

American Nephrology Nurses Association

Weekly Capitol Hill Update - Tuesday, June 28, 2016

Congressional Schedule

House

- "Not in session. Next votes are expected July 5." (CQ)

Senate

- "The Senate stands adjourned until 10:00 a.m. on Tuesday, June 28, 2016. Following any Leader remarks, the Senate will resume consideration of the conference report to accompany H.R. 2577, MilCon/VA/Zika with the time until the cloture vote equally divided. At approximately 11:00am, the Senate will vote on the motion to invoke cloture on the Conference Report." https://democrats.senate.gov/2016/06/28/schedule-for-tuesday-june-28-2016/#.V3KF_Edf3cs

Legislative Updates

- **Senate Companion to the Dialysis PATIENT Demonstration Act of 2016 Introduced.** Senator Dean Heller (R-NV) introduced S. 3090 with Senator Bill Nelson (D-FL). The bill is the Senate companion to H.R. 5506, which was released last week by Representatives Earl Blumenauer (D-OR), Tony Cardenas (D-CA) and Cathy McMorris Rodgers (R-WA).
- **Zika.** "Top Senate Republicans urged Democrats not to block a Zika funding measure that faces a key vote Tuesday, cautioning that Democrats will be blamed if children are born with the birth defects caused by the dangerous mosquito-borne virus. "I think there's going to be a heavy price to pay when this virus hits our shore and women start having babies with terrible birth defects," said Sen. John Cornyn of Texas, the No. 2 Republican leader. "I wouldn't want to be in their position." Despite the blunt warnings, Democrats vowed they will block the \$1.1 billion package that was agreed to by House and Senate Republican negotiators -- and approved in the GOP-controlled House last week -- because it contains what Democrats call "poison pills" inserted in the measure. Democrats oppose a provision easing Environmental Protection Agency regulations but are especially frustrated by a measure that prevents funding for Planned Parenthood. "They restrict funding for birth control provided by Planned Parenthood. Can you believe that?" said Senate Minority Leader Harry Reid. "And the Zika problem, who does it affect? Women and especially pregnant women." Republicans argue the EPA changes are temporary and designed to make it easier to spray pesticides to kill

mosquitoes. They also say that while funds are denied to Planned Parenthood, there are no actual cuts to women's health funding. The money is redirected to community health centers and other organizations. Lawmakers have debated how to respond to the public health crisis caused by Zika for months but Republicans made clear if Democrats block the GOP compromise, it could be weeks before the chamber -- which will soon break for party conventions and summer recess -- can vote again. "After all the entreaties and demands and unanimous consent requests and really hysteria over passing a Zika funding bill, if the Democrats block it tomorrow, it would be about the most cynical gesture I've seen around here since I've been in the Senate," Cornyn said. A Reid spokeswoman sought to put blame on Republicans if the Senate leaves town before voting on a Zika funding measure. "It would be a tragic mistake if Republicans give up and skip town for a two month summer recess without forging a bipartisan agreement to protect American mothers, babies and families from the rapidly-rising threat of the Zika virus," said Kristen Orthman in a statement. Sixty votes will be needed to advance the measure, which is part of a larger spending bill for veterans' programs and military construction, when it is voted Tuesday morning."

- To read the article: <http://www.cnn.com/2016/06/27/politics/senate-zika-funding-planned-parenthood/>

- ***White House To New England Democrats: Put The Brakes On Opioid Law (To Make It Better).*** "The plan has been hatched: after pushing and pushing for an opioid-addiction treatment bill, Washington Democrats will now attempt to stall that legislation, to buy time to raise public pressure for making it better. That was the upshot of a meeting I was invited to this past Wednesday, along with a few other journalists, in the Eisenhower Executive Office Building next to the White House. The hour-long meeting occasionally felt a little like a show – but if it was, it was an awfully impressive one. A discussion among administration and congressional Democrats about the opioid abuse problem, the group around a conference table consisted of three U.S. Senators and four House members from the Capitol; plus President Barack Obama's directors of the Office of Management and Budget (OMB), Domestic Policy Council, Legislative Affairs, and National Drug Control Policy."
 - For the full article, please see the following link: <http://bit.ly/28Kr56y>
- ***Wyden Raises Alarms about Conflicts of Interest on Pain Panel.*** "Sen. Ron Wyden (D-OR) is raising concerns about potential conflicts of interest for members of the Interagency Pain Research Coordinating Committee, a federal advisory panel. Wyden points out in a letter to HHS Secretary Sylvia Mathews Burwell that an opioid manufacturer funded an endowment for one of the committee's members." (Politico)
 - The letter: <http://1.usa.gov/28YbmRH>

