

American Nephrology Nurses Association

Weekly Capitol Hill Update – Monday, November 5, 2018

Congressional Schedule

Senate

- Senate is out of session until mid-November.

House

- House is out of session until mid-November.

Legislative Update

- **Week in Review**
 - *Congressional report says insulin market benefits drugmakers and insurers, not patients.* “‘Perverse’ incentives in the insulin supply chain lead to artificially high prices, as well as limited competition in the markets, according to a bipartisan report released Thursday by two lawmakers. The report from Reps. Diana DeGette (D-Colo.) and Tom Reed (R-N.Y.), co-chairs of the Congressional Diabetes Caucus, took more than a year to complete and concluded that several factors drive insulin prices up, while forces that would typically drive prices down are ‘blunted.’ In their recommendations, DeGette and Reed said any legislative response to the rising prices of insulin should focus on generating more competition and creating price transparency.”
 - Read more: <https://thehill.com/policy/healthcare/414243-congressional-report-says-insulin-market-benefits-drugmakers-and-insurers>
- **Week Ahead**
 - Congress is out of session until mid-November.
 - *Voters don't like 'Big Pharma.' But they could soon elect a Senate that includes two pharma lobbyists and a CEO.* “In the past year alone, President Trump has bellyached about drug makers charging ‘rip-off’ prices, numerous Democrats have accused the pharmaceutical industry of pure greed, and polls have shown that voters believe lowering the cost of prescription medicines should be among government’s top priorities. But if Republicans prevail in just two nailbiter races

on Tuesday, the Senate's ranks would suddenly include two former drug industry lobbyists and even a pharma CEO."

- Read more: <https://www.statnews.com/2018/11/02/voters-dont-like-big-pharma-but-they-could-soon-elect-a-senate-that-includes-two-pharma-lobbyists-and-a-ceo/>
- *The election's impact on health care: Some bellwether races to watch.* "Voters this year have told pollsters in no uncertain terms that health care is important to them. In particular, maintaining insurance protections for preexisting conditions is the top issue to many. But the results of the midterm elections are likely to have a major impact on a broad array of other health issues that touch every single American. And how those issues are addressed will depend in large part on which party controls the U.S. House and Senate, governors' mansions and state legislatures around the country. All politics is local, and no single race is likely to determine national or even state action. But some key contests can provide something of a barometer of what's likely to happen – or not happen – over the next two years."
 - Read more: <https://khn.org/news/the-elections-impact-on-health-care-some-bellwether-races-to-watch/>

Regulatory and Administration Update

- *CMS finalizes policies to modernize and drive innovation in Durable Medical Equipment (DME) and End-Stage Renal Disease (ESRD) programs.* "Today, the Centers for Medicare & Medicaid Services (CMS) finalized innovative changes to the Medicare payment rules for Durable Medical Equipment Prosthetics, Orthotics, and Supplies (DMEPOS) and the End-Stage Renal Disease (ESRD) programs. The policies aim to increase access to items and services for patients, drive competition and increase affordability."
 - Read more: <https://www.cms.gov/newsroom/press-releases/cms-finalizes-policies-modernize-and-drive-innovation-durable-medical-equipment-dme-and-end-stage>
- *CMS' final physician payment rule for 2019: 6 things to know.* "CMS issued its annual update to the Medicare Physician Fee Schedule Nov. 1, which overhauls Medicare billing and expands coverage of telehealth. Here are six takeaways from the final rule: 1. Physician payment rates; 2. Evaluation and management coding and payment changes; 3. Site-neutral payment policies; 4. Telehealth services; 5. Merit-based Incentive Payment System; 6. American Hospital Association weighs in."
 - Read more: <https://www.beckershospitalreview.com/finance/cms-final-physician-payment-rule-for-2019-6-things-to-know.html>
 - Final rule can be found here: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-24238.pdf>
- *Despite criticism and concerns, FDA approves new opioid 10 times more powerful than fentanyl.* "In a highly controversial move, the Food and Drug Administration approved an especially powerful opioid painkiller despite criticism that the medicine could be a

'danger' to public health. And in doing so, the agency addressed wider regulatory thinking for endorsing such a medicine amid nationwide angst about overdoses and deaths attributed to opioids. The drug is called Dsuvia, which is a tablet version of an opioid marketed for intravenous delivery, but is administered under the tongue using a specially developed, single-dose applicator. These 'unique features' make the medicine well-suited for the military and therefore was a priority for the Pentagon, a point that factored heavily into the decision, according to FDA Commissioner Scott Gottlieb."

