American College of Emergency Physicians
ADVANCING EMERGENCY CARE
ACEP 911
Legislative Network Weekly Update

October 26, 2018

The House and Senate are in recess this week.

In this issue:

ACEP-Supported Opioid Package Becomes Law
On Wednesday, President Trump signed H.R. 6, the "SUPPORT for Patients and Communities Act," into law at a small White House ceremony that ACEP was invited to attend. As one of only a few medical societies in attendance, ACEP was represented at the ceremony by Executive Director Dean Wilkerson. The law (P.L. 115-271) includes two ED-specific provisions that ACEP was closely involved in developing—the first would authorize grants to expand the Alternatives to Opioids (ALTO) program in the nation's emergency departments, and the second would develop best practices for ED-initiated Medication Assisted Treatment (MAT) programs that provide a "warm handoff" of opioid use disorder patients from the emergency department to appropriate community resources and providers to keep them engaged in addiction treatment.

ACEP worked heavily with congressional leadership, House-Senate conferees, and the bill sponsors over the past year to ensure these provisions were included in the final package passed into law, and used the ACEP-preferred legislative language.

Enactment of this law is a significant victory for emergency medicine and the patients and families affected by the opioid crisis.

ACEP Executive Director Dean Wilkerson, HHS Secretary Alex Azar, and House Energy and Commerce Health Subcommittee Chairman Dr. Mike Burgess at the White House for the opioid bill signing ceremony

CMS and Treasury issue guidance for states applying for Section 1332 waivers
This week, the Centers for Medicare & Medicaid Services (CMS) and the Department of Treasury

released guidance relaxing a range of requirements for state waivers submitted under 1332 of the Affordable Care Act (ACA). Comments are due Dec. 23, 2018.

Initially enacted under the ACA, 1332 waivers allow states to bypass some of the ACA's rules as long as any coverage changes are at least as comprehensive and affordable to a comparable number of people. Currently, eight states are using waivers and primarily to institute reinsurance programs rather than alter the design of products sold in their markets.

The updated guidance supports the diffusion of Association Health Plans and short-term, limited-duration plans, and provides a pathway for states that have not adopted Medicaid expansion to instead provide private coverage for those below 100 percent of the federal poverty level. Notably, the guidance also allows states to submit 1332 waivers without approval from the state legislature. A state regulation or executive order will suffice, given the state statutorily authorizes enforcement of the ACA. Additionally, states would be able to use federal subsidy funding to help consumers purchase short-term health plans.

The guidance rewrites previous state innovation waiver guidance from December 2015 and changes the name of the waivers to "State Relief and Empowerment Waivers." The guidance also provides supplementary information about the requirements that must be met for the approval of a state waiver, the application review procedures, the calculation of pass-through funding, certain analytical requirements, and operational considerations.

The guidance goes into effect immediately but will not impact the 2019 plan year; CMS expects it to impact open enrollment for 2020.

HHS Request for Information (RFI) on social risk factors
HHS issued a request for information on how health care providers and health plans are working to improve care for Medicare patients with social risk factors.

HHS is interested in:

•How plans and providers serving Medicare beneficiaries identify beneficiaries with social risk factors
•Approaches plans and providers have used to address the needs of beneficiaries with social risk factors
•Evidence regarding the impact of these approaches on quality outcomes and the total cost of care
•Ways in which plans and providers disentangle beneficiaries' social and medical risks and address each

Comments are due by Nov. 16. The responses to the RFI will be used in a report required by the Improving Medicare Post-Acute Care Transformation Act of 2014 on issues related to social risk in Medicare's value-based payment programs.

Trump Administration Announces Potential Changes to Medicare Payment for Drugs
On Thursday, October 25, President Trump announced a number of proposals aimed at reducing the price of prescription drugs. During a speech at the Department of Health and Human Services, the President said that Americans are paying way too much for their prescription drugs and that the same drugs are available in other countries at much lower prices. As part of his effort to "Put America First," President Trump announced reforms that would bring drug prices in the United States down to international levels.

In conjunction with President Trump's announcement, the Centers for Medicare & Medicaid Services (CMS) released an Advance Notice of Proposed Rulemaking (ANPRM) that discusses a potential new mandatory payment model called the "International Pricing Index" (IPI) payment model. CMS is only seeking comment on the model now and is considering issuing a proposed rule in the Spring of 2019, with a possible model start date of Spring 2020.

In the ANPRM, CMS describes potential elements of the model including the following:

•Setting the Medicare payment amount for selected Medicare Part B drugs at levels that more closely align with international prices;
•Allowing private-sector vendors to negotiate prices for drugs, take title to drugs, and compete for

physician and hospital business;
•Increasing the drug add-on payment in the model to reflect 6 percent of historical drug costs; and
•Paying physicians and hospitals the add-on based on a set payment amount structure.

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