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## **OOO-Surprise Medical Bills Update**

### **ACEP-Supported Surprise Medical Bill Introduced in House**

On Wednesday, Dr. Raul Ruiz (D-CA), Dr. Phil Roe (R-TN), Rep. Joe Morelle (D-NY), Rep. Van Taylor (R-TX), Dr. Ami Bera (D-CA), Dr. Larry Bucshon (R-IN), Rep. Donna Shalala (D-FL), and Dr. Brad Wenstrup (R-OH) introduced H.R. 3502, the "Protecting People from Surprise Medical Bills Act." The ACEP-supported bill currently has 40 bi-partisan co-sponsors and is modeled on the independent dispute resolution (IDR) process used in New York to resolve reimbursement disagreements between physicians and insurers when a policyholder receives out-of-network care, although more than a dozen states have similar IDR laws.

It's very likely the House Energy and Commerce Health Subcommittee will conduct a mark-up on surprise medical bill legislation when Congress returns after the 4th of July recess. Our best chance to influence the legislation and move it in a direction more in-line with ACEP's priorities is to keep garnering co-sponsors for H.R. 3502 in the final few days we have left.

**Yesterday, ACEP sent an Action Alert to the entire ACEP membership urging them to contact their U.S. Representative to co-sponsor H.R. 3502. If you haven't already done so or had difficulty the first time around, please [click here](#) to go to a revised Action Alert site now. If your legislator is already a co-sponsor, the link will take you to an editable thank you letter that you can send after you complete the required information. You can also link to social media sites to share your advocacy activity.**

### **HELP Committee Approves Bill with ACEP-Opposed Provision on Surprise Bills**

Also, on Wednesday, the Senate Health, Education, Labor, and Pensions (HELP) Committee advanced, by a vote of 20 to 3, the "Lower Health Care Costs Act" (S. 1395), to the full Senate. The three "no" votes came from Sens. Rand Paul (R-KY), Bernie Sanders (I-VT), and Elizabeth Warren (D-MA). Committee Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) sponsored the bill, which combines several pieces designed to address surprise medical bills, reduce prescription drug costs, improve health care transparency, and provide funding for public health initiatives. While the Committee voted to advance the legislation by a comfortable margin, multiple senators from both parties expressed concerns with significant pieces of the bill, including the method used to resolve surprise medical billing disputes and the adequacy of provisions to lower prescription drug prices.

During the mark-up Sen. Cassidy called for adding a dispute resolution process to the surprise medical billing language, emphasizing that the current benchmark payment approach gives all of the power to insurers, and will result in rates with “no appeal” for providers, particularly given high levels of insurance market concentration. Chairman Alexander agreed to continue to work with Sen. Cassidy on further refinements to the surprise billing provisions. Sens. Maggie Hassan (D-NH), Lisa Murkowski (R-AK), Mitt Romney (R-UT), and Rand Paul (R-KY) echoed Sen. Cassidy’s concerns over the impact of the provision, with Sen. Romney cautioning that the benchmark payment approach represents a one-sided “power grab” by insurers. Sen. Rand Paul (R-KY) added that setting a government payment level will be ineffective.

Chairman Alexander repeatedly stated that he hopes Senate Majority Leader McConnell (R-KY) will schedule time for the full Senate to consider the legislation in July, along with other health care cost reduction measures from the Finance and Judiciary Committees. He also agreed to continue working with Sen. Cassidy and others who support an independent dispute resolution process to resolve surprise medical billing payment disputes.

### **Senate Committee Approves ACEP-Supported Reauthorization Bills**

During the same Senate HELP Committee mark-up, lawmakers also unanimously approved two ACEP-supported bills – S. 1173, the “Emergency Medical Services for Children Reauthorization Act of 2019,” and S. 1199, the “Poison Center Network Enhancement Act of 2019” – by voice vote. Both EMSC and Poison Control Center programs would be reauthorized for an additional five years (through 2024). S. 1173 was sponsored by Sens. Bob Casey (D-PA) and Lamar Alexander (R-TN). S. 1199 was sponsored by Sens. Patty Murray (D-WA) and Richard Burr (R-NC).

