Advocacy Update

July 27, 2011

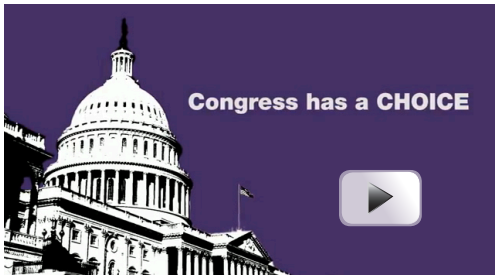
Two deficit reduction proposals include permanent SGR reform

On July 19, a bipartisan group of senators known as the "Gang of Six"—comprising senators Dick Durbin (D-Ill.), Kent Conrad (D-N.D.), Mark Warner (D-Va.), Tom Coburn, MD (R-Okla.), Saxby Chambliss (R-Ga.), and Mike Crapo (R-Idaho)—introduced a proposal to raise the federal debt limit and reduce the deficit by $3.7 trillion over 10 years. The proposal also called for legislation "to permanently reform or replace the sustainable growth rate (SGR) formula, at a cost of $298 billion over 10 years that would be offset the cost by unspecified health savings. Unspecified savings would also be achieved through medical liability reform. Separately, on July 18, Sen. Coburn introduced his own proposal to reduce the federal deficit by $9 trillion over 10 years that also called for permanent reform of the Medicare physician payment system.

Given the highly fluid nature of the current debt limit negotiations, it is unclear if elements of either proposal, including permanent Medicare physician payment reform, will be incorporated in any final agreement.

AMA position: The AMA has repeatedly urged Congress and the administration, including the "Gang of Six," to repeal the SGR formula and to include Medicare physician payment reform in any agreement between Congress and the administration to authorize an increase in the debt limit and reduce the budget deficit.

AMA and physician groups send video message to Hill on SGR repeal



The AMA and 10 other national specialty societies sent a video message to Capitol Hill on July 22 to stress that repealing the SGR formula is the fiscally responsible choice for Congress to make. The video, posted on YouTube, shows graphically how each necessary but short-sighted stop-gap action to address imminent payment cuts produces steeper cuts in the future and raises the cost of permanent physician payment reform. The link was shared with Federation groups who may use it in grassroots and other communications.

AMA announced support for "Restoring Access to Medication Act"

The AMA announced on July 14 its support for the "Restoring Access to Medication Act," which was introduced by Rep. Lynn Jenkins (R-Kan.) and Rep. Shelley Berkley (D-Nev.) as H.R. 2529, and by Sen. Pat Roberts (R-Kan.) and Sen. Ben Nelson (D-Neb.) as S. 1368. The bill would repeal Section 9003 of the Patient Protection and Affordable Care Act (ACA), which prohibits patients from using tax-preferred accounts, such as flexible spending accounts (FSAs) and health savings accounts (HSAs), to purchase over-the-counter (OTC) medicines without a prescription.

AMA position: The AMA has long-standing policy supporting HSAs and FSAs. Requiring prescriptions for OTC drugs will increase costs to the health care system, generate unnecessary physician office visits, and place a new administrative burden on already over-burdened physician offices. We believe this provision has resulted in unintended consequences to both physicians and patients, and support its repeal.

AMA convenes specialty meeting with new PCORI executive director

The ACA authorized the creation of the Patient-Centered Research Outcomes Institute (PCORI) as an independent nonprofit organization charged with supporting and funding comparative clinical effectiveness research (CER). On July 15, the AMA hosted a meeting for specialty societies with the newly appointed PCORI Executive Director Joseph Selby, MD, and PCORI Board of Governors Member and Agency for Healthcare Research and Quality Administrator Carolyn Clancy, MD, to discuss PCORI's work and its strategies for greater physician participation. Following this meeting and others held with physician organizations, it appears that additional resources will be allocated toward ensuring greater involvement of physician groups in PCORI activities.

On July 18 and 19, the PCORI Board of Governors met in Washington D.C., to review the progress and recommendations of committees established to build the PCORI infrastructure and the priorities, process and procedures for awarding CER funds. PCORI adopted a mission statement at the meeting and a proposed definition of "Patient-Centered Outcomes Research," both of which are available for comment by stakeholders for 45 days. In addition, PCORI seeks recommendations concerning national research priorities and intends to issue a request for proposals that are designed to identify and model methods for obtaining stakeholder input and participation in the PCORI enterprise.