- Read more: <https://www.statnews.com/pharmalot/2018/11/02/fda-dsuvia-fentanyl-approval/>
- ***FDA launches global crackdown on websites selling illegal opioids and drugs.*** "The Food and Drug Administration and international law enforcement announced Tuesday that they are targeting 465 websites that illegally sell opioids and potentially dangerous drugs marketed as cures for cancer. The effort is part of an annual global campaign coordinated by the international law enforcement agency Interpol to crack down on the distribution of illegal and counterfeit drugs."
 - Read more: <https://www.washingtonexaminer.com/policy/healthcare/fda-launches-global-crackdown-on-websites-selling-illicit-opioids-and-drugs>
- ***Trump administration courts investors in broad effort to combat rising health care costs.*** "The Trump administration is battling rising health costs by going after the incentives that help drive higher prices. That's the idea at the heart of the new payment model for high-priced drugs, and the driving force behind a new initiative to engage health care investors about how reimbursement policies are fueling funds for new treatment options."
 - Read more: <https://www.cnbc.com/2018/10/27/trump-administration-courts-investors-in-effort-to-curb-health-costs.html>
- ***Health secretary warns pharma: Administration will push ahead with drug pricing reforms.*** "Health and Human Services Secretary Alex Azar said Friday he would push ahead with drug pricing reforms despite pushback from the pharmaceutical industry. A proposal announced Thursday by President Trump and Azar would base payments for some drugs off of lower prices in other countries. The policy would only apply to Medicare Part B, which covers drugs administered in doctors' offices."
 - Read more: <https://thehill.com/policy/healthcare/413306-health-secretary-warns-pharma-administration-not-turning-back-on-drug>
- ***Trump administration approves Wisconsin Medicaid work requirements.*** "Wisconsin on Wednesday became the latest state to get approval from the Trump administration to impose work requirements on Medicaid beneficiaries. The approval of the state's Medicaid waiver comes as Wisconsin's Republican governor, Scott Walker, is facing a tight race for reelection against Democrat Tony Evers, who does not support work requirements. If elected, Evers could withdraw or change the waiver. Wisconsin did not expand Medicaid, and the approval marks the first time a nonexpansion state has been given permission to impose work requirements."
 - Read more: <https://thehill.com/policy/healthcare/medicaid/414136-trump-administration-approves-wisconsin-medicaid-work-requirements>

- ***FDA clears the first consumer genetic test for how well your medications may work – with caveats.*** “The Food and Drug Administration on Wednesday cleared the first DNA test meant to be marketed directly to consumers to help them determine how well certain drugs may work for them. The test was developed by 23andMe and, as with other tests from the consumer genetics giant, customers will be able to simply mail in a spit sample to get results. 23andMe’s new test will provide information on 33 genetic variants that the company says are associated with how patients respond to more than 50 commonly prescribed prescription and over-the-counter drugs. The FDA’s marketing authorization came with crucial caveats. The agency cautioned that the test cannot assess whether a drug is appropriate, or gauge a patient’s ability to respond to any specific medication.”
 - Read more: <https://www.statnews.com/2018/10/31/fda-clears-23-and-me-genetics-test-drug-effectiveness/>

Articles of Interest

- ***Kaiser Permanente, Anthem Blue Cross directly undercut dialysis industry’s central claim that Prop. 8 would disrupt access to care, reports Californians for Kidney Dialysis Patient Protection.*** “Both Kaiser Permanente and Anthem Blue Cross said they do not believe Prop. 8 will impact access to dialysis treatment for the patients they cover, according to a document made public by the Los Angeles City Employee’s Retirement System, which provides retirement benefits to 41,500 employees, retirees and their beneficiaries. Campaign finance reports indicate Prop. 8 opponents – led by the two largest dialysis corporations, DaVita and Fresenius – have committed more than \$111 million to defeat the initiative. The figure makes it the most spent to oppose a ballot initiative in United States history. Despite the massive spending – the dialysis industry is outspending the ‘Yes on Prop. 8’ side by more than five to one – recent polling shows the race is still a statistical tie.”
 - Read more: <https://www.prnewswire.com/news-releases/kaiser-permanente-anthem-blue-cross-directly-undercut-dialysis-industrys-central-claim-that-prop-8-would-disrupt-access-to-care-reports-californians-for-kidney-dialysis-patient-protection-300738990.html>
- ***American Hospital Association plans to sue CMS over final site-neutral payment rule.*** “Another legal battle between the nation’s largest hospital association and the Trump administration is imminent after the Centers for Medicare and Medicaid Services (CMS) finalized a rule to institute site-neutral payments for clinic visits. CMS finalized its 2019 Outpatient Prospective Payment System (OPPS) rule on Friday morning, which will gradually institute site-neutral payments in the Medicare program over the next two years. In a press release, the agency said site-neutral payments for clinic visits will lower out-of-pocket costs for beneficiaries and save the program as much as \$380 million in 2019. Hours after the rule was released, the American Hospital Association (AHA) signaled its intent to challenge the new policy in court, arguing the administration has outstepped its boundaries.”
 - Read more: <https://www.fiercehealthcare.com/payer/american-hospital-association-plans-to-sue-cms-over-final-site-neutral-payment-rule>