### **House Committee Approves ACEP-Supported Telehealth Provisions**

On June 26, the House Ways and Means Committee unanimously approved a bill, H.R. 3417, to provide patient improvements for rural services provided by Medicare. The “Beneficiary Education Tools, Telehealth, and Extenders Reauthorization (BETTER) Act” incorporated a provision, based on the ACEP-supported “Mental Health Telemedicine Expansion Act” (H.R. 1301) that would improve treatment of mental health by providing telehealth services to individuals at home. H.R. 1301 was sponsored by Reps. Suzan DelBene (D-WA) and Tom Reed (R-NY).

### **Regs & Eggs: Regulatory Affairs Blog**

ACEP has started a new blog focused on federal regulatory affairs, [“Regs & Eggs.”](#) Every Thursday morning, while you’re eating your breakfast, ACEP’s Director of Regulatory Affairs, Jeffrey Davis, will provide weekly updates on the major federal regulations impacting emergency medicine.

This week’s post focuses on the most exciting time of the year—at least for those of us who like a side of regs for every meal— Reg Season! Each summer, the Centers for Medicare & Medicaid Services (CMS) issues proposed Medicare payment regs that have a significant impact on emergency medicine—affecting both your payment and your hospital’s payment for emergency services. We’re awaiting CMS to release the proposed regs for 2020 payments any day. So, get your reading glasses ready, and stay tuned to [Regs & Eggs](#) for more updates as Reg Season kicks into high gear!

### **ACEP Responds to FY020 Inpatient Prospective Payment System Proposed Rule**

On Monday, ACEP responded to the Fiscal Year (FY) 2020 Inpatient Prospective Payment System (IPPS) Proposed Rule. Although this rule mainly affects Medicare payments for hospitals, there are some proposals that, if finalized, would impact emergency physicians and your patients. ACEP’s comments mainly focus on quality-related issues, including measures that CMS is considering adding to Hospital Inpatient Quality Reporting (IQR) Program. We also directly respond to some requests for information around the use of electronic health records (EHRs).

ACEP's full response to the rule can be found [here](#).

### **CMS to Provide \$50M to States for Substance Use Treatment & Recovery Planning**

On Tuesday, CMS issued a funding notice to award planning grants to state Medicaid agencies to aid in treatment and recovery of substance use disorders (SUDs), including opioid use disorder (OUD). The planning grants would be available to at least 10 states and are intended to increase the capacity of Medicaid providers to deliver SUD treatment or recovery services. The funds can be used for multiple purposes, including to evaluate state capacity, recruit and train Medicaid providers, improve reimbursement for such providers, and expand the number or capacity of such providers. State proposals are due August 9, 2019.

CMS expects to provide a total of \$50 million in funding and plans to select at least 10 proposals. Following completion of the planning process, CMS expects to select up to 5 states to conduct a 36-month demonstration to expand substance use treatment capacity, as provided by Congress as part of the SUPPORT for Patients and Communities Act.

Additional information can be found [here](#).

### **ACEP Meets with the Center for Medicare & Medicaid Innovation (CMMI) to Discuss the [Emergency Triage, Treat, and Transport \(ET3\) Payment Model](#)**

On Tuesday, ACEP met with the Center for Medicare & Medicaid Innovation (CMMI) to discuss our concerns with the Emergency Triage, Treat, and Transport (ET3) payment model.

As background, in February, CMMI announced a voluntary payment model that allows Medicare to pay ambulance providers for taking beneficiaries to alternative destinations beyond the ED (such as urgent care centers and primary care clinics). It also would reimburse for treatments provided in place by a qualified health care practitioner (physician, NP, or PA) either in-person on the scene of the 911 emergency response or via telehealth.

The ET3 payment model represents a new paradigm for EMS reimbursement that recognizes that EMS personnel deliver service far beyond just transport. We strongly believe that the ET3 payment model must include appropriate patient safeguards, specifically oversight of all triage, treatment, transport, and destination decisions by involved EMS medical director physicians.

During our meeting with CMMI, we outlined our concerns about the model and expressed our commitment to work with CMMI going forward to ensure that ambulance providers participating in the model have sufficient patient safety safeguards included in their protocols.



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