

Government Affairs Update - May 19, 2016

Connect with Partners

For our perspective on current issues in Massachusetts health care go to [Connect with Partners](#). This week's feature is [Why is Partners HealthCare More Expensive?](#)

State Issues

Senate Ways and Means Budget

The Senate Ways and Means (SWM) Committee has released a \$39.49 billion spending plan for FY17. The proposal reflects 5% growth in MassHealth spending over the FY2016 budget, and carries forward many of the recommendations that were included in the Governor's budget proposal, including a new \$250 million annual tax assessment on acute hospitals. The new tax assessment would terminate on October 1, 2022, which aligns closely with the end of a new five-year Medicaid waiver the administration is currently pursuing with CMS.

Like the House, the SWM proposal also adds \$15 million in state funding to the Health Safety Net (HSN). This is an important step forward from Governor Baker's budget, which proposed the total elimination of the state's customary \$30 million commitment to the HSN. However, the SWM budget does not contain any language to prevent controversial eligibility changes to the Health Safety Net from taking place on June 1, 2016.

Other highlights include the following:

- Most provider rates are held flat, with minor increase included for behavioral health and substance abuse in the PCC program and MCOs. There is no inflation update for hospital rates.
- DSH supplemental payments are maintained at the 6% inpatient and 1% outpatient basis.
- The governor proposed that certain optional benefits in the PCC program be eliminated but maintained in the MCO program to encourage enrollment in MCOs. Optional benefits at risk include services such as physical therapy, occupational health therapy, speech therapy, vision care, and orthotics. MassHealth indicates these changes would take effect October 1, 2017. The House and Senate budget prohibits the elimination of chiropractic benefits.
- Annual open enrollment period effective October 1, 2016. Enrollees will likely have a certain time period once they enroll or are re-determined to select an MCO/PCC. Currently, MassHealth enrollees have the ability to switch among MCOs or into the PCC program on a daily, or in some cases monthly, basis.
- 10% increase for PCAs, factors in overtime pay now required by CMS.

For more information, please see the attached budget summary from MHA. The full Senate will be debating its budget next week, after which a joint House-Senate conference committee will work to reconcile the two versions and send a final compromise budget to the Governor before the start of the fiscal year, on July 1st.

We will keep you updated with further information on the FY2017 state budget process as the two branches work to reconcile their individual packages.

Health Safety Net Eligibility Changes

The MHA recently sent the attached letter to EOHHS Secretary Marylou Sudders, requesting that the administration reconsider its proposed eligibility changes to the state's Health Safety Net (HSN) program, which are scheduled to take effect on June 1st, as previously indicated. Of particular concern is a new presumptive determination policy. This new policy poses significant program integrity concerns and fails to materially address the issues related to retro-active coverage per the recent eligibility changes. Further,

MassHealth is preparing to adopt these changes in a manner that has not allowed practical input and will not provide for adequate training or review of patient notice and approval documents. Legal liability issues are also a related concern of hospitals. The MHA is requesting EOHHS to withdraw this policy.

Medicaid ACO Proposal

The MHA also submitted the attached letter to Medicaid Director Daniel Tsai highlighting comments and recommendations related to the development of the MassHealth Accountable Care Organization (ACO) program and 1115 Medicaid Waiver amendment proposal. It addresses issues surrounding: the ACO program and risk options; delivery system reform incentive payments and the requirement for formal relationships between ACOs and certified community partners; MassHealth Managed Care Organizations and their roles in the ACO program; and the role of hospitals in funding ACO Reform.

Federal Issues

Massachusetts Delegation Leading Opioid Legislation Advocacy

Several members of the Massachusetts Congressional delegation have been key sponsors of legislation being considered by the House Energy & Commerce Subcommittee on Health. Additionally, the committee moved forward on a package of 12 bills which largely focus on addressing the opioid and drug abuse crisis.

