

American Nephrology Nurses Association

Weekly Capitol Hill Update - Tuesday, January 17, 2017

Congressional Schedule

House

- Not in session.

Senate

- “Convenes at 3 p.m. and is expected to vote on passage of a Government Accountability Office bill (H.R. 72).” (CQ)

Legislative Updates

- *Week in Review:*
 - “Republicans are officially on the path to repeal Obamacare. Both the House and Senate approved a budget resolution instructing congressional committees to begin drafting reconciliation legislation that would repeal the 2010 health law.” (Morning Consult)
 - To read more, please visit:
<https://morningconsult.com/2017/01/13/house-approval-congress-set-begin-obamacare-repeal-process/>
 - “President-elect Donald Trump plans to put forth his own health proposals after Rep. Tom Price (R-Ga.), his pick to lead the Department of Health and Human Services, is confirmed and in office. GOP lawmakers are already working on crafting legislation, meaning Trump's plan could help or hurt that process.” (Morning Consult)
 - To read more, please visit:
<http://www.politico.com/story/2017/01/trump-obamacare-replace-repeal-233499>

- [Rep. Tom] “Price said he will divest from stock holdings in more than 40 companies to avoid any conflicts of interest if he is confirmed by the Senate.” (Morning Consult)
 - To read more, please visit: http://hosted.ap.org/dynamic/stories/U/US_TRUMP_HEALTH_SECRETARY?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT&CTIME=2017-01-12-16-22-41
 - “Trump vowed to crack down on the pharmaceutical industry, suggesting drug companies should bid for the government's business. The remarks caused pharmaceutical stocks to plunge. Congressional Republicans, who have typically not supported such proposals, indicated an openness to hear more about Trump's proposals, but they also didn't express strong support for the approach.” (Morning Consult)
 - To read more, please visit: <https://www.bloomberg.com/news/articles/2017-01-11/drug-stocks-plunge-as-trump-threatens-to-force-price-bidding>
- ***The Convoluted Process for Dismantling Obamacare.*** “In the early hours of Jan. 12, the Senate took the first step in the convoluted process of dismantling and replacing the 2010 health care law. To overcome the potential filibuster power of Senate Democrats, GOP lawmakers are relying on budget reconciliation, the same procedural mechanism their counterparts across the aisle used seven years ago to implement parts of the health care overhaul. The budget reconciliation process is filled with procedural complications – and in this case, political uncertainty – as GOP leaders and President-elect Donald Trump have signaled various ideas about the timing of changes.”
 - To read more, please visit: http://www.rollcall.com/news/convoluted-process-dismantling-obamacare?utm_name=newsletters&utm_source=rollcallheadlines&utm_medium=email
- ***Schumer Puts GOP on Notice over Obamacare Repeal.*** “Senate Democratic Leader Chuck Schumer (D-N.Y.) has made it crystal clear: If Republicans repeal ObamaCare without immediately implementing a plan to replace it, Democrats will not help them out of a pickle down the road. Senate Democratic sources familiar with Schumer’s thinking say he will not engage in any negotiations to pass a watered-down version of the landmark healthcare reform law if Republicans unilaterally force its repeal first under special budgetary rules. “That’s not a close call. They’re doing something so extraordinary reckless. You cannot reward hostage taking,” a Democratic senator said. The Democratic senator said Republicans have refused to work with President Obama for six years to come up with fixes to improve the law because they wanted to heighten its unpopularity and score political points. Now, even if the GOP can secure a repeal through the budget reconciliation process – which requires only a majority – they’ll need support from at least eight Democrats to hit the 60 votes needed to pass replace legislation.”
 - To read more, please visit: <http://thehill.com/homenews/senate/314317-schumer-puts-gop-on-notice-over-obamacare-repeal>

Regulatory Updates

- ***CMS and UM-KECC Issue Call for Nominations for ESRD Patient-Reported Outcomes Technical Expert Panel (TEP).*** CMS and UM-KECC are seeking nominations of individuals to review potential patient-reported measure concepts and provide recommendations for measure development. The TEP will be comprised of patients and individuals with expertise in the subject matter, methodology, and performance measurement. Nomination materials are due February 10, 2017.
 - For more information, please visit: <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/MMS/TechnicalExpertPanels.html#2222>

- ***HHS Office of Medicare Hearings and Appeals (OMHA) Issues Final Rule on Medicare Appeals Process.*** The final rule revises the procedures that HHS follows at the Administrative Law Judge (ALJ) level for appeals of payment and coverage determinations for items and services furnished to Medicare beneficiaries, enrollees in Medicare Advantage (MA) and other Medicare competitive health plans, and enrollees in Medicare prescription drug plans, as well as appeals of Medicare beneficiary enrollment and entitlement determinations, and certain Medicare premium appeals. In addition, this final rule revises procedures that the Department of Health and Human Services follows at the Centers for Medicare & Medicaid Services (CMS) and the Medicare Appeals Council (Council) levels of appeal for certain matters affecting the ALJ level.
 - To view the final rule, please visit: <https://www.federalregister.gov/documents/2017/01/17/2016-32058/medicare-program-changes-to-the-medicare-claims-and-entitlement-medicare-advantage-organization>

- ***Upcoming ESRD QIP: Payment Year 2020 Final Rule Call.*** On January 17, 2017 from 1:30 to 3:00 p.m. EST, CMS experts will discuss the ESRD QIP for Payment Year 2020. The performance period for PY 2020 will begin on January 1, 2018.

