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Surprise Billing Update

Last Friday, the New York Times [ran a story](#) identifying the backers of a series of high-profile television and direct mail ads on surprise medical billing that targeted members of Congress, purportedly from a secretive group called the "Doctor-Patient Unity Project." While the ads aligned with ACEP's criticism of rate-setting for out-of-network payments, ACEP was concerned about the negative approach they took in calling out specific vulnerable members of Congress – some who had already committed support for our preferred legislative vehicle, H.R. 3502, introduced by Reps. Ruiz, MD (D-CA) and Phil Roe, MD (R-TN). We had therefore already proactively run a [press release](#) earlier that week before the New York Times revealed the group's identify, to reaffirm ACEP's past and future efforts to work with Congress on behalf of all emergency physicians to find a federal solution to protect patients from out-of-network surprise billing that avoids any unintended consequences to the broader health care system.

Following the [NYT story](#), House Energy and Commerce Committee Chairman Frank Pallone (D-NJ) and Ranking Member Greg Walden (R-OR) sent letters on Monday to [KKR & Co. Inc.](#), [Blackstone Group](#), and [Welsh, Carson, Anderson & Stowe](#), (backers of Envision, Team Health, and US Acute Care Solutions, respectively) announcing they had launched an [investigation](#) into the business practices that have led to surprise bills from third-party medical providers backed by the three private equity firms. Specifically, Pallone and Walden are seeking financial information about their investments in physician staffing and emergency transportation companies, including the number of businesses they own in the sector, the terms of their investments, and the annualized returns and revenue on those investments, as well as the firms' roles in company management and negotiation with insurance companies. The committee has requested a response from each of the firms by September 30 and asked for a briefing to discuss those responses by October 7.

Additional coverage of this investigation can be found here in a [Modern Healthcare Article](#).

House Action

- In other action on surprise billing, ACEP is doing public social media thank yous next week to all of the co-sponsors of H.R. 3502. To see if your member of congress is a co-sponsor, please [click here](#). Please reach out to thank your legislator or send another request if he/she is not on the list by accessing this [link to our action site](#) where you can send an editable email. Our message continues to emphasize the need for an independent dispute resolution (IDR) like the mechanism included in H.R. 3502, and to build the co-sponsor list of the bill to point to support for IDR among members of the House.

- Two weeks ago, ACEP, the AMA, and other medical specialties [sent a letter](#) to the House Education & Labor and Ways & Means Committees outlining key principles for them to include in their respective proposals which have yet to be unveiled. Action in these two committees of jurisdiction is expected soon but has been delayed.

- ACEP also continues to emphasize the disproportionate impact that rate-setting proposals would have on smaller emergency physician groups including sending a [letter signed by 60 small EM groups](#) to the two key Committees in the House mentioned above.

Senate Action

- Negotiations continue between HELP Committee Chairman Lamar Alexander (R-TN) and Sen. Bill Cassidy (R-LA) and his bi-partisan workgroup, to fulfill Sen. Alexander's stated commitment at the HELP mark-up of legislation to address surprise bills held earlier this summer. Sen. Alexander stated at the time that he would consider adding some aspects of the IDR section of the Cassidy workgroup's bill to the HELP proposal which passed out of the committee.

New Reports

- New York Governor Andrew Cuomo on Tuesday [released a new report](#) issued by the Department of Financial Services detailing the successes of New York's first-in-the-nation out-of-network law which includes IDR. The report follows New York's experience over the past four years including data supporting ACEP's advocacy efforts on the federal level, and evidence of savings to consumers of more than \$400 million related to emergency services.

Additional Resources

- ACEP is targeting ads inside Washington, D.C. to drive Hill staffers and media to a new ACEP website, [protectemergencycare.org](#). The goal of the website is to help inform the policy conversation and clarify misinformation and biased "facts."
- ACEP also has created [outofthemiddle.org](#), a site that is more focused on a consumer audience and includes a call to action for visitors to send their members of Congress a message advocating for an IDR approach.

