

American Nephrology Nurses' Association

Weekly Capitol Hill Update - Tuesday, December 15, 2015

Congressional Schedule

House:

- The House reconvenes at 2:00 p.m. on Tuesday.

Senate:

- The Senate reconvenes at 10 a.m. on Tuesday. The Senate could vote on another short-term continuing resolution (CR) to buy lawmakers time to consider a final fiscal 2016 omnibus spending agreement.

Week Ahead:

The Senate has yet to finalize a \$1.1 trillion spending agreement for federal agencies for the remainder of fiscal 2016. Final text of a \$1.1 trillion omnibus spending bill is expected to be released Tuesday, and Speaker Paul Ryan wants to give lawmakers three days to review it before a vote. And with the Senate likely needing a few days to process the legislation too, it looks like another stopgap will be necessary as spending authority expires Wednesday, December 16th.

The spending bill and companion tax-break package will be the final order of business before Congress goes on a two-week Christmas break.

Legislative Updates

- **Omnibus:** It is possible the omnibus agreement could be released today. Leaders are working on negotiating both the spending bill and a separate tax extenders package, so snags with one could hold up the other.
 - The development of the spending bill is progressing with a separate tax package combining extensions for a range of expiring tax breaks, but also eyeing provisions seeking to delay health care overhaul law medical device and Cadillac taxes, in addition to the broader health insurance tax.
 - House Minority Leader Nancy Pelosi is pressing for next year's budget to include an end to the ban on government-funded research on gun violence. New details

of the bill revolve around revised agency spending levels, reset by the recent budget accord, and a final compromise on policy rides.

- The omnibus could include new restrictions on the money in the Prevention and Public Health Fund... The language floating around would limit how the HHS secretary could use the fund and require her to spend the money within 45 days. The restrictions have been floated in other draft bills in the past but haven't become law. AHRQ funding levels also will be addressed – the House had pushed to eliminate the agency entirely; the Senate wants to keep it, though maybe with less money.
- **Tax Extenders Bill:** Senate Finance Committee Chairman Orrin Hatch said he doubts text of the tax package will be released on Tuesday. He didn't lay out specifics but did say what it won't include: provisions demanded by House Minority Leader Nancy Pelosi that would index a child tax credit for inflation.
- **Senate Finance Committee Chronic Care Working Group:** The Senate Finance Committee's chronic care working group hopes to release by Friday a summary of its plan for legislation to improve the way it handles chronic disease in Medicare. Lawmakers have been working most of the year on a bill, fielding more than 500 comments and meeting with stakeholders all fall. What will come this week isn't legislative text, but is intended to generate feedback from Finance Committee members and industry. Telemedicine is one of the key topics under discussion.
- **Title VIII Nursing Workforce Reauthorization Act:** The House Energy and Commerce Health Subcommittee held a legislative hearing on December 9th to consider six health care-related bills. One of the bills considered was the Title VIII Nursing Workforce Reauthorization Act (H.R. 2713), which was introduced by Reps. Lois Capps (D-CA) and David Joyce (R-OH). The bipartisan legislation would reauthorize through 2020 the Health Resources and Services Administration's ("HRSA") nursing workforce development programs to continue nursing education and provide support for nurses experiencing workforce challenges in medically underserved areas.
- **Medicare Package Ready for House Vote:** The House is slated to vote this week on changes to federal Medicare programs, including rules related to insurer-run Advantage plans, electronic health records and purchasing equipment. The legislation would create a blanket hardship exception from so-called meaningful use requirements for 2017, under which any health care provider or hospital could request that they not lose any Medicare funding that year because they failed to meet electronic health records standards. The Department of Health and Human Services already has authority to grant waivers. The measure would build on a bill (S. 1347) addressing electronic health record requirements for ambulatory surgical centers. The Senate in August passed by unanimous consent the bill by Sen. Johnny Isakson (R-GA).
 - Many of the provisions to be added by the House amendment already passed that chamber as part of measures approved by voice vote under a suspension of the House rules. This approach, which requires the support of two-thirds of the

members voting, is used for uncontroversial changes to federal law. A successful House vote would return the package to the Senate, which potentially could clear it through unanimous consent. There's been strong bipartisan support for many of these changes.

- Other provisions to be added by the House amendment include: Medicare Advantage STARS System; Medicare Advantage enrollment data; wheelchair accessories; and payment for radiation therapy. <http://bit.ly/1NRaGL2>

Regulatory Updates

- **HHS Notice of Benefit and Payment Parameters Proposed Rule for Issuers and Health Insurance Marketplaces for 2017.** CMS is seeking comments on this proposed rule. Comments are due December 21st. Fact sheet: <http://go.cms.gov/1ji6dEM>; Proposed Rule: <http://1.usa.gov/1jYxZGP>
- **CMS Call on ESRD QIP PY 2019 Final Rule.** On Tuesday, January 19, from 2:00 p.m. - 3:30 p.m. (ET), CMS will hold a call to discuss the PY 2019 QIP Final Rule. The agenda includes:
 - ESRD QIP 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 that are applied to the PY 2019 programs
 - How the PY 2019 program compares to PY 2018
 - Where to find additional information about the program