Regulatory Updates

- ***CMS Announces Proposed Updates to Policies and Payment Rates for ESRD PPS, QIP, Coverage and Payment for Acute Kidney Injury, DMEPOS Competitive Bidding Program and Fee Schedule.*** "On June 24, 2016, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule that would update payment policies and rates under the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) for renal

dialysis services furnished to beneficiaries on or after January 1, 2017. This rule also proposes new quality measures to improve the quality of care by dialysis facilities treating patients with end-stage renal disease... In addition, the ESRD PPS proposed rule proposes changes to the ESRD Quality Incentive Program (QIP), including for payment years (PYs) 2018, 2019, and 2020, under which payment incentives are made to dialysis facilities to improve the quality of care that they provide. Under the ESRD QIP, facilities that do not achieve a minimum Total Performance Score (TPS) with respect to quality measures receive a reduction in their payment rates under the ESRD PPS.” (CMS News)

- To see the pre-publication pdf of the rule, please see the following link:
<https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-15188.pdf>
- Comments on the rule are due August 23rd. ANNA is reviewing the rule and will be providing CMS with formal comments.
- ***CMS Proposes \$50 Million Payment Bump For Dialysis Services.*** “The CMS is proposing to increase Medicare payments for dialysis services. Under the proposed rule, dialysis facilities would receive 0.5% or \$50 million more in 2017 than they received in reimbursement this year. At the end of 2013, the last year for which a count was performed, there were 661,648 patients using dialysis services. In 2014, Medicare expenditures for outpatient dialysis services were \$11.2 billion, a 1% increase compared with 2013 spending, according to federal data. The rule is also changing the way Medicare pays for durable medical equipment, prosthetics, orthotics and other supplies. As things are now, suppliers submit bids to provide certain medical equipment and supplies to Medicare beneficiaries in certain regions. Medicare uses these bids to set the amount it pays for each item. Now the agency proposes that bidding entities be bonded by the U.S. Treasury Department for each area they want to serve. The CMS proposes that the bid surety bond be set at \$100,000. Surety bonds guarantee a supplier will meet all the obligations of its contract with Medicare, or if it doesn't, the bond will reimburse Medicare for its losses. The change was mandated by the Medicare Access and CHIP Reauthorization Act of 2015.”
 - For the full article, please see the following link:
http://www.modernhealthcare.com/article/20160624/NEWS/160629935?utm_source=modernhealthcare&utm_medium=email&utm_content=20160624-NEWS-160629935&utm_campaign=am
- ***The Comprehensive ESRD Care Model:*** “The Centers for Medicare & Medicaid Services (CMS) announced a Request for Applications (RFA) for the Comprehensive ESRD Care (CEC) Model. Applicants will have the opportunity to apply to join the Model starting in its second year, on January 1, 2017. The CEC Model is designed to identify, test, and evaluate new ways to improve care for Medicare beneficiaries with End-Stage Renal Disease (ESRD). Through the CEC Model, CMS will partner with health care providers and suppliers to test the effectiveness of a new payment and service delivery model in providing beneficiaries with person-centered, high-quality care. Dialysis providers, nephrologists, and other providers form ESRD Seamless Care Organizations (ESCOs),

which are responsible for coordinating care and improving health outcomes for aligned beneficiaries, and are eligible for shared savings when total cost of care is reduced and quality is improved. The CEC Model currently has 13 ESCOs participating in the model, including 12 ESCOs from Large Dialysis Organizations (LDOs) and 1 from a non-Large Dialysis Organization (Non-LDO). CMS is also soliciting stakeholder input on a number of other approaches to improving care for beneficiaries with chronic kidney disease and ESRD.” (CMS News)