- H.R. 4641, which would require HHS to create an inter-agency task force to review and change “best practices” for pain management and prescribing pain medicines;
- H.R. 1818, which would make it easier for veterans with military emergency medical training to become civilian emergency medical technicians;
- H.R. 4586, which would authorize grants to states for developing standing orders and educating health-care professionals regarding the dispensing of opioid overdose reversal medication “without person-specific prescriptions;” (Sponsored by Representative Katherine Clark (D-MA))
- H.R. 4976, which would require the Food and Drug Administration to work with advisory panels before approving certain pain drugs;
- H.R. 4599, which would allow partial fills of certain prescriptions; (Sponsored by Representative Katherine Clark (D-MA))
- H.R. 3680, which would establish a grant program to support prescribing opioid overdose reversal drugs;
- H.R. 3691, which would extend support for residential substance abuse treatment programs for pregnant and postpartum women through FY 2020;
- H.R. 4981, which would expand access to medication-assisted treatment for patients with substance use disorder;
- H.R. 4843, which would strengthen protections for infants identified as being affected by illegal substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder;
- H.R. 4978, which would require the Government Accountability Office to submit a report to Congress on neonatal abstinence syndrome (NAS) in the U.S.;
- H.R. 4982, which would instruct the Government Accountability Office to evaluate and report on the in-patient and outpatient treatment capacity, availability, and needs of the U.S.;
- H.R. 4969, which would direct the Centers for Disease Control and Prevention (CDC) to study what information and resources are available to youth athletes and their families regarding the dangers of opioid use and abuse;
- H.R. 4063, which would update pain management and opioid prescribing practices for the Department of Veterans Affairs;
- H.R. 5048, which require a GAO study of state “Good Samaritan” laws protecting those who administer opioid overdose reversal drugs; and
- H.R. 5052, which would require the departments of Justice and Health and Human Services to evaluate the effectiveness of a proposed grant program to combat opioid abuse. The grants themselves are authorized by H.R. 5046.

In addition, Representative Bill Keating (D-MA) introduced legislation to improve the education and training of Veteran's Affairs healthcare professionals who prescribe opioids. Rep. Bill Keating is also sponsoring the Stop Tampering of Prescription Pills (STOPP) Act to address abuse-deterrent formulations for commonly abused painkillers. This bill will direct pharmaceutical manufacturers to invest in research and production to formulate tamper resistant drugs in order to compete with drugs of a similar nature that already employ tamper resistant technologies. Representative Richard Neal is sponsoring the Opioid Overdose Reduction Act that would exempt from civil liability emergency administration of opioid overdose-reversing drugs, like naloxone, by people who prescribe or are prescribed them. We are thankful for the important work our delegation is doing around this very critical issue.

CMS Proposes Key Provisions of MACRA Physician Payment System

The Centers for Medicare & Medicaid services have issued a proposed [rule](#) implementing key provisions of the new physician payment system required by the Medicare Access and CHIP Reauthorization Act of 2015. Section 101 of MACRA repeals the Medicare sustainable growth rate methodology, and replaces it with scheduled updates to the physician fee schedule and requires CMS to establish new physician quality and value-based payment programs. Eligible clinicians will participate in one of two tracks for the value-based payment program– the default Merit-based Incentive Payment System (MIPS) or alternative payment models (APMs). In the rule, CMS proposes most of the requirements of the MIPS, including performance measures, data submission mechanisms, reporting timeframes, scoring methodology and various administrative processes. As part of the MIPS, the agency proposes to replace electronic health record meaningful use requirements for physicians with a more flexible set of "advancing care information" measures. CMS also proposes criteria for eligible APMs. CMS is accepting comments on the proposed rule through June 27.

Federal Judge Sides with House Republicans in Exchange Cost-Sharing Challenge

A federal district court judge has [ruled](#), siding with the House Republicans who filed the lawsuit, that President Obama did not have the authority to pay cost-sharing reductions to low-income enrollees in health insurance plans purchased on an exchange. The court will allow the subsidy program to continue pending appeal. House Republicans asserted that Congress had not authorized a specific line-item appropriation for the payments. Cost-sharing reductions are available to individuals and families with incomes between 100% and 250% of the federal poverty level who enroll in silver plans. The ruling, if it stands on appeal, could increase premiums for silver plans by more than \$1,000 on average, according to a [report](#) by the Urban Institute.