AMA urges more patient protections in appeals regulation

On July 25, the AMA submitted comments to the Departments of Labor, Health and Human Services, and Treasury in response to amended rules relating to internal claims and appeals and external review processes under the ACA. The law requires all non-grandfathered health plans (including employer-sponsored group health plans) to have internal claims and appeals procedures and external review processes for denied claims that meet certain standards. Responding to stakeholder comments on regulations originally issued in July 2010, some issues were clarified but, in the AMA's view, significant consumer protections were scaled back. For example:

- Health plans would be provided more time to decide urgent care claims
- Claimants would have less time to appeal denied claims through state external review processes
- The amount of information provided to beneficiaries about the reasons for denial of claims would be decreased
- The scope of claims available for external review would be scaled back
- Language assistance for patients with limited English proficiency would be reduced

AMA presses CMS for data safeguards

The AMA convened a meeting for specialty societies with Niall Brenan, director of policy for the Centers for Medicare & Medicaid Services (CMS) that focused on the agency's proposed regulation on the availability of Medicare data for performance measurement. The proposed rule is the outgrowth of ACA provisions that include critical safeguards secured by the AMA, such as appropriate risk adjustment and attribution methodologies, and substantial use of standard measures endorsed by the National Quality Forum. While the AMA believes CMS attempted to establish parameters on the qualified entities that would use the data, we do not believe the agency went far enough. The AMA and specialties stressed to Mr. Brennan that CMS could do more to ensure the safeguards of attribution, risk adjustment and standardization are adequate. In addition, there was consensus that the agency needs to improve the process for physicians to appeal and correct reports before they are made public. Comments on the proposed rule are due to CMS on August 8.

AMA organizes state and specialty sign-on letter on e-prescribing

In direct response to AMA advocacy, CMS issued a proposed rule outlining additional exemptions to the e-prescribing incentive program. On July 25, the AMA coordinated a comment letter with 91 physician organizations to CMS responding to the proposed rule and urging the agency to make additional modifications to the program. The letter acknowledges CMS's effort to provide additional exemptions, but also expresses strong concern that the agency's implementation of the e-prescribing program may subject many physicians to the penalty in 2012. CMS is urged to make several changes, such as refraining from imposing penalties in 2012 and establishing an additional e-prescribing reporting period in 2012. The AMA will continue to press CMS to ease the burden and risk for physicians.

HHS seeks input on oversight of research on human subjects

On July 22, the U.S. Department of Health and Human Services announced that enhancements to the regulations overseeing research on human subjects are being contemplated. Before making changes to the regulations that have been in place since 1991 (often referred to as the Common Rule), the government is seeking the public's input on an array of issues related to the ethics, safety and oversight of human research. The changes under consideration can be found in an Advance Notice of Proposed Rulemaking (ANPRM), *Human Subjects Research Protections: Enhancing Protections for Research Subjects and Reducing Burden, Delay, and Ambiguity for Investigators*, published in the July 25 Federal Register. To view the ANPRM, please visit http://www.regulations.gov, enter ID number HHS-OPHS-2011-005 in the "Enter Keyword or ID" field, and click on "Search." Read additional information about the changes under consideration.

CMS announces 5010 testing on Aug. 22 to 26

The Jan. 1, 2012, Version 5010 compliance date is fast approaching. Physicians should take steps now to prepare, such as conducting tests with their payers directly or through their clearinghouse and/or billing service, to ensure timely compliance. CMS will hold a "National 5010 Testing Week" Monday, Aug. 22 through Friday, Aug. 26. "National 5010 Testing Week" is an opportunity for physicians, including their clearinghouse and/or billing service, to test the Version 5010 transactions with the added benefit of real-time help desk support and direct and immediate access to the Medicare Administrative Contractors (MACs). Visit the AMA's Version 5010 webpage or the CMS website for more information.

CMS to host an ICD-10 national provider call for physicians on Aug. 3

To help physicians prepare for a smooth transition to ICD-10 on Oct. 1, 2013, CMS will host a National Provider Call on "ICD-10 Implementation Strategies for Physicians" on Aug. 3 from 1 to 3 p.m., Eastern time. CMS subject matter experts will discuss ways that physician offices can prepare for the change to ICD-10 for medical diagnosis and inpatient procedure coding. Topics to be discussed on the call include an ICD-10 overview, update on claims spanning the implementation date, national ICD-10 implementation issues and laboratory conversion process. A question-and-answer session will follow the presentations. Physicians, medical coders, office staff, billing staff and health records staff should plan to participate in this call. Register on the CMS website. Registration will close on Tuesday, Aug. 2 at 1 p.m., Eastern time, or when available space has been filled.