Agenda:

- Legislative framework and how it fits in with CMS strategies to improve quality
 - Changes reflected in the final rule based on public comments
 - Final measures, standards, scoring methodology, and payment reduction scale
 - How the PY 2020 program compares to PY 2019
 - Where to find additional information about the program

 - Target Audience: Dialysis clinics and organizations; nephrologists; hospitals with dialysis units; billers/coders; and quality improvement experts. To register or for more information, visit [MLN Connects Event Registration](#).
- ***Medicare Payment Advisory Commission (MedPAC) January 2017 Meeting.*** On January 12-13, 2017, MedPAC met and among other topics, discussed Medicare payment updates, including for dialysis facilities. During the meeting, MedPAC voted on a package of recommendations for 2018 - votes were taken by a show of hands. MedPAC

will recommend five percent cuts for home health agencies and inpatient rehabilitation facilities and no payment updates for hospice and skilled nursing facilities. MedPAC will recommend dialysis facilities receive the statutory outlined update of 0.7 percent. Their recommendations will appear in MedPAC's March Report to Congress.

- To view the MedPAC meeting materials, please visit: <http://medpac.gov/-public-meetings-/meeting-details/january-2017-public-meeting>
- ***News from Centers for Medicare and Medicaid Services (CMS): Nearly 12 million people with Medicare have saved over \$26 billion on prescription drugs since 2010.*** "The Department of Health and Human Services released new information that shows that millions of seniors and people with disabilities with Medicare continue to save on prescription drugs and see improved benefits in 2016 as a result of the Affordable Care Act. More than 11.8 million Medicare beneficiaries have received discounts over \$26.8 billion on prescription drugs – an average of \$2,272 per beneficiary – since the enactment of the Affordable Care Act. In 2016 alone, over 4.9 million seniors and people with disabilities received discounts of over \$5.6 billion, for an average of \$1,149 per beneficiary. This is an increase in savings compared to the 2015 information released this time last year, when 5.2 million Medicare beneficiaries received discounts of \$5.4 billion, for an average of \$1,054 per beneficiary."
 - For state-by-state information on utilization of an annual wellness visit and preventive services at no cost to Medicare beneficiaries, please visit: <https://downloads.cms.gov/files/Beneficiaries%20Utilizing%20Free%20Preventive%20Services%20by%20State%20YTD%202016.pdf>
 - For state-by-state information on discounts in the donut hole, go to: <https://downloads.cms.gov/files/Part%20D%20Donut%20Hole%20Savings%20by%20State%20YTD%202016.pdf>.

Articles of Interest

- ***Price Unfit to be HHS Secretary, Doc Groups Say.*** "In addition to positions that don't serve patients' best interests, Rep. Tom Price, MD (R-Ga.), has conflicts of interest that raise concerns about his fitness to serve as Health and Human Services (HHS) secretary in a Trump administration, several physician organizations said Thursday. "There have been allegations ... of serious conflicts of interest and potential ethics violations," said Manan Trivedi, MD president of the National Physicians Alliance, a nonprofit, multi-specialty organization of roughly 10,000 physicians, on a teleconference call. "We think it's critical that our patients know we're fighting for them and only for them ... and do not have other outside sources influencing our decisions. However, Dr. Price's trading of more than 40 health industry company stocks worth more than \$300,000 during time he cosponsored over 44 pieces of legislation that involved the health industry raises serious concerns." "We join government watchdog groups like Public Citizen as well as many senators and call for an investigation by the Congressional Ethics Office. We're not certain he broke the law, but clearly enough questions have been raised to warrant an inquiry."
 - To read more, please visit: http://www.medpagetoday.com/PublicHealthPolicy/HealthPolicy/62509?xid=nl_mpt_DHE_2017-01-13&eun=g939522d0r&pos=1

- ***Trump's Surprise VA Pick Known as Turnaround Artist.*** "President-elect Donald Trump surprised many when he chose one of President Obama's appointees to run the Department of Veterans Affairs after pledging to overhaul the department during the campaign. But the nominee, current under secretary of health David Shulkin, has a long history in the private sector turning around struggling hospitals. Veterans groups called the choice a pleasant surprise, as they say Shulkin has overseen a turnaround in the Veterans Health Administration (VHA) and resisted calls for privatizing the federal system."
 - To read more, please visit: <http://thehill.com/policy/defense/314326-trumps-surprise-va-pick-known-as-turnaround-artist>

- ***Judge Approves Delay of ESRD Conditions for Coverage Interim Final Rule.*** "A Texas judge on Thursday approved a request by dialysis companies to delay a new regulation, issued by the Centers for Medicare & Medicaid Services and expected to take effect today, that would have required them to disclose to health plans when premium assistance was being offered to patients who sign up for private health insurance. Providers said if the rule was finalized as planned, insurers would use such information to refuse coverage to dialysis patients. HHS has said dialysis companies and other health care providers have steered patients away from Medicare and Medicaid health plans and into these private plans, offered through the Affordable Care Act health exchange programs, to boost profits.

U.S. District Judge Amos Mazzant granted the temporary restraining order, filed by dialysis providers Fresenius Medical Care, DaVita Inc., U.S. Renal Care, along with Dialysis Patient Citizens, saying the group did show that HHS "likely violated the procedures of the Administrative Procedures Act" in pushing the final rule through without adequate time for feedback and review. The judge also said the providers showed evidence that patients would "suffer irreparable injury if the injunction is denied." The rule, if approved, could force patients to shift to public insurance options, potentially disrupting insurance for themselves and members of their family now covered under private plans. Mazzant said HHS "will suffer no comparable harm if the Rule's implementation is delayed while the Court addresses the merits of Plaintiffs' challenges to the Rule."...The temporary restraining order can stay in place up to 14 days after its issuance, the court said."

- To read more, please visit: <http://www.nephrologynews.com/judge-approves-delay-cms-rule-governing-premium-assistance-dialysis-patients/>