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Senate Committee Advances Two ACEP-Supported Bills

On Thursday, the Senate Health, Education, Labor, & Pensions (HELP) Committee approved by voice vote the ACEP-supported "Emergency Medical Services for Children Program Reauthorization Act of 2018" (S. 3482) and the "Traumatic Brain Injury Program Reauthorization Act of 2018" (S. 3657). The EMSC program provides grants to support improvements in pediatric emergency care and the TBI program offers grants to help states improve care for patients with brain injuries caused by a sudden blow or penetrating head trauma that disrupts the function of the brain.

Companion bills have been introduced in the House to reauthorize EMSC (H.R. 6748) and TBI (H.R. 6615), but neither has been considered at the committee level yet. Given how few legislative days remain in the 115th Congress, it's possible these bills may get wrapped into a larger, comprehensive year-end legislative package.

ACEP will continue to closely monitor their progress and encourage lawmakers to enact these bills before the current congressional sessions ends.

Senate Committee Continues Hearings on Patient Health Care Cost Reduction

On Wednesday, the Senate HELP Committee held the fifth hearing in a series examining ways to reduce health care costs. The hearing, "Reducing Health Care Costs: Improving Affordability Through Innovation," included the following witnesses: Lee Gross, MD, President of Docs 4 Patient Care Foundation; Cheryl DeMars, President and CEO of The Alliance; Dow Constantine, Executive of King County (WA); and Jonathan Perlin, MD, PhD, MSHA, MACP, President of Clinical Services and CMO of HCA Healthcare.

Ranking Member Sen. Patty Murray (D-WA) mentioned in her opening statement that she hopes the committee will work together on legislation in the future to reduce prescription drug costs and unexpected, out-of-network bills for patients.

To view the hearing, click [here](#).

CMS Issues Proposed Rule Aimed at Lowering Drug Prices

On November 26th, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule that would modify the Medicare Advantage Program (Part C) and the Prescription Drug Benefit program (Part D) in order to help health plans and drug plans reduce out-of-pocket costs and negotiate for lower drug prices for Medicare beneficiaries. Specifically, the rule would:

- Create exceptions to the “protected class” policy. Currently, Medicare Part D plans are required to include on their formularies all drugs in six categories or classes: (1) antidepressants; (2) antipsychotics; (3) anticonvulsants; (4) immunosuppressants for treatment of transplant rejection; (5) antiretrovirals; and (6) antineoplastics. This proposal would allow Part D plans to implement broader use of prior authorization and step therapy for protected class drugs and exclude a protected class drug from a formulary under certain circumstances.
- Allow Part D plans to implement an electronic real-time benefit tool (RTBT) capable of integrating with prescribers’ e-Prescribing and electronic health record (EHR) systems.
- Allow Part C plans to apply step therapy as a utilization management tool for Part B drugs.
- Require Part D plans to include drug pricing information and lower cost therapeutic alternatives in the Explanation of Benefits that they send members.
- Implement the new statutory requirement that prohibits pharmacy gag clauses in Part D. Part D plans can no longer prohibit or penalize a pharmacy from disclosing a lower cash price to an enrollee.

CMS is also considering for a future year, which could be as soon as 2020, a requirement that Part D plans include performance-based pharmacy price concessions in the price of the drug. Currently these concessions are not included in the “negotiated price” of the drug since they are contingent upon performance measured over a period that extends beyond the point-of-sale. Including these concessions would lower the cost of the drug for the Medicare beneficiary at the point-of-sale.

CMS Announces New Concepts for State Relief and Empowerment Waivers

On September 29th, CMS Administrator Seema Verma announced [four concepts](#) for states to use when applying for “State Relief and Empowerment Waivers” under Section 1332 of the Affordable Care Act (ACA). Section 1322 of the ACA allows states to apply for waivers (i.e. exceptions) to the ACA’s Exchange requirements. CMS can approve a waiver as long as the state plans to provide coverage that is at least as comprehensive, as affordable, and available to a comparable number of its residents as that offered through the ACA Exchanges. The announcement this week follows [guidance](#) on section 1332 waivers that CMS released to states last month. The purpose of that guidance was to give states more flexibility to offer cheaper health care insurance options to consumers, such as association health plans and short-term, limited-duration plans.

The four concepts that Administrator announced this week include:

- **Account-Based Subsidies:** Under this waiver concept, a state can direct federal subsidies into a defined-contribution, consumer-directed account that a consumer can use to pay for health care premiums and out-of-pocket expenses. The account could also include contributions from employers and the consumers themselves. The goal of this new concept is to give consumers more choices and require them to take responsibility for managing their health care spending. According to Administrator Verma, it would “help control premium growth and, as a result, limit the growth in public subsidies by establishing a clear individual health care budget up front.”

- **State-Specific Premium Assistance:** States would be able to create a new, state-administered subsidy program that meets the unique needs of its population. Under this concept, states could provide more

affordable health care options to a wider range of individuals and attract more young and healthy consumers into their market.

- **Adjusted Plan Options:** States would be able to provide financial assistance for different types of health insurance plans, including non-Qualified Health Plans, potentially increasing consumer choice and making coverage more affordable for individuals. States would also be encouraged to use this option in conjunction with the Account-based Subsidy concept so that they could contribute state subsidies to the consumer-directed accounts.
- **Risk Stabilization Strategies:** This waiver concept gives states more flexibility to implement reinsurance programs or high-risk pools in order to “address the costs of high risk individuals” and potentially reduce premiums in the market for all.

ONC Releases Draft Strategy for Reducing Provider Burden Relating to the Use of Health IT and EHRs

On September 29th, the Office of the National Coordinator (ONC) issued a [draft report](#) on the provider burden associated with the use of health information technology and electronic health records. This report, which was required by the 21st Century Cures Act, describes sources of EHR-related burden, as well as strategies and recommendations that the Department of Health and Human Services and other stakeholders can pursue to achieve certain burden reduction goals.

These goals are:

- Reducing the effort and time required to record information in EHRs for health care providers during care delivery.
- Reducing the effort and time required to meet regulatory reporting requirements for clinicians, hospitals, and health care organizations.
- Improving the functionality and intuitiveness (ease of use) of EHRs.

ONC is accepting comments on this draft report, and ACEP will be working on a response over the next few weeks.

Meetings with New Members of the 116th Congress

ACEP is mounting an aggressive push throughout the next few months to meet newly elected members of Congress. Although we supported 22 new members in their election bids, there are nearly 100 new members who will be sworn in to the 116th Congress on January 3. We will be setting up local meetings between ACEP 911 Network members and the new members to introduce them to emergency medicine and our role in the health care delivery system and to establish a local contact in the health care space. The meetings will most likely be 30 minutes or less and we will provide tips for hosting ACEP members as well as a fact sheet for the new member. If you live or work in a congressional district of a new member of congress and are interested in hosting or participating in one of these meetings, please contact [Jeanne Slade](#) or [Caitlin Demchuk](#) in the ACEP Washington DC office for more details.



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