To register, visit: <http://bit.ly/1SZib2N>

- **Medicare Payment Advisory Commission (MedPAC):** At its Thursday and Friday meetings last week, MedPAC Commissioners agreed that Congress should increase the dialysis base payment rate by the update specified in current law for Calendar Year 2017.
 - Commissioners also recommended Congress freeze market-basket updates for skilled nursing facilities (SNFs) for fiscal years 2017 and 2018. In its draft recommendation, discussed in a meeting last Thursday, MedPAC pushed for the payment rate freeze, citing a level of Medicare payments to SNFs that “remains too high.” The group's draft also recommends that the SNF prospective payment system be revised, due to differences in Medicare margins that reflect the “systematic biases of the PPS that need to be corrected.” Those biases include PPS' continued favor of therapy over complex care, and a wide variation in margins that reflects patient selection, service provision and cost control, MedPAC said.
 - MedPAC may not move forward with a controversial proposal that would reduce Part B drug payment rates for hospitals participating in the 340B Drug Pricing Program. The proposal to reduce the rates by 10% of the average sales

price of the drugs was first raised in November by the congressional advisory panel. It would generate an estimated \$300 million in savings that would be funneled to hospitals with some of the neediest patients. MedPAC panel members peppered the commission's staff with questions Thursday about the proposal's logistics. Some even wondered if MedPAC could make such a request, since the drug-discount program is overseen by the Health Resources and Services Administration and not the CMS. "The fundamental issue is that this is a public health services program, and we're a Medicare payment advisory commission," said Herb Kuhn, panel member and CEO of the Missouri Hospital Association. "I'm just worried about mission creep a little bit."

- Other MedPAC recommendations, including a freeze to hospice payments and a cut to Medicare Advantage reimbursements, have been slated to be voted on in January and presented to Congress in March. <http://1.usa.gov/1TpPrQB>
- **Institute of Medicine (IOM) Releases Progress Report on Future of Nursing 2020 Goals:** The IOM recently released a report on the progress achieved to date on the recommendations set forth by the IOM's 2010 report *The Future of Nursing: Leading Change, Advancing Health*. In the progress report released Dec. 4, the IOM committee gave specific recommendations in the areas of removing barriers to practice and care; transforming education; collaborating and leading; promoting diversity; and improving data. In conclusion, the committee said, "no single profession, working alone, can meet the complex needs of patients and communities. Nurses should continue to develop skills and competencies in leadership and innovation and collaborate with other professionals in healthcare delivery and health system redesign. To continue progress on the implementation of *The Future of Nursing* recommendations and to effect change in an evolving healthcare landscape, the nursing community, including the campaign, must build and strengthen coalitions with stakeholders both within and outside of nursing." To read more: <http://bit.ly/1P4IYLZ>
- **CMS Releases 2014 National Health Expenditures.** In 2014, per-capita health care spending grew by 4.5 percent and overall health spending grew by 5.3 percent, a study by the Office of the Actuary at the Centers for Medicare & Medicaid Services (CMS) published today as a Web First by *Health Affairs*. Those rates are below most years prior to passage of the Affordable Care Act. In addition, consumer out-of-pocket spending grew by only 1.3 percent in 2014, as compared to 2.4 percent growth in 2013, reflecting the increased number of individuals with health coverage. The report concludes that the increase in spending growth from 2013 was primarily driven by millions of new people with health insurance coverage a result of the Affordable Care Act and by rapidly rising prescription drug costs. Overall, spending on prescription drugs grew by 12.2 percent in 2014, compared to 2.4 percent growth in 2013, fueled largely by spending for new medicines, particularly for specialty drugs such as those used to treat hepatitis C. On a per-enrollee basis, overall spending increased by 3.2 percent in private health insurance and 2.4 percent for Medicare and decreased by 2.0 percent in Medicaid. "Millions of uninsured Americans gained health care coverage in 2014," said CMS Acting Administrator Andy Slavitt, "And still, the rate of growth remains below the level in

most years prior to the coverage expansion, while out-of-pocket costs grew at the fifth lowest level on record." <http://go.cms.gov/1Nrkv2e>

- **CDC Opioid Guidelines:** The CDC released draft opioid guidelines Monday that were essentially unchanged from an earlier version that was sharply criticized by patient advocates and within HHS, prompting the agency to seek broader public input during the drafting process. The agency didn't retreat from any of its proposed guidelines - despite quite a bit of pushback on both their process and supporting evidence. The draft guidelines are based on CDC's determination that 'no evidence' shows a long-term benefit of treating chronic pain with opioids. The agency asserts that 'extensive evidence' shows potential harms, including abuse and addiction, overdose and heart attacks, and that 'extensive evidence suggests benefits of alternative treatments' with less risk of harm... These are voluntary, but expect quite a few comments to pour in before the Jan. 13 deadline. While the flood will likely push back the release of final guidelines, CMS says it's committed to getting something out in 2016.

Articles of Interest

- **Racial disparities remain for home dialysis.** <http://bit.ly/1YeTwIZ>
- **Why health literacy is essential for nurses to embrace.** <http://bit.ly/1P2bU7k>

Events

- **Tuesday:** The Urban Institute hosts a discussion on what's next for healthcare reform @ 3:00 p.m. <http://urbn.is/1Tzb9BN>
- **Thursday:** The National Economics Club hosts a luncheon discussion about evidence based medicine @ 12:00 p.m. <http://bit.ly/1HhS0wA>