funding
- Removes the Essential Health Benefits mandate for Medicaid Alternative Benefit Plans
- Allows health plans to impose a 30% surcharge on individuals who do not have health insurance coverage for more than 63 days
- Repeals the actuarial value standards for ACA metal-level plans (platinum, gold, silver, and bronze)

During the long mark-up, the committee's Democrats threatened to bring up over 100 amendments, but ultimately debated ten. Each was defeated along party lines. Two additional amendments were discussed but withdrawn.

**2. AAFP Urges FY2018 Investment in Key HHS Agencies and Programs, Cuts Threatened**

Testimony submitted by the AAFP on March 8 to the House Appropriations Subcommittee on Labor, Health and Human Services, and Education recommended funding levels for the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Substance Abuse & Mental Health Services Administration.

Congress has not finalized FY 2017 spending, and it is unlikely to take up FY 2018 before the passage of ACA repeal in order to retain the expedited reconciliation process. Rep. Tom Cole (R-OK), who chairs the Labor-HHS-Education Appropriations Subcommittee and serves on the Budget Committee, has raised concerns about expected Trump Administration cuts to non-defense discretionary programs to pay increased defense spending and has suggested that those offsets come from the entitlement side of the ledger. At a March 9 hearing, Chairman Cole asked a panel of Inspectors General (IG) about the impact of 15-20% cuts on their departments. HHS IG Daniel R. Levinson responded that it would be an enormous challenge to do the work of HHS at that spending level.

### 3. House Education & Workforce Moves Health-Related Bills

The House Education and the Workforce Committee held a mark-up on March 8 and advanced three bills. By voice vote, they passed the *Self-Insurance Protection Act* (HR 1304) to exclude medical stop-loss insurance from the *Employee Retirement Income Security Act of 1974* definition of health insurance protecting the ability of employers to self-insure. However, the Committee broke on party lines (22-17) to pass the *Small Business Health Fairness Act* (HR 1101) to allow for association health plans and the *Preserving Employee Wellness Programs Act* (HR 1313) to exclude wellness plans from challenges under the *Americans with Disabilities Act* or *Genetic Information Nondiscrimination Act*. Committee Democrats characterized the bills as harmful to working families.

## CENTERING ON THE STATES

### 1. Budget Bills of Interest

Following are a few provisions in state budgets that may be of interest:

- **Medicaid Expansion** – North Carolina Governor Roy Cooper's (D) FY 2017-19 budget includes provisions that would expand Medicaid to 624,000 individuals. The legislation proposes to cover the state's share of expansion costs through provider contributions rather than general fund appropriations.
- **Graduate Medical Education Funding** –
    - California Governor Jerry Brown's (D) budget proposal seeks to eliminate $100 million in primary care residency funding. The California-AFP provided public comment on the measure during a subcommittee hearing and the recommendation to eliminate the funding was unanimously rejected. This is a CA-AFP priority.
    - Minnesota Governor Mark Dayton's (D) budget includes an increase in funding for the University of Minnesota's Department of Family Medicine and Community Health. This money would go to support the family medicine residency programs.
    - Ohio Governor John Kasich's (R) Department of Education budget includes funding for family medicine. Ohio-AFP is reaching out to legislators asking them to support funding at the requested level if not an increased amount. The Family Medicine Line is an OH-AFP priority.
    - Wisconsin Governor Scott Walker's (R) budget includes an additional $200,000 for the Rural Physician Residency Assistance Program. The program targets the identified rural physician shortage by granting funds to enhance residency opportunities in rural Wisconsin.
- **Prescription Drug Abuse** – The Maine legislature passed a supplemental budget which includes $4.8 million in state and federal funds for a new program offering a multifaceted treatment approach to opioid addiction combining primary medical care, counseling and medication-assisted treatment. This would provide treatment to an additional 400 individuals. Governor Paul LePage (R) has 10 days to sign or veto the legislation.

### 2. Health Reform Fact Sheets

The AAFP Center for State Policy has developed individual state fact sheets regarding health care reform. The resources include AAFP policy on health reform, state facts on family medicine, Medicaid, and the impact of health reform repeal with no replacement. To view this resource visit our policy maker website and click your state on the health landscape map.