Senate Appropriators Include ALTO, POWER Act Funding in FY2020 Bill

On Wednesday, the Senate Appropriations Committee released its [fiscal year \(FY\) 2020 Labor, HHS, and Education \(Labor/HHS\) Appropriations bill](#). The bill had recently suffered some setbacks as Republican and Democratic legislators feuded over "poison pill" provisions in the legislation, but it now appears that these issues have been addressed, at least for the time being.

Notably, the bill includes funding for two ACEP-developed priorities – the Alternatives to Opioids in the Emergency Department (ALTO) Act and Preventing Overdoses While in Emergency Rooms (POWER) Act. Both of these bills were included in last year's comprehensive, bipartisan opioids package and were signed into law by the President. ALTO helps expand non-opioid treatment protocols in EDs throughout the country, and the POWER Act provisions will help promote a "warm hand-off" approach to better connect emergency patients who have overdosed with the long-term treatment options in their community that they need and deserve.

This is an important advocacy victory for emergency medicine, as funding has been included in both the House and Senate Labor/HHS bills. The Senate bill provides \$4 million for each provision through FY2020. The House-passed Labor/HHS bill includes \$10 million for each provision, so these differences will be resolved in committee should the Senate successfully pass their bill. In the meantime, ACEP will continue advocating to ensure these programs are fully funded at the \$10 million level in emergency medicine's continued efforts to address the opioid epidemic.

Regs & Eggs: Regulatory Affairs Blog

ACEP has a 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, provides a weekly update on major federal regulations impacting emergency medicine.

In August, the Department of Homeland Security (DHS) finalized changes to an existing regulation that allows the federal agency to consider whether an immigrant would likely at any time become a

“public charge” (i.e. rely on public assistance programs) when determining whether that individual is eligible for a green card. Specifically, DHS expanded the definition of “public charge” to include new programs, including non-emergency Medicaid, public housing, and Supplemental Nutrition and Assistance Program (SNAP, formerly food stamps). ACEP strongly opposes these changes as we believe they will deter people from enrolling in Medicaid and seeking care for fear of losing their ability to receive a green card. When people avoid getting medical care, such as treatment for communicable diseases, it not only impacts the individual, but could cause a public health crisis—potentially straining our already overworked EDs. Check out this week’s [Regs & Eggs blog](#) to learn more.

CMS Provides \$48.5 Million to States for Medicaid Substance Use Disorder Treatment and Recovery

On Wednesday, the Centers for Medicare & Medicaid Services (CMS) announced that the agency has awarded approximately \$48.5 million in planning grants to 15 states to increase the capacity of Medicaid providers to furnish substance use disorder (SUD) treatment and recovery services. CMS indicates states will use the planning grants to: assess SUD treatment needs; recruit, train and provide technical assistance to Medicaid SUD providers; improve reimbursement for Medicaid SUD providers; and expand the number or treatment capacity of Medicaid SUD providers.

The planning grants are the first step in a 54-month demonstration being conducted by CMS to expand Medicaid SUD treatment and recovery, as required by Congress as part of the SUPPORT for Patients and Communities Act. The 15 states awarded planning grants will have 18 months to conduct the planning phase of the demonstration. CMS will then select up to 5 states to implement a 36-month demonstration project.

President Trump Signs an Executive Order on Flu Vaccines

On Thursday, President Trump signed an [Executive Order](#) to modernize and ensure Americans have access to effective influenza vaccines. Through the Executive Order, the Administration will “work to promote new technologies to improve vaccine manufacturing and effectiveness,” which is intended to “reduce reliance on more time-consuming, egg-based vaccine production” and improve the speed of production, which “will enable experts to better match vaccines to actively circulating viruses, an important piece of making the vaccines more effective.” The Trump Administration will also work to increase Americans’ access to vaccines by reducing barriers to seasonal flu vaccine services. The President’s Executive Order indicates that additional research is needed to develop influenza vaccines that provide more effective and longer-lasting protection against many or all influenza viruses. President Trump is establishing a task force comprised of senior officials across the government to identify policy priorities and monitor progress in implementing these objectives.



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