- To see the pre-publication pdf of the rule, please see the following link:
<https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-15188.pdf>
- **CMS Releases Fiscal Year 2017 Home Health Proposed Rule.** “The Centers for Medicare & Medicaid Services (CMS) has proposed reducing Medicare home health payments by 1% in CY2017, or \$180 million. The proposed changes to the Medicare home health prospective payment system (HH PPS) follow the federal agency’s proposal to increase hospice payments by 2% or \$330 million for 2017. The proposal reflects a combination of adjustments to home health payments, including a 2.3% home health payment update or \$420 million increase and a \$420 million decrease in the rebasing adjustment to the national, standardized 60-day episode payment rate, the national per-visit payment rates and the non-routine medicare supplies conversion factor. The proposal also includes a \$160 million decrease reflecting the effects of a 0.97% decrease adjustment to the national, standardized 60-day episode payment rate for a case-mix growth impact of -0.9% and the effects of the \$20 million decrease or 0.1% decrease in the proposed increase to the fixed-dollar loss ratio used in determining outlier payments...”
 - To read the full article:
<http://homehealthcarenews.com/2016/06/breaking-cms-to-reduce-home-health-payments-by-180-million-in-2017/>
- **Another Run at the 'Young Invincibles.** “The Obama administration is still trying get more young adults to enroll in health plans, so for the 2017 season CMS and the Internal Revenue Service (IRS) will conduct specific outreach to families that paid a penalty for being uninsured or claimed an individual mandate exemption in 2015. The Labor Department also issued new guidance for employers to reach out to workers as they turn 26 and age out of their parents' health plans.” (Politico)
 - Fact sheet: <http://go.cms.gov/28Ngli3>

Articles of Interest

- **Supreme Court Strikes Down Texas Abortion Restrictions.** “The Supreme Court on Monday delivered a major win to abortion clinics in Texas in a decision that halts the state’s Republican leaders from enforcing one of the nation’s strictest abortion laws. The court’s 5-3 decision, written by Justice Stephen Breyer, blocks Texas from enforcing two of the biggest pieces of its landmark 2013 law. The case, *Whole Woman’s Health v. Hellerstedt*, marks the court’s first major decision on abortion in about two decades. It’s also one of the most anticipated decisions of 2016, a year in which Justice Antonin Scalia’s death shrunk the bench to only eight justices. The justices said in the majority opinion that the two parts of the Texas law under challenge create a ‘substantial obstacle

in the path of women' who are seeking abortions and neither provision 'offers medical benefits sufficient to justify the burdens upon access that each imposes.' The law required doctors who perform abortions to have admitting privileges at a hospital within 30 miles. It also required abortion clinics to meet the stricter standards of hospital-style 'ambulatory surgical centers.'"

- For the full article, please see the following link:

<http://thehill.com/regulation/court-battles/284974-supreme-court-strikes-down-Texas-abortion>

- ***Without Federal Funding, Counties Brace To Confront Zika On Their Own.*** "Communities across the country are preparing for the arrival of the Zika virus, but they aren't preparing equally. One county is ready to leap into action with a fleet of helicopters and planes to spray for disease-transmitting mosquitoes. Others facing a similar risk of the disease can't afford much more than educational coloring books. Some localities have signed up private contractors to wage war on disease-carrying mosquitoes. For others, the only line of defense is an overworked parks employee responsible for all kinds of maintenance – 'Chuck in the truck,' as one expert put it. As the mosquito season kicks into full swing, the story playing out across the country is one of haves and have-nots. With no aid in sight from the federal government, local officials are preparing as best they can for the possibility that Zika could soon spread within the United States. But the task has fallen to a patchwork of state and local programs that have a huge disparity in financial resources and manpower."
 - For the full article, please see the following link: <http://wapo.st/28YH9Pp>
- ***Inside A Secret Government Warehouse Prepped For Health Catastrophes.*** "When Greg Burel tells people he's in charge of some secret government warehouses, he often gets asked if they're like the one at the end of Raiders of the Lost Ark, where the Ark of the Covenant gets packed away in a crate and hidden forever. 'Well, no, not really,' says Burel, director of a program called the Strategic National Stockpile at the Centers for Disease Control and Prevention. Thousands of lives might someday depend on this stockpile, which holds all kinds of medical supplies that the officials would need in the wake of a terrorist attack with a chemical, biological or nuclear weapon. The location of these warehouses is secret. How many there are is secret. (Although a former government official recently said at a public meeting that there are six.) And exactly what's in them is secret. 'If everybody knows exactly what we have, then you know exactly what you can do to us that we can't fix,' says Burel. 'And we just don't want that to happen.' What he will reveal is how much the stockpile is worth: 'We currently value the inventory at a little over \$7 billion.'"
 - For the full article, please see the following link: <http://n.pr/28Y1ok8>.
- ***How Telemedicine Is Transforming Health Care.*** "After years of big promises, telemedicine is finally living up to its potential. Driven by faster internet connections, ubiquitous smartphones and changing insurance standards, more health providers are turning to electronic communications to do their jobs – and it's upending the delivery of health care. Doctors are linking up with patients by phone, email and webcam. They're also consulting with each other electronically – sometimes to make split-second decisions on heart attacks and strokes. Patients, meanwhile, are using new devices to

