



In this Issue:

Capital Minute

New Details on Congressional Surprise Billing Legislation

Trump Administration Announces New Medicaid "Block Grant" Demonstration

Weekly Regs & Eggs Blog: Addressing Opioid Stigma in the Emergency Department

ACEP Opposes Supreme Court Decision to Allow "Public Charge" Rule

Capital Minute

Check out the latest version of ACEP's Capital Minute to hear a short recap of ACEP's recent advocacy efforts on key issues including surprise billing, potential changes to Medicare rules, the opioid crisis and more.

[Click here](#) to view the Capital Minute.

New Details on Congressional Surprise Billing Legislation

Congress' efforts on surprise billing continue, with news this week that the Ways and Means Committee expects to mark up their own legislation on February 12. The bill is expected to align closely with the [one-page outline](#) Chairman Richard Neal (D-MA) and Ranking Member Kevin Brady (R-TX) released in December 2019.

However, the text of the legislation has not yet been released and committee staff remain hard at work to finalize the language. ACEP and several other physician organizations met with Majority committee staff earlier this week to continue the dialogue and help resolve questions and remain in regular contact with Representatives and their staff.

Additionally, House Education and Labor Committee Chairman Bobby Scott (D-VA) indicated this week that his committee would also be marking up their own surprise billing legislation the same week as Ways and Means, adding yet another voice into the mix. While they too have not yet released text, their approach may ultimately be similar to the Senate Health, Education, Labor, and Pensions (HELP) Committee proposal.

These developments come as House Majority leadership brought Chairman Neal, Chairman Scott, Energy and Commerce Committee Chairman Frank Pallone (D-NJ) and several others together this week and encouraged them to develop a consensus product, potentially as soon as President's Day. Though a February deadline may be optimistic, it is clear that congressional leadership is eager to resolve this issue sooner rather than later.

ACEP also created two new resources to share with legislators. One is a state-by-state list of FAIR Health mean and median allowed amounts for EM services by geozip, demonstrating how inaccessible the proposed \$750 arbitration threshold would be for emergency physicians. The other document is a national map visually highlighting the small fraction of geozips that where the highest level of emergency services may potentially qualify.

For the full state-by-state list, [click here](#).

For the map, [click here](#).

Trump Administration Announces New Medicaid "Block Grant" Demonstration

On Thursday, the Trump Administration announced the Healthy Adult Opportunity (HAO), a new optional Medicaid demonstration initiative. The HAO, which states would have to apply for through a waiver application process, would provide states with more flexibility to serve a segment of their Medicaid population—while capping the total federal funding that is available.

For the last year or two, the CMS Administrator, Seema Verma, has explored a specific way of controlling Medicaid spending—by transitioning the entitlement program into a “block grant” program. Block grant programs, such as Welfare (called the Temporary Assistance for Needy Families), cap the amount of federal funding available to states to serve the eligible population. Many advocates have pushed back against the concept of turning Medicaid into a block grant program. Beyond the question of whether such an approach is legal, many feel that limiting federal funding for a vulnerable population could impact access to care and lead to poorer health outcomes.

The HAO initiative announced today tries to address some of this criticism. First it would only apply to adults under age 65 who are not eligible for Medicaid on the basis of disability or their need for long term care services and supports (i.e. adults who are covered under Medicaid expansion). Therefore, families and children who have traditionally been covered by Medicaid would not be affected. States would also have to cover all ten essential health benefits, which include emergency services, and would not be allowed to limit enrollment.

Under the HAO, states could choose one of two financing mechanisms—an aggregate spending cap or a per-capita spending cap. This cap would be determined based on historical spending for the state on the eligible population and updated by inflation. If states exceed that cap, they could not receive any additional federal funding. A state can be eligible to share in some of the savings it achieves with the federal government if it comes below the spending target. In order to receive shared savings, a state would need to meet certain quality metrics. States are required to report on 25 specific quality measures.

Interestingly, in addition to the 25 required quality measures, states will also have to report quarterly on a set of continuous performance indicators identified by CMS that are supposed to reflect whether access to care has been impacted. One of these performance indicators is “total emergency department visits per month, including for non-emergency reasons, which can be an indicator of poor primary care access.”

Overall, ACEP believes that this HAO initiative could negatively impact patients’ access to care since it may leave states without sufficient resources to meet the needs of those most vulnerable in our communities. We have put out a [press release](#) expressing our concern with the initiative.

It is important to note that since the HAO provides states with a lot of flexibility, it will be difficult to know exactly how the initiative will impact access to care before understanding how a specific state decides to individually tailor its program. The Governor of Oklahoma has already announced his intention to apply for the waiver.

To read the full waiver opportunity, please [click here](#).

To read CMS’ press release, please [click here](#).

To read a CMS fact sheet on the HAO, please [click here](#).

Weekly Regs & Eggs Blog: Addressing Opioid Stigma in the Emergency Department

In this week’s [Regs & Eggs blog](#), Jeffrey Davis, ACEP’s Director of Regulatory Affairs, discusses the stigma that exists in the treatment of patients with opioid use disorder (OUD). ACEP has made it a priority to develop targeted solutions to limit the impact that stigma has on the care that is provided to these patients. Last week, ACEP hosted the Summit Addressing the Opioid Stigma in the

Emergency Department, which brought together diverse organizations and representatives to engage in a holistic, inclusive, and robust dialogue about this important issue.

Read the blog to find out more about the Summit and other efforts ACEP has engaged in to address stigma associated with OUD.

[Click here](#) to sign up for the Regs & Eggs distribution list.

ACEP Opposes Supreme Court Decision to Allow “Public Charge” Rule

ACEP issued [a statement](#) strongly opposing the recent Supreme Court decision upholding the Trump Administration’s “public charge” rule, which denies certain immigrants their legal status if they rely on public benefits.

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