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### **New FDA Commissioner Nominated**

On Tuesday, the Trump Administration formally nominated Stephen Hahn, MD, FASTRO, to be the next commissioner of the U.S. Food and Drug Administration. Dr. Hahn is a radiation oncologist and the current chief medical executive of The University of Texas MD Anderson Cancer Center in Houston where he has been a professor of radiation oncology since January 2015. Dr. Hahn's nomination hearing before the Senate Health, Education, Labor & Pensions Committee will occur on Thursday, November 20.

ACEP President Bill Jaquis, MD, FACEP, is scheduled to speak with Dr. Hahn on Thursday to discuss drug shortages, the impact these medication deficiencies have had on the practice of emergency medicine, and ACEP's leadership role in working to ameliorate these shortages.

### **CMS Releases 2020 Medicare Physician Fee Schedule and Quality Payment Program Final Rule**

On November 1, the Centers for Medicare & Medicaid Services (CMS) released the Calendar Year (CY) 2020 Physician Fee Schedule (PFS) and Quality Payment Program (QPP) final rule—the major Medicare regulation impacting physician payments. ACEP had submitted [detailed comments](#) on the proposed rule after it was released in July.

There are several policies in the final rule that will have a major impact on emergency medicine, specifically a few that specifically affect payment for emergency department (ED) evaluation and management (E/M) services—the most commonly billed services for emergency physicians. In recognition of the critical [value of these services](#), CMS finalized an increase in these payments in line with the American Medical Association (AMA) Relative Value Scale Update Committee (RUC) recommendation for 2020. However, CMS also finalized a proposal to increase the office and outpatient E/M services in 2021. Medicare requires that overall changes to Medicare physician payments be budget neutral, so this adjustment to the office and outpatient E/M codes is likely to reduce reimbursement to emergency medicine. So, while emergency physician services will be more appropriately valued in 2020, payments for these same services may be significantly reduced the following year. Fortunately, CMS is leaving the door open to re-evaluating this policy in next year's rule, and ACEP will be working hard to ensure that these payment reductions do not become a reality in 2021.

For highlights of the rule, please [click here](#).

For ACEP's full summary of the rule, please [click here](#).

### **CY 2020 Hospital OPPS and ASC Payment System Final Rule**

On November 1, CMS also released the [CY 2020 Hospital Outpatient Prospective Payment System \(OPPS\) and Ambulatory Surgical Center \(ASC\) Payment System final rule](#). The rule addresses numerous issues including, but not limited to: eliminating payment differences between certain outpatient sites of service; modifying the Inpatient Only (IPO) list; refining the Hospital Outpatient Quality Reporting (OQR) Program and ASC Quality Reporting (ASCQR) modifying drug payments under the 340B program; changing supervision of outpatient therapeutic services in hospitals and critical access hospitals; modifying the ASC covered procedure list; and addressing wage index disparities.

However, of note, CMS has not yet finalized their major proposal in the proposed rule around price transparency, which would require hospitals to publicly post payer-specific negotiated rates for their services. CMS received thousands of comments on this proposal and plans to issue a separate final rule addressing this policy.

### **CMS Approves Demonstration in Washington DC to Expand Access to Behavioral Health Treatment**

On Thursday, CMS approved a [demonstration project](#) that broadens treatment services available to Medicaid beneficiaries in Washington DC that have serious mental illnesses. Last year, CMS had announced a demonstration opportunity for states to treat adults and children with serious mental illnesses. Specifically, states could apply for a Medicaid waiver to receive matching federal funds for short-term residential treatment services in an institution for mental disease (IMD). This policy provided more flexibility for states to work around the current “Medicaid IMD exclusion,” which prohibits the use of federal Medicaid funding for care provided to most patients in non-hospital inpatient mental health treatment facilities. Before this announcement, CMS had only allowed states to waive the “Medicaid IMD exclusion” for patients with substance abuse disorders (SUDs).

Although CMS had announced the demonstration opportunity last year, Washington DC is the first state/district/territory to apply and be approved to participate. ACEP has long advocated for the full repeal of the Medicaid IMD exclusion, and believes that the demonstration is a positive step in achieving this ultimate goal.



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