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Capital Minute
Tune into our newly formatted Capital Minute webinar as we continue to bring you updates on our latest efforts to support and protect emergency physicians in the fight against COVID-19.

Click here to view the Capital Minute or click on the blue box below.

Click here to register for the next live ACEP Capital Minute on Thursday, April 30.

ACEP along with Physician Community Outlines Legislative Requests for Next COVID Relief Package
On April 16, ACEP, the AMA, 85 national physician specialty organizations, and every state (and D.C.) medical society sent a letter to Congress presenting our joint requests for policies to include in the "phase four" COVID relief legislative package. The consensus letter centers on a number of issues that we would like Congress to address, including direct financial support for physicians and physician groups, temporary Medicare and Medicaid payment modifications, liability relief, support for medical students and residents, and small business loans. These requests are in addition to other proposals that ACEP is advocating for, either independently or with other stakeholders.

To view the letter, click here.

Action Alert: COVID-19 Relief Is Not the Place for Insurance-Favored Surprise Billing Provisions
In addition to advocating for our policy priorities in COVID-19 relief legislation, ACEP is continuing to fight to ensure that divisive surprise billing legislation is NOT included. We sent a letter to Congress and now we urge you to contact your members of Congress to explain why **now is not the time to include one-sided, insurer-favored surprise medical billing provisions in COVID-19 relief legislation**.

Click here to send a message to your federal legislators.

ACEP Endorses Due Process Legislation for Emergency Physicians
Yesterday, ACEP sent a letter of support to Rep. Roger Marshall, MD (R-KS) and Rep. Raul Ruiz, MD (D-CA) expressing support for their legislation that would ensure every emergency physician has medical staff due process protections. The legislation, which we anticipate will be introduced shortly, would require the Secretary of Health and Human Services to issue regulations that would provide due process rights for physicians furnishing emergency medical services. Specifically, the regulations would ensure physicians who are employed by or under contract with a hospital to furnish emergency medical services have a fair hearing and appellate review through appropriate medical staff mechanisms before any termination or restriction of their professional activities could be instituted. These protections could not be denied through third-party contracts.

The legislation is identical to a bill, H.R. 6372, that ACEP endorsed in the 115th Congress. To read ACEP's support letter, click here.

Registration Reminder: ACEP Virtual Hill Day
Don't miss out! The deadline to register for ACEP's Virtual Hill day is April 22, 2020. Virtual Hill Day is your chance to advocate on behalf of your patients, yourself, and your practice as you discuss with federal legislators and their staff the issues and resources you need most during the COVID-19 pandemic. Your voice is important during this vital time, so this event is free for ACEP Members. Click here for more information and to register.

ACEP Sends Letter to HHS Secretary on First Wave of $100 billion CARES Act Funding
On Tuesday, ACEP sent a letter to the HHS Secretary expressing concerns about the first wave of funding that was released from $100 billion fund included in the CARES Act. Last Friday, HHS distributed $30 billion to physicians and other providers (including hospitals) based on their historical Medicare fee-for-service spending. However, health care providers must agree to certain terms and conditions within 30 days of when they received the funding—some of which are confusing and may be impossible to operationalize. If providers do not agree to these terms, they must contact HHS and return the funding—and if they do not proactively agree or disagree with the terms and keep the money, HHS will take that to mean that they agree to the terms and must abide by them. HHS has opened the CARES Act Provider Relief Fund Payment Attestation Portal where providers are required to go and attest to the terms and conditions.

While ACEP has multiple issues with the terms and conditions, most of the questions we raise in our letter focus on one condition in particular:

"The Secretary has concluded that the COVID-19 public health emergency has caused many healthcare providers to have capacity constraints. As a result, patients that would ordinarily be able to choose to receive all care from in-network healthcare providers may no longer be able to receive such care in-network. Accordingly, for all care for a possible or actual case of COVID-19, Recipient certifies that it will not seek to collect from the patient out-of-pocket expenses in an amount greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network Recipient."

