Advocacy Update

May 30, 2013

Energy and Commerce Committee releases draft legislation to repeal SGR

The Energy and Commerce Committee Republicans unveiled draft legislation on May 28 that would repeal the sustainable growth rate (SGR) formula and replace it with a new system for determining Medicare physician payments. The release of this draft, which is still missing important details, represents the most recent step to ensure a transparent process and seek stakeholder input on how to reform and improve the current Medicare payment system.

Building off a framework released this spring; the legislation would eliminate the SGR and replace it with a modified fee-for-service system with an emphasis on improving quality and outcomes through performance measures, while also providing means for physicians to participate in alternative payment models. The Committee requested feedback on its legislative draft by June 10. In addition, the committee's Subcommittee on Health is holding a June 5 hearing on the draft.

The AMA views the release of this draft legislation as another important step forward in permanently replacing the SGR formula with a more patient-centered Medicare payment and delivery system.

AMA responds to Senate Republican white paper on health information technology

On May 17, the AMA provided feedback on a health information technology (HIT) white paper entitled, “REBOOT: Re-Examining the Strategies Needed to Successfully Adopt Health IT,” which was authored by Senators John Thune (R-S.D.), Lamar Alexander (R-Tenn.), Pat Roberts (R-Kan.), Richard Burr (R-N.C.), Tom Coburn, MD (R-Okla.), and Mike Enzi (R-Wy.). The paper outlines several concerns with the Meaningful Use (MU) of Electronic Health Records (EHRs) program, focusing extensively on the lack of EHR interoperability. The AMA's response expresses continued support for financial incentives to support physician adoption of HIT. However, it also outlines several serious concerns with the way the MU program has been structured, and makes multiple recommendations for improving the program, including modifying the rulemaking for Stage 2 of the MU program to provide physicians with greater flexibility.

Legislation to repeal ICD-10 is introduced

Senator Tom Coburn, MD (R-Okla.), along with Senators John Barrasso, MD (R-Wy.), Rand Paul, MD (R-Ky.), and John Boozman (R-Ark.), introduced S. 972, the “Cutting Costly Codes Act of 2013” on May 16. Identical legislation was introduced in the House by Representative Ted Poe (R-Texas) on April 26. This legislation which would prohibit the Secretary of Health and Human Services from replacing the current International Classification of Diseases, 9th Revision (ICD-9) with the ICD-10 diagnostic code set. It would also require the Government Accountability Office to conduct a study on ways to mitigate the disruption of health care providers resulting from a replacement of ICD-9 with new coding standards required by the Health Insurance Portability and Accountability Act.

The AMA strongly supports this legislation and is seeking solutions that mitigate the disruption to physician practices when advancing to a new diagnostic code set.
Immigration bill advances in Senate; includes provisions to address physician issues

On May 21, the Senate Judiciary Committee advanced S. 744, the “Border Security, Economic Opportunity, and Immigration Modernization Act of 2013,” comprehensive legislation to reform the U.S. immigration system. The AMA helped to secure several significant, physician-related immigration provisions, including a permanent reauthorization of the Conrad 30 State J-1 Visa Waiver program. For example, during the committee mark-up the AMA successfully advocated for the adoption of an amendment to the underlying legislation to make the process for granting H-1B visas for international medical graduate (IMG) physicians less burdensome for medical residency programs as well as physician employers in underserved communities. The full Senate is expected to consider S.744 in June.

The House of Representatives is also expected to advance separate immigration-related legislation this year. On May 23, Representative Darrell Issa (R-Calif.), along with House Judiciary Chairman Bob Goodlatte (R-Va.), introduced H.R. 2131, the “Skills Visa Act.” As a result of AMA advocacy efforts, this legislation includes many of the same physician-related immigration provisions as S. 744.

CMS corrects policy on resident prescribing

In response to AMA advocacy, the Centers for Medicare & Medicaid Services (CMS) issued a memorandum to Medicare Advantage and standalone prescription drug plans clarifying that residents can continue to use their hospitals’ Drug Enforcement Administration (DEA) number on prescriptions for Medicare patients. A new regulation that took effect in January 2013 led some plans to deny coverage for prescriptions written by residents due to a misunderstanding that prescriptions needed to have an individual rather than an institutional DEA number. The DEA does allow residents to use their hospitals’ DEA number, however, so the Medicare program clarified that its regulatory policy does not conflict with or supersede DEA policy.

