

## THIS WEEK IN WASHINGTON - JUNE 16, 2017

### SENATE GOP STILL WITHOUT AHCA LEGISLATIVE TEXT

As the countdown to the July 4 recess continues, Republicans in the Senate continue to seek consensus within their party on health care reform legislation. However, as of this writing, rank-and-file Republicans still haven't seen legislative text on their body's version of the American Health Care Act ("AHCA"). Senate leadership had a self-imposed goal of passing an Affordable Care Act ("ACA") repeal bill before adjourning for the July 4 recess, but that deadline is expected to be extended if a path forward is not reached by the end of next week. With just two weeks remaining, Senate Republicans will need to reach a near consensus on several tough issues, including how quickly to phase out Medicaid expansion and what level of cuts will be imposed on Medicaid.

### HHS OIG RELEASES CRITICAL REPORT ON EHR PAYMENTS

On June 12, the HHS Office of Inspector General ("OIG") released a [scathing report](#) on the amount of fraudulent payments potentially made under the Medicare Meaningful Use Program. According to the report, from May 2011 through June 2014, CMS paid an estimated \$729 million in Medicare electronic health record incentive payments to eligible professionals who did not comply with federal requirements. In addition, it paid \$2.3 million in inappropriate electronic health record incentive payments to eligible professionals who switched incentive programs.

CMS partially concurred with OIG's recommendations of attempting to recoup some of the \$729 million in fraudulent payments. The agency stated it has implemented targeted risk-based audits to strengthen program integrity and will continue to do so going forward. The report did not include Medicaid incentive payments or Medicare payments to hospitals.

### HOUSE VOTES ON "THIRD BUCKET" ACA REPEAL BILLS

On June 15, the House voted to pass three bills that fit into the so-called "third bucket" of the Republican ACA repeal and replace strategy. The first bill, H.R. 2372, would allow veterans to access ACA subsidies if they are not enrolled in coverage at the Department of Veterans Affairs. H.R. 2579 allows tax credits under the AHCA to be applied to COBRA plans. Another bill, H.R. 1215, sets parameters for lawsuits involving government subsidized health coverage. A separate bill on medical malpractice reform was pulled after conservatives in the House Freedom Caucus objected on the grounds that the measure infringed upon states' rights.

### BILL CALLS FOR GREATER MEDICAID TRANSPARENCY

House Democrats Reps. Diana DeGette (D-CO) and Joe Kennedy (D-MA) introduced a bill intended to improve care for patients who receive treatment through Medicaid and the Children's Health Insurance Program by providing a framework for states to submit quality measure data to HHS, which would then submit it in an annual report to Congress. The bill would give an annual incentive payment to states that have the highest quality of care and another to states that show the greatest improvements in care. A similar bill (S. 1317) was introduced in the Senate by Sen. Sherrod Brown (D-OH).

### HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Sen. Mike Crapo (R-ID) introduced a bill (S. 1361) to amend Title XVIII of the Social Security Act to allow physician assistants, nurse practitioners and clinical nurse specialists to supervise cardiac, intensive cardiac and pulmonary rehabilitation programs.

Sen. Chuck Grassley (R-IA) introduced a bill (S. 1351) to amend the public Health Service Act with respect to the designation of general surgery shortage areas.

Rep. Larry Bucshon (R-IN) introduced a bill (H.R. 2906) that would amend the Public Health Service Act with respect to the designation of general surgery shortage areas.

### NEXT WEEK IN WASHINGTON

On June 20, FDA Commissioner Scott Gottlieb will testify before the Senate Appropriations Committee on the agency's fiscal 2018 budget. The budget request calls for industry to pay double in user fees and would increase FDA discretionary funding. Senate leadership instructed appropriators this week to rely on spending limits from fiscal 2017 as they begin to write the fiscal 2018 spending bills. This indicates

Congress is laying the groundwork for a continuing resolution that extends fiscal 2017 spending levels.

Also next week, the House Energy and Commerce Health Subcommittee is expected to hold a hearing on the 340B program. The hearing comes on the heels of the subcommittee letter to the Health Resources and Services Administration expressing concern over the lack of oversight on the 340B program. The president's fiscal 2018 budget indicated HHS wants to work with Congress to craft a legislative proposal to improve program integrity within the 340B program.

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