### 3. Arkansas Seeks Medicaid Waiver Amendments

Governor Asa Hutchinson (R) announced Monday that he would be seeking broad changes to the Medicaid program: Arkansas Works. The amendments cap eligibility at 100% of the federal poverty level (FPL), establish a work requirement, replace the current Employer-Sponsored Insurance component with a new, more targeted program that focuses only on individuals who are working for small employers and earning at least 75% FPL. Additionally, Arkansas would move from a "determination state" to an "assessment state," returning control of the eligibility

process to the state. The Department of Human Services aims to have the amendments completed and open for comment by April 15.

## EXECUTIVE BRANCH

### 1. Comments Sent to CMS on 2018 Part C and Part D Policies

On March 3, the AAFP sent CMS a letter in response to the "Advance Notice of Methodological Changes for Calendar Year (CY) 2018 for Medicare Advantage (MA) Capitation Rates, Part C and Part D Payment Policies and 2018" call letter. The letter provided AAFP recommendations to improve the MA program on the annual wellness visit benefit, on our concerns with narrowing networks and inconsistent claims review processes, and called on CMS to require plans to pay at least Medicare levels, among other comments. The AAFP also reacted to proposals on quality measures, opioid dose safeguards and network adequacy determinations.

### 2. AAFP Reacts to Marketplace Regulation

On March 7, the AAFP responded to the ACA Market Stabilization proposed rule published by CMS. Among other provisions, this regulation proposes changes to the individual and small group markets, amends standards relating to special enrollment periods, guaranteed availability, and the timing of the annual open enrollment period in the individual market for the 2018 plan year. The AAFP commented on the anti-patient bent of the regulation, shortening enrollment periods, placing more financial risk on patients and physicians, inattention to challenges narrow networks create, and a chaotic approach to narrow network designation. The proposed changes seem designed to shift financial risk to patients and physicians from insurers. The AAFP urged CMS to monitor the implementation of these insurer-friendly changes to confirm that they do not undermine the patient/physician relationship and further undermine family insurance.

### 3. HRSA Advisory Committee Meets to Discuss Primary Care Training

The HRSA Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD) met on March 6-7, to work on their 14th report on the integration of behavioral health into primary care and oral health training and to develop recommendations for a 15th report related to clinical trainee and faculty well-being and resiliency support. The ACTPCMD agreed to prepare letters to the HHS Secretary and to Congress in support of the Teaching Health Center Graduate Medical Education program and the National Health Service Corps.

### 4. Regulatory Briefs

- On March 3, CMS promoted new, self-paced educational videos that are now available about the Quality Payment Program.
- On March 22, CMS will host a webinar on the Medicare Accountable Care Organization Track 1+ Model, which will begin in 2018.
- On March 9, CMS updated a website regarding the upcoming transition to the Medicare Beneficiary Identifier. This will replace Health Insurance Claim Numbers on transactions such as billing, eligibility status and claim status by April 2019.
- CMS recently reminded physicians that participants in the Medicare Electronic Health Record Incentive Program must attest by Monday, March 13, 2017.
- CMS will host the following free educational calls; registration is required:
    - SNF VBP: Understanding Your Facility's Confidential Feedback Report Call, March 15, 1:30 pm ET.
    - National Partnership to Improve Dementia Care and QAPI, March 21, 1:30 pm ET.
    - DMEPOS Adjusted Fee Methodology, March 23, 1:00 pm ET.
    - IMPACT Act: Standardized Patient Assessment, March 29, 1:30 pm ET.
    - Open Payments: Prepare to Review Reported Data, April 13, 12:30 pm ET.
    - Global Surgery: Data Reporting for Post-Operative Care, April 25, 1:30pm ET.

## TAKE ACTION

### 1. FamMedPAC Supports AAFP's Advocacy Work with Key Legislators

Please consider helping FamMedPAC work for you by making your 2017 contribution online. FamMedPAC participated in the following event this week in Washington, DC:

- Rep. Joe Courtney (D-CT), founding Co-Chair of the House Primary Care Caucus.

### 2. COMING SOON: Health Care Reform Speak Out Opportunity

Before the next Washington Update is distributed, there will be an opportunity to take action on the *American Health Care Act*. Next week, the AAFP will release a Speak Out campaign, giving AAFP members the chance to voice concerns and perspectives directly to their elected officials. As an organization, the AAFP is deeply concerned that the AHCA, as currently configured, will result in millions of currently-insured patients losing that coverage. If you would like more information on the campaign, or would like to act now, please feel free to reach out to Eric Storey, AAFP's Grassroots E-Advocacy Strategist.