AHA Urge Congress to Reform Substance Use Privacy Laws

The American Hospital Association (AHA) has urged House leaders to align privacy laws governing substance use disorder patient records with Health Insurance Portability and Accountability Act rules that allow the use and disclosure of patient information for treatment, payment and health care operations. AHA said reforming these "privacy laws is particularly important as Congress works to expand access to Medication-Assisted Treatment, noting the "significant risk for drug interactions." The Substance Abuse and Mental Health Services Administration's proposed revisions to the regulations does not eliminate the barriers to information sharing that are impeding care coordination and better population health, AHA told the agency in [comments](#) submitted last month.

AHA Brief Highlights Telehealth Benefits, Urges Support for More Research

Policymakers can advance care delivery and benefit patients by expanding access to telehealth in Medicare and new payment models, according to a new AHA [issue brief](#). "A growing body of evidence shows that telehealth can not only expand access to services but also create cost savings," the report notes. For example, the Veterans Health Administration estimates its telehealth program reduced hospital admissions and shortened hospital stays to save nearly \$1 billion in 2012. A recent study of enrollees in the California Public Employees Retirement System found that telehealth patients were less likely to require a follow-up visit than patients who received their initial consult for a similar condition in an emergency department or physician's office. Telehealth also can allow some hospital patients to receive care at home at lower cost or access specialists without the need to transfer to another hospital, and help

nursing home patients avoid hospitalizations, the report notes. Additional research using larger samples sizes, diverse geographies and a broader range of conditions and services “can help policymakers better understand the full range of benefits,” the report adds.

CMS to Consider Flexibility for Meaningful Use

Patrick Conway, deputy administrator for innovation and quality and chief medical officer for the Centers for Medicare & Medicaid Services, has indicated that the agency will consider giving hospitals more flexibility in meeting the meaningful use criteria in the Electronic Health Records Incentive Program to better align with recent [proposed changes](#) to physician requirements. Lawmakers also are interested in increasing flexibility under meaningful use. Six senators, led by Sens. John Thune (R-SD) and Lamar Alexander (R-TN), chairman of the Health, Education, Labor and Pensions Committee, have [asked](#) CMS for comment on their [draft legislation](#), which would direct the agency to consider a hospital meeting 75% of the requirements to have achieved meaningful use.

Burwell Names New AHRQ Director

Health and Human Services Secretary Sylvia Burwell has named [Andrew Bindman, M.D.](#), director of the Agency for Healthcare Research and Quality. A primary care physician who has practiced, taught and conducted research at San Francisco General Hospital. He recently served as a professor of medicine, epidemiology and biostatistics and affiliated faculty member for the Philip R. Lee Institute for Health Policy Studies at the University of California, San Francisco, where he led research focused on improving the care of vulnerable populations and a state- university partnership with California’s Medicaid program. Bindman also is a senior associate editor for Health Services Research, a journal published by the American Hospital Association’s Health Research & Educational Trust affiliate.

Study Looks at Medical Errors

A [study](#) published in BMJ, formerly the British Medical Journal, estimates that more Americans may die from medical errors than from chronic obstructive pulmonary disease. Extrapolating from four previous studies based on data from 2000 to 2008, researchers from Johns Hopkins School of Medicine estimated that more than 251,000 hospitalized patients died from preventable adverse events in 2013. They say that would make medical errors the third most common cause of death in the U.S., after cancer and heart disease, acknowledging that “assumptions made in extrapolating data to the broader U.S. population may limit the accuracy of our figure.” Researchers acknowledge that this figure most likely represents an undercount, because they were unable to capture data from deaths that occur in outpatient clinics, nursing homes and other non-hospital settings where health care workers care for fragile patients who need complex care.

Medical School Enrollment Up 25% Since 2002

First-year enrollment at U.S. medical schools has increased by 25%, or 4,143 students, since 2002, according to the latest [annual survey](#) by the Association of American Medical Colleges. The schools have been ramping up enrollment to address a [projected shortage](#) of up to 94,700 physicians by 2025. Twenty new schools have received full, provisional or preliminary accreditation since 2002, and seven more are awaiting accreditation. According to the report, schools are increasingly concerned about the availability of graduate medical education opportunities for their incoming students. “This growth is naturally going to put a strain on limited clinical resources and residency positions, which is a problem not only for the nation’s future doctors but for the nation’s future patients,” said AAMC President and CEO Darrell Kirch, M.D.