



## **ACEP 911 Network Weekly Update July 21, 2017**

The Senate and House of Representatives will be in session next week with just four legislative days to go in the House and 15 in the Senate until the August recess.

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### **Senate Scheduled to Vote on Health Care Repeal Next Week – Maybe**

After meetings at the White House and last-ditch attempts by Republican members to resolve their differences over how to deal with the Affordable Care Act (ACA) over the past few days, Senate Majority Leader Mitch McConnell (R-KY) told his colleagues that there will be a vote on a health care reform proposal next week. The problem is, nobody seems to know what exactly they'll be considering.

Currently, there are two competing ideas within the Republican conference. Several Republican senators want to consider a simple repeal of the ACA (at least major portions of it) with a two-year delay to develop and implement a replacement plan. This would be identical to the bill Congress approved in 2015 that was vetoed by President Obama, and is projected to leave 32 million Americans without health insurance by 2026. Other senators and the White House are advocating for a vote on the revised “Better Care and Reconciliation Act” (BCRA) that Senate Republicans have been developing for the past several weeks, which is still estimated to leave 22 million fewer Americans with insurance over the next decade.

With only 52 Republican senators, McConnell can only afford to lose the support of two of his colleagues (tie vote cast by Vice President Pence) and there are currently at least four who have announced they will not even support the vote on a “motion to proceed” that would allow the full Senate to consider a repeal bill. The Republican leadership is desperately trying to convince enough of its members to support that motion, even if they have concerns with the underlying proposals. All of these discussions are further complicated by Sen. John McCain’s (R-AZ) absence as he recovers from surgery and prepares for treatment of his recently diagnosed brain cancer.

At this point, the fate of the senate's efforts to repeal, or repeal and replace, Obamacare is very uncertain. As we learn more about the schedule and Majority Leader McConnell's plans next week, be on the look-out for updates and possible Action Alerts. Much of the uncertainty around the bill's viability is a direct result of advocacy by emergency physicians like you and many others, and we may need your help again in the coming days to communicate to Congress how devastating its impacts would be.

### **House Committee Advances Fiscal Year 2018 Funding for Health Programs**

Last week, the House Appropriations Labor-HHS-Education Subcommittee approved its proposal to fund the Departments of Labor, Health and Human Services, and Education in FY 18. After working on the bill for nearly 12 hours on Wednesday, the bill was approved by the full House Appropriations Committee by a party-line vote of 28 to 22. In addition to the funding amounts for HHS programs that we reported last week, the bill also includes continuation of the ACEP-opposed ban on the use of federal dollars to conduct gun violence research.

Yesterday morning, Senate Republican appropriators came to an agreement on how much discretionary spending each of their 12 appropriations bills will have for FY 18. The Senate Labor-HHS-Education Subcommittee will have a slightly higher top-line than their House counterparts, similar to what they appropriated in FY 17.

The current plan in the House is to separate the dozen bills into four "mini-buses" (as opposed to one comprehensive "omnibus" spending bill) and vote on those bills before they adjourn for the August recess. The current fiscal year ends on Sept. 30. Depending on how successful the House and Senate are advancing these measures before the deadline, another Continuing Resolution may be required to maintain funding for federal agencies and programs.

### **House Committee Approves FY 18 Budget**

Also on Wednesday, the House Budget Committee approved its fiscal year 2018 proposal along party lines (22 to 14) after a nearly 13-hour mark-up where Republicans were able to kill all 28 amendments offered by their Democratic colleagues. These amendments included multiple attempts to end the Republican's plan to overhaul the tax code and to block construction of President Trump's border wall. This non-binding measure would implement more than \$5 trillion in cuts over a decade, including to programs such as Medicare, Medicaid and defense spending. The next step for the \$1.1 trillion budget plan is consideration by the full House of Representatives, although it currently lacks enough support for passage.

### **AK ACEP Members Participate in Health Care Roundtable with Senator Lisa Murkowski (R-AK)**

On July 5, Dr. Benjamin Shelton, President of Alaska ACEP and past-president Dr. Anne Zink were invited to participate in a roundtable with Senator Lisa Murkowski (R-AK) to discuss health care reform and stabilizing the individual markets. The group included four physicians, hospital association representatives, consultants, the Commissioner of Health and

Human Services for Alaska, and a representative from the AK budget office, among others.

The timely meeting allowed for open dialogue between participants and the Senator, who is one of the most important swing votes in the health care debate. Sen. Murkowski has stated that she is committed to preserving provisions of the ACA, such as covering those with pre-existing conditions, continued support for Medicaid expansion, coverage for dependents and no lifetime limits, and funding for Planned Parenthood.



*Sen. Murkowski hosts roundtable with health care reform stakeholders in AK.*

#### **MD ACEP Members Meet with Senator Ben Cardin (D-MD)**

On Thursday, several MD ACEP leaders and ACEP staff met with Sen. Ben Cardin (D-MD) in Washington, DC. Much of the discussion focused on health care reform efforts in the Senate and growing activity on the state level - in particular, MO, KY and VA - by health plans who look to be violating the prudent layperson standard. ACEP fought this practice with Sen. Cardin who successfully included the Prudent Layperson Standard in the patients' bill of rights in the ACA.

Sen. Cardin spoke on the Senate floor this year (Feb 9, 2017) about abusive practices by insurance companies prior to the enactment of the ACA and the need to preserve patient protections like the PLS that were included in the ACA.

<https://www.congress.gov/congressional-record/2017/2/9/senate-section/article/s1017-2?r=7>



*Drew White, MD, MBA, FACEP, President of MD ACEP; ACEP Board member Jon Mark Hirshon, MD, PhD, MPH; Sen. Ben Cardin; Hugh Francis Hill III, MD; and Laura Pimentel, MD.*

### **Regulatory Update**

On Thursday, the Centers for Medicare & Medicaid Services (CMS) released its 2018 Proposed Physician Fee Schedule, a rule that sets payment policy for Medicare Part B for the upcoming year. There were several items of note for emergency medicine in this proposed rule:

- **Potentially Misvalued Codes:** CMS asks for input on whether ED visit codes (CPT99281-99385) should be reviewed under the “misvalued code initiative”, noting that the agency has received input that the codes could be undervalued.
- **Reducing Reporting Burdens, E/M Documentation Changes:** CMS includes several proposals to limit reporting requirements, including reducing 2016 PQRS reporting requirements from 9 to 6 measures, and limiting the payment penalties physicians could be subject to under the 2018 Value Modifier to 2 percent.
  - Of significant note, CMS recognizes the guidelines for documentation of E/M services are outdated and require revision, particularly when it comes to the history and physical, and is soliciting comments to revise them. CMS also looks to further reduce reporting burden for care management services, including through stronger alignment between CMS requirements and CPT guidance for existing and potential new codes.
- **Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging:** CMS delays the start date for this new requirement by an additional year to Jan 1, 2019. Under this program, professionals ordering advanced imaging services must first consult AUC through a qualified mechanism, while professionals furnishing the services would be required to document in claims that this consultation occurred in order to receive payment.



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