Accountable care organization (ACO) exclusivity

After meetings with the AMA and several other medical societies, CMS agreed to review and consider modifying its current policy requiring physicians to participate exclusively in one Medicare ACO if any physician in their group (defined by the Tax Identification Number) provides visit services outside an inpatient hospital or emergency department. Physicians in specialties that CMS does not regard as primary care have been particularly concerned; although the final ACO rules indicated they could participate in multiple ACOs, this was in fact difficult to do. An AMA-convened workgroup developed policy options for CMS to consider that would make it possible for physicians to have more choices in the type of relationships they have with ACOs, and whether their services are used in assigning Medicare patients to an ACO. Additional information about the current CMS policy is provided in a set of frequently asked questions.

Second round of Innovation Challenge Grants to focus on specialty care

On May 15, the Center for Medicare and Medicaid Innovation (CMMI) responded to a key concern of the AMA and physician specialties by announcing nearly $1 billion in awards for innovations that are focused on improving the quality and reducing the cost of specialty care. Building on other CMMI initiatives that center on primary care, these awards will support innovations in four specific areas:

1. Rapidly reduce Medicare, Medicaid, and CHIP costs in outpatient and inpatient care (e.g., diagnostic radiology, physician administered drugs, acute and post-acute care services)

2. Improve care for patients with specialized care needs, such as HIV patients, high cost pediatric populations, and behavioral health patients

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3. Quickly transform clinician models for specific types of providers, including specialists (e.g., oncologists, cardiologists, and pediatric providers who provide care to children with complex medical needs)

4. Models that link clinical care delivery to preventive health and population health outcomes (cardiovascular diseases, hypertension, diabetes, and HIV/AIDS were singled out)

Preference will be given to proposals that are nationally scalable, engage multiple payers, and test new payment models in support of the desired care delivery model. Letters of intent are due June 28 and applications are due August 15. Awards will be announced beginning in January 2014 and will be for a period of three years. CMMI followed its May 15 announcement with a more detailed webinar for potential applicants on Tuesday, May 28. This webinar was recorded and will be archived.

National Provider Call on PQRS reporting and implications for VBM

CMS will host a National Provider Call on Wednesday, June 5, from 1:30 p.m.–2:30 p.m. ET on how participation in the 2013 Physician Quality Reporting System (PQRS) relates to the 2015 Value-Based Payment Modifier (VBM). A question-and-answer session will follow the presentation. To register for the call, please visit the CMS Upcoming National Provider Calls webpage. Registration will close at noon on the day of the call or when available space has been filled, so please register early. For additional information regarding 2013 PQRS participation and the VBM, please visit AMA’s PQRS website.

New AMA policy brief on the Basic Health Program

In 2012, the AMA created a series of policy briefs, “Improving the Health Insurance Marketplace,” that highlight ways to promote a strong health insurance marketplace that benefits patients and their physicians consistent with AMA policy. A new policy brief has been added to this series on the issue of the Basic Health Program (BHP), a program states have the option of establishing starting in 2015 to cover certain uninsured low-income individuals and families. If a state elects to implement a BHP, those populations eligible for BHP coverage would not be eligible to receive premium tax credits for subsidized coverage offered in a health insurance exchange. The new policy brief, along with the rest of the series, is available for download at www.ama-assn.org/go/marketreforms.

New AMA Policy Research Perspective on health spending growth

A recent AMA Policy Research Perspective explores whether the recent slowdown in U.S. health care spending was solely a result of the recent recession or whether other factors were also at play. Based on recent articles by researchers at Harvard University, Kaiser Family Foundation and the Urban Institute, the paper concludes that the recent recession does not fully explain the slowdown in health spending. Other possible reasons for the slowdown include a changed technological landscape (e.g., fewer new blockbuster drugs), increased patient cost sharing, and improvements in provider efficiency. As the economy continues its recovery health spending growth is likely to accelerate but not return to its historical highs.

Register for the First National Healthcare Innovation Summit in Washington, D.C.