relay their blood pressure, heart rate and other vital signs to their doctors so they can manage chronic conditions at home. Telemedicine also allows for better care in places where medical expertise is hard to come by. Five to 10 times a day, Doctors Without Borders relays questions about tough cases from its physicians in Niger, South Sudan and elsewhere to its network of 280 experts around the world, and back again via the internet.”

- For the full article, please see the following link: <http://on.wsj.com/29gPJK1>
- ***Doctors, Patients Urge Legislation to Improve Hospice, Palliative Care.*** “Doctors and lawmakers Thursday touted legislation to train more providers who specialize in hospice and palliative care and improve options for patients with serious chronic illnesses. At a hearing of the Senate Special Committee on Aging, Sen. Sheldon Whitehouse (D-RI) said he is introducing a bill that would allow for more pilot programs and Medicare waivers regarding hospice care. It would also allow hospice and curative care to be provided to a patient at the same time and would provide for home services before a patient is homebound. Part of the problem with American hospice and palliative care is the cultural resistance to discussing end-of-life issues, but part of it is also Medicare's payment structure, he said.”
 - For the full article, please see the following link: http://www.modernhealthcare.com/article/20160623/NEWS/160629954?utm_source=natlnewsletter&utm_medium=email&utm_content=national&utm_campaign=WashingtonDC_20160624_0842
- ***The Difficult Ethics of Organ Donations from Living Donors.*** “Robert Osterrieder, a 52-year-old project manager, returned home to Pittsburgh from a business trip complaining about problems with his vision. Two days later, he was in the hospital on a ventilator. For the next five months, Mr. Osterrieder fought for his life. His brain swelled, and he underwent numerous medical procedures. He struggled with pneumonia and needed a feeding tube. Finally, as he lay in the hospital unconscious and with little likelihood of recovery, his family decided to remove his life support. But first, they wanted him to become an organ donor. Organ transplants are based on a longstanding rule: You can only take vital organs—a heart, for instance, or both kidneys—from someone who is dead. And removing any organ cannot be the cause of the donor’s death. Doctors told the family they expected Mr. Osterrieder’s heart to keep pumping for more than an hour after his life support was removed. By the time he died, doctors believed, his organs would no longer be viable for transplantation. That seemed to rule out donating his organs after death. His wife, Kathy, their three children, and their son-in-law decided they wanted to do something else. They proposed that Mr. Osterrieder serve as a living organ donor—even though, unlike a typical living donor, he couldn’t directly articulate the decision.”
 - For the full article, please see the following link: <http://on.wsj.com/298aL1E>

Hearings

Tuesday, June 28th

- Senate Finance Committee. *Examining the Proposed Medicare Part B Drug Demonstration.*
 - Time: 10:00 am EST

- Location: 215 Dirksen
- To view the hearing via live stream:
<http://www.finance.senate.gov/hearings/examining-the-proposed-medicare-part-b-drug-demonstration>

Wednesday, June 29th

- Senate Homeland Security. *ROUNDTABLE: Preparing for and Protecting the Nation from Zika*
 - Time: 10:00 a.m. EST
 - Location: 342 Dirksen

Events

- The Noridian DME Outreach and Education staff is hosting an Immunosuppressive Drugs web-based workshop on July 14th at 1:00 p.m. Central Time. This session includes:
 - Comprehensive Error Rate Testing (CERT)
 - Coverage Criteria
 - Coding
 - Supply Fees and Refill Documentation
 - Documentation Requirements
 - For more details on the event and to register, please see the following link: <http://bit.ly/2923aC2>