- ***Physicians group urges FTC to monitor insulin pricing.*** “The American Medical Association is urging the Federal Trade Commission to take action against drug companies they say are contributing to high prices for insulin. In a letter to FTC Chairman Joseph Simons, the AMA said physicians are concerned that the rapid rise in the price of insulin for patients is unrelated to the actual costs of research, development, commercialization, or production.”

 - Read more: <https://thehill.com/policy/healthcare/413709-physicians-urge-ftc-to-monitor-anticompetitive-insulin-pricing>
- ***Federal judge permanently blocks Ohio doctor from prescribing opioids.*** “A federal judge on Friday issued an injunction permanently blocking an Ohio doctor from practicing medicine and prescribing opioids, the first time civil litigation has been used as part of efforts to combat the opioid epidemic. The injunction was part of a Justice Department initiative aimed at reducing the over-prescribing of opioids, which was announced last spring.”

 - Read more: <https://thehill.com/policy/healthcare/413385-federal-judge-permanently-blocks-ohio-doctor-from-prescribing-opioids>
- ***Trump officials sticking with reduced ObamaCare outreach budget.*** “The Trump administration will spend \$10 million on ObamaCare outreach and marketing ahead of the upcoming open enrollment period, the same amount as last year. The \$10 million for ad funding for 2019 is a 90 percent cut compared to the \$100 million that the Obama administration devoted for 2017 coverage year. The Centers for Medicare and Medicaid Services said it will use ‘similar marketing tactics from last year’ to best target consumers with much less money than Obama allocated.”

 - Read more: <https://thehill.com/policy/healthcare/413391-trump-administration-wont-make-further-cuts-to-obamacare-marketing>
- ***Judge urges insurers to withdraw request to block administration's expansion of non-ObamaCare plans.*** “A federal judge appeared largely unsympathetic to arguments made by insurers Friday that the Trump administration’s expansion of non-ObamaCare plans would hurt their businesses and consumers. Judge Richard Leon, of the United States District Court for the District of Columbia, urged the insurers to withdraw their request for a preliminary injunction and gave indications that he agreed with the administration that the expansion of short-term health plans would provide alternatives to healthy, young consumers who have been priced out of ObamaCare’s insurance markets.”

 - Read more: <https://thehill.com/policy/healthcare/413425-federal-judge-urges-health-insurers-to-withdraw-injunction-request-against>
- ***Food stamps for soda: Time to end billion-dollar subsidy for sugary drinks?*** “According to a 2016 report from the U.S. Department of Agriculture, sweetened beverages, including soda, are among the most commonly purchased items by recipients of the Supplemental Nutrition Assistance Program — or SNAP. SNAP households spend about 10 percent of food dollars on sugary drinks, which is about three times more than the amount they spend on milk. In New York City alone, as we've reported,

this translates into more than \$75 million in sugary drink purchases each year that are subsidized by U.S. taxpayers. However, since taxpayers foot the roughly \$70 billion bill for SNAP each year, critics question whether it makes sense to support the purchase of sugary drinks, which have been shown to play a significant role in weight gain and the onset of Type 2 diabetes.”

- Read more:

<https://www.npr.org/sections/thesalt/2018/10/29/659634119/food-stamps-for-soda-time-to-end-billion-dollar-subsidy-for-sugary-drinks>