The AMA is proud to co-sponsor the First National Healthcare Innovation Summit on June 10–12, 2013, at the Hyatt Regency on Capitol Hill in Washington, D.C. This meeting will discuss innovations to fast-track the transformation of health care to realize three national health care goals: healthier populations, affordable care and better patient experience. AMA invites you and your physician members to attend and hear from leaders in health care innovation about successful new approaches, first-hand experiences and lessons learned in plotting an accelerated path to transformation in health care. AMA members
save as much as $700 on registration. The conference offers two options for participants: in-person attendance at the Hyatt Regency on Capitol Hill or virtual attendance, which is available live and at any time up to six months after the conference. Visit the summit website for more information and to view a complete agenda. If you would like to register, or would like to share an invitation with your members, please email kate.seremek@ama-assn.org for additional information on the registration discount.

**Colorado Clean Claims Task Force approves four payment rules for public comment**

The Colorado Clean Claims Task Force (CCCTF), co-chaired by Colorado Medical Society staff, focuses on the development of a standardized set of claim edits and payment rules, in order to develop a uniform set of processes to be used by all payers contracting with providers in Colorado. The AMA is also participating in the Task Force.

The CCCTF recently met for its second onsite meeting of the year in May and approved four payment rules to be distributed for public comment. Based on Current Procedural Terminology (CPT®), national medical specialty guidelines and CMS policies, these payment rules pertain to: Bilateral Procedures, Co-Surgery, Team Surgery (based on CPT® and CMS rules) and Assistant at Surgery (based on American College of Surgeons guidelines and CMS rules). These rules will become available for public comment in early June and will be available on the CCCTF website.

**Prescription for a healthier practice: Helping physicians protect their practice from inappropriate discounts**

Physician practices need to carefully review health insurer explanations of benefits or electronic remittance advice in order to pinpoint and address underpayments based on inappropriate adjustments by the health insurer. Physicians can refer to the resource “Is your practice losing revenue through inappropriate health plan adjustments?” for additional information.

This tip is a part of the AMA’s “Prescription for a healthier practice” series to help physicians and their staff examines how their practices are performing in key administrative processes. Help spread word of the series in your own communications; contact Kate Seremek at kate.seremek@ama-assn.org for ready-made messaging.

**New legislation protects physicians’ freedom to contract**

On May 20, Governor Jay Inslee of Washington signed Senate Bill (S.B.) 5215 into law. This important legislation, which was sponsored by Senator Randi Becker, protects physicians by promoting fair contracting between health plans and physicians. The bill also includes a freedom to contract provision based on AMA model legislation which prohibits the state from tying physician licensure to participation in any public or private health plan. Virginia and Georgia enacted similar legislation in previous years. The AMA stood in strong support of this legislation by sending a letter of support to Senator Becker and contacting Governor Inslee’s office urging him to sign the bill. Congratulations to Washington State Medical Association for this victory.

**AMA “Truth in Advertising” campaign results in two new state laws**

This month, two more states scored truth in advertising (TIA) victories. On May 16, Maryland Governor Martin O’Malley signed Senate Bill 512 (S.B. 512), a photo ID TIA bill based on AMA model legislation. This bill is the second step in Maryland’s TIA efforts, following successful 2012 legislation governing
on physician advertising of board certification status. The bill requires health care professionals in freestanding care facilities, physician offices, and urgent care facilities to wear an identification badge that indicates their name and type of license. The Maryland State Medical Society’s efforts were supported by a grant from the AMA Scope of Practice Partnership.

Texas Governor Rick Perry signed S.B. 945 on May 18. The bill requires hospital employees providing health care services to wear an identification badge during all patient encounters that clearly indicates the person’s name, type of license, and department within the hospital, except when precluded by isolation or sterilization protocols. If applicable, the name badge must also indicate whether the individual is a student, intern, trainee or resident.

**AMA advocates to NCPDP on electronic prior authorization**

As payers increase their use of prior authorization, the AMA continues to seek ways to streamline this process for physicians. Part of AMA’s efforts include working with the National Council for Prescription Drug Programs (NCPDP), the body that maintains the electronic transaction standards associated with several electronic prescribing (e-prescribing) functions. The AMA participates regularly in meetings with NCPDP and most recently attended a meeting this month where draft electronic Prior Authorization (ePA) changes to the NCPDP Script standard, which has been used in pilot by various prescription benefit manager organizations, were approved. The AMA has been strongly advocating for a standardized end-to-end ePA solution. While there have been improvements over the prior versions, there is still more work to be done, and the AMA will continue to advocate for a fully standardized solution. New work was initiated related to: prescription refill notifications and changing the prescribed medication or treatment, prescription filled notification processes for physicians, formulary and benefit modifications to the standards, electronic signatures and rebate standards.