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House Committee Advances Surprise Medical Bill Legislation

On Wednesday, the House Energy and Commerce Committee held a mark-up to consider 26 bills already approved by several of its subcommittees, including the 10 health care-related bills the Health Subcommittee passed last week. The primary legislation of interest to ACEP was the "No Surprises Act" (H.R. 3630), which would ban balance billing for emergency services of insured patients and set a reimbursement rate as the health insurers' median in-network amount. H.R. 3630 was included in a broader bill, the "Reauthorizing and Extending America's Community Health (REACH) Act" (H.R. 2328), which reauthorized the Community Health Center Fund, National Health Service Corps, Teaching Health Center Graduate Medical Education program, Special Diabetes Program, Special Diabetes Program for Indians, Family to Family Health Information Centers, Personal Responsibility Education Program, Sexual Risk Avoidance Program, and extensions of certain expiring Medicare programs.

Eleven amendments to this bill were offered and unanimously approved by the committee, including one from Drs. Raul Ruiz (D-CA) and Larry Bucshon (R-IN) that was based on their legislation, the "Protecting People From Surprise Medical Bills Act" (H.R. 3502), which added an independent dispute resolution (IDR) process for appealing the median in-network reimbursement rate.

While this was an important step forward and a victory for ACEP and the many emergency physicians who sent messages to their Representatives encouraging them to consider IDR as an option for out-of-network bills, the compromise language included a \$1,250 threshold (based on the median in-network rate) to initiate IDR. This is extremely problematic as virtually all emergency physician services would be excluded.

ACEP continues to work with the sponsors of H.R. 3502, Drs. Ruiz and Phil Roe (R-TN), as well as the other 65 House co-sponsors to build upon this momentum heading into the August recess. We expect two other House committees, Education and Labor and Ways and Means, to develop their own versions of surprise billing legislation and it is our intent to achieve a more favorable solution from one or both of those committees before all the bills are merged for action on the House floor.

To view the mark-up, [click here](#).

It is critical that we continue to educate legislators about this issue. Please [click here](#) to see ACEP's latest action alert on surprise billing. **Even if you have already contacted your legislators about surprise billing, please continue your efforts.** The messaging has changed since our last alert to reflect recent activity.

House Approves Repeal of Cadillac Tax

On Wednesday evening in a 419-6 vote, the House of Representatives overwhelmingly voted to repeal the 40 percent excise tax on employer-based plans, better known as the "Cadillac Tax". The bill, the "Middle Class Health Benefits Tax Repeal Act of 2019" (H.R. 748), sponsored by Rep. Joe Courtney (D-CT), had nearly 370 co-sponsors. The tax had been delayed twice and is currently set to take effect in 2022 without congressional action.

ACEP Member Eric Ketcham Participates Discussion on Barriers to Substance Use Treatment
On Tuesday, Eric Ketcham, MD, MBA, FACEP, FASAM, FACHE, participated in a panel discussion sponsored by Pew Charitable Trusts focused on how to reduce barriers that impede the ability for providers to treat patients with Substance Use Disorder (SUD). Dr. Ketcham emphasized the need to remove the "X-waiver" training requirement, which stems from the Drug Addiction Treatment Act (DATA) of 2000. DATA 2000 requires physicians to undergo an 8-hour training course and receive an X-waiver in order to prescribe buprenorphine. Dr. Ketcham also discussed the importance of initiating buprenorphine in the ED, and how the X-waiver requirement creates an unnecessary barrier that impedes access to this potentially life-saving medication. Finally, he and other panelists talked about other treatment barriers to SUD, including stigma and misperception, outpatient access issues, and insurance prior-authorization, and how policy makers can best address these impediments.

Representative Paul Tonko (D-NY) also was present and kicked off the panel discussion. Representative Tonko is the sponsor of the ACEP-supported H.R. 2482, the Mainstreaming Addiction Treatment Act, which would remove the X-waiver requirement as well as address other barriers to SUD treatment.

After the panel discussion, Dr. Ketcham and the other panelists met with Admiral Brett Giroir, the Assistant Secretary for Health at the U.S. Department of Health and Human Services (HHS). Adm. Giroir's office is looking into possibly reforming the restrictive "three-day" rule for administering buprenorphine. This rule allows non-waivered providers to administer (but not prescribe) buprenorphine to patients for a three-day period. However, the rule forces providers to administer buprenorphine one-day at a time, requiring patients to come back to the ED or other settings each day to receive treatment. ACEP has long advocated for eliminating this unnecessary hurdle and allowing providers to provide the patient with three-days' worth of treatment during one session. We have previously met with Admiral Giroir and others at HHS to discuss this issue and are encouraged that the Department is considering a policy change.



Dr. Eric Ketcham (middle right) with Admiral Giroir (middle left) and the other panelists.

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.

The Centers for Medicare & Medicaid Services (CMS) recently released the 2018 results for the [Merit-based Incentive Payment System \(MIPS\)](#)—the major quality reporting program for physicians under Medicare. Check out this week's [Regs & Eggs](#) blog to learn more about MIPS and how to find out your 2018 results!

President Trump Begins Implementing Executive Order on Price Transparency

On June 24, President Trump signed an [Executive Order](#) called "Improving Price and Quality Transparency in American Healthcare to Put Patients First." The Executive Order requires federal agencies to take specific regulatory actions around price transparency, including requiring the Secretary of Treasury to [issue guidance](#) to expand the ability of patients to select high-deductible health plans that can be used alongside a health savings account (HSA). On Wednesday, the Treasury Department released this guidance, which would expand the list of preventive care benefits that could be covered by these high-deductible plans and that would be exempt from the deductible. Overall, the guidance creates additional criteria for "preventive services" and 14 conditions that fit within those criteria.



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