- ***Pharma’s ‘come-to-Jesus moment’: The industry braces for a Pelosi speakership and Democrats’ drug pricing agenda.*** “Among the scariest planks of a Pelosi-controlled House, beyond the threat she made in the meeting: direct negotiating authority for Medicare’s prescription drug benefit, which spent \$90 billion on prescription medicines in 2015. Another: the installation of a Senate-confirmed ‘price-gouging enforcer,’ who would monitor drug companies’ financial models and fine those found to have increased prices unjustifiably. Whether the party can implement those changes, however, depends largely on who controls committees and subcommittees that will oversee pharma policy.”
 - Read more: <https://www.statnews.com/2018/10/30/what-happens-to-pharma-if-democrats-take-the-house/>
- ***Maine is graduating more nurses, but not enough to fill projected shortages.*** “Maine’s current and projected shortage of registered nurses remains real despite some success among the state’s nursing programs in recent years to boost their numbers of graduates. The state recorded 801 nursing graduates from its public and private nursing programs in 2017, up from 659 in 2015, 701 in 2013 and 563 in 2011. A 2017 analysis of Maine’s nursing employment situation by the Center for Health Affairs projected that the state would be short 3,200 nurses in 2025, based on 2015 employment numbers. Based on the 2017 enrollment numbers, projected vacancies are now down to 2,700, according to the Ohio-based consulting group.”
 - Read more: <https://bangordailynews.com/2018/10/29/health/maine-is-graduating-more-nurses-but-not-enough-to-fill-looming-shortage/>
- ***To fight high drug prices, Utah will pay for public employees to go fill prescriptions in Mexico.*** “Amid a flurry of national proposals to bring exorbitant U.S. drug prices in line with other countries’ charges, one Utah insurer has a different option for patients: Pay them to go to Mexico. PEHP, which covers 160,000 public employees and family members, is offering plane tickets to San Diego, transportation to Tijuana, and a \$500 cash payout to patients who need certain expensive drugs for multiple sclerosis, cancer and autoimmune disorders.”
 - Read more: <https://www.sltrib.com/news/2018/10/28/fight-high-drug-prices/>
- ***ObamaCare enrollment unlikely to increase in 2019.*** “Enrollment in ObamaCare plans is unlikely to increase next year as the Trump administration provides an escape hatch for people who say they have been priced out of coverage. The repeal of the penalty for not having insurance and the administration’s expansion of cheaper, slimmed-down plans

that don't meet ObamaCare's requirements could cause more people to leave the exchanges when the sign-up period starts Thursday, according to health experts. The administration will also fund fewer local groups this year that help people enroll."

- Read more: <https://thehill.com/policy/healthcare/413748-obamacare-enrollment-unlikely-to-increase-in-2019>
- ***Does your doctor need to know what you buy on Amazon?*** "Nuggets of obscure data can add up to insights, the data wranglers say. For example, 'pet ownership is correlated with better outcomes. ... Dogs more than cats,' says CEO Kurt Waltenbaugh of Carrot Health, which works with health plans to produce patient risk scores by crunching together medical and public records. An increase in a patient's online purchases might suggest social isolation or poor health, he said. But while LexisNexis and CentraForce risks scores may be mimicking the kinds of snap judgments doctors already make when they size up patients, the difference is that behavior outside the medical system may now be influencing the doctors' judgment. Patients often aren't aware their information is being traded. In addition, the information that pops up in the electronic health record may be wrong or not applicable to them, said Tom Tomlinson, a privacy expert at Michigan State University's Center for Ethics and Humanities in the Life Sciences."
 - Read more: <https://www.politico.com/story/2018/10/30/the-doctor-will-see-through-you-now-893437>
- ***Trump rollback of disability rules can make doctor's visits painstaking.*** "Medical appointments for patients with disabilities require navigating a tricky obstacle course, full of impediments that leave them feeling awkward and could result in substandard care. Despite laws that require ramps and wider doors for access, many health care providers don't have scales that can accommodate wheelchairs, or adjustable exam tables for patients who can't get up on one by themselves. Some medical systems are taking action. States are using their Medicaid programs for similar, limited efforts. California has worked with the disability community to create a survey for Medicaid providers, finding where gaps are and creating regulations requiring accessible equipment like exam tables and scales, going so far as to create a database of which providers have them. But with the Trump administration failing to move forward, what care people with disabilities receive may depend on where they live."
 - Read more: <https://khn.org/news/trump-rollback-disability-rules-ada-health-care-hurdles/>
- ***Drug pricing goes local: State lawmakers around the country are pledging to take on pharma, too.*** "Frustrated by inaction from the federal government, lawmakers at the state level have taken the issue of drug pricing into their own hands, in many cases turning pharmaceutical industry influence into a signature issue in their local campaigns. It's a new wave of state-level momentum to address high drug costs and pharmaceutical industry influence — and it mirrors the hue and cry from Democrats in Washington, who have pledged to make drug pricing a signature issue if they regain power."
 - Read more: <https://www.statnews.com/2018/11/01/drug-pricing-goes-local/>