This provision of the terms and conditions states that out-of-network providers would not be allowed to collect additional payment from patients beyond what would have been their in-network cost-sharing responsibility (i.e. no balance billing is allowed). While we agree it is essential to protect patients during this crisis, it is unclear what the insurer's responsibility is to reimburse providers for COVID-19 related treatment. Therefore, we asked HHS in our letter to provide additional clarification that directs the insurer to reimburse the clinician for the services provided.

Interestingly, HHS and the Departments of Labor and Treasury jointly released guidance on April 11 that highlights private insurer coverage and cost-sharing requirements for certain COVID-19-related services. Specifically, under the guidance, cost-sharing is waived for visits, including emergency department visits, that lead to an order for or the administration of a COVID19 test. The guidance even further confuses our interpretation of this provision of the terms and conditions—and therefore we asked numerous additional questions in our letter to ensure that we fully understand the implications of COVID-19 cost-sharing and coverage requirements on the contingencies placed on the $30 billion.

Answers to the questions we pose in our letter will help emergency physicians better understand how they will be reimbursed for the vital, life-saving services you provide to your patients. We have asked HHS to respond to our questions as soon as possible so that we can update you and give you or your group enough time to consider whether to accept the terms and conditions or return the funding before the 30-day time period ends.

We will keep you updated on any responses we hear from HHS. Also, it is important to note that the $30 billion wave of funding was only the first act—there is still $70 billion remaining in the $100 billion CARES Act fund. While HHS has laid out some general plans for distributing the remaining funds (included in HHS' fact sheet on the $100 billion fund), we are continuing to reiterate our previous request with HHS for $3.6 billion to be specifically allocated towards emergency medicine groups and to the emergency physicians who practice within them.

Trump Administration Issues Guidelines for Reopening Country
On Thursday, President Trump and his Task Force unveiled Guidelines for Opening Up America Again, a three-phased approach that aims to help state and local officials when reopening their economies. The guidelines are meant to support individual state's decisions by offering recommendations, criteria, and benchmarks for each state to consider.

CDC Issues New Guidance for Health Care Workers
On Monday, the CDC published revised Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings.

The information includes:

• Recommending screening everyone for fever/symptoms before entering a healthcare facility;
• Aligning with community masking guidance to address source control and asymptomatic/pre-symptomatic transmission;
• Emphasizing that cloth face coverings are not considered PPE;
• Medical facemasks, if available, should be reserved for healthcare personnel;
• Focusing on universal masking and symptom screening for HCP instead of retrospective risk assessment and contact tracing; and
• Considering dedicating space to care for COVID-19 positive residents) in nursing home.

The CDC also revised guidance for healthcare personnel with confirmed or suspected cases of COVID-19 returning to work. The new guidance includes both test-based (preferred) and non-test-based options for determining when healthcare personnel can return to work.

CMS Posts Medicaid Guidance on Coverage and Cost-sharing
On Monday, CMS posted Medicaid coverage and cost-sharing guidance. In the guidance, CMS implements a provision of the Families First Coronavirus Response Act (FFCRA) that adds a new optional Medicaid eligibility group for uninsured individuals during the COVID-19 public health

emergency.

The services that states can cover for this new group of individuals include COVID-19 tests and "COVID-19 testing-related services." CMS defines COVID-19 testing-related services to include items and services for which payment is available under the state plan that are directly related to the administration of COVID-19 test or to the evaluation of a beneficiary for purposes of determining the need for such product, such as an X-Ray. COVID-19 testing-related services do not include services for the treatment of COVID-19.

States who cover these services for the uninsured will receive a 100 percent Federal Medical Assistance Percentage (FMAP). This means that the federal government will entirely cover the cost. However, the 100 percent match is not provided for COVID-19-related testing and diagnostic services provided to individuals covered under other Medicaid eligibility groups. Rather, for the traditional Medicaid populations, states will cover the cost of the waived cost-sharing but can qualify for a temporary 6.2 percentage point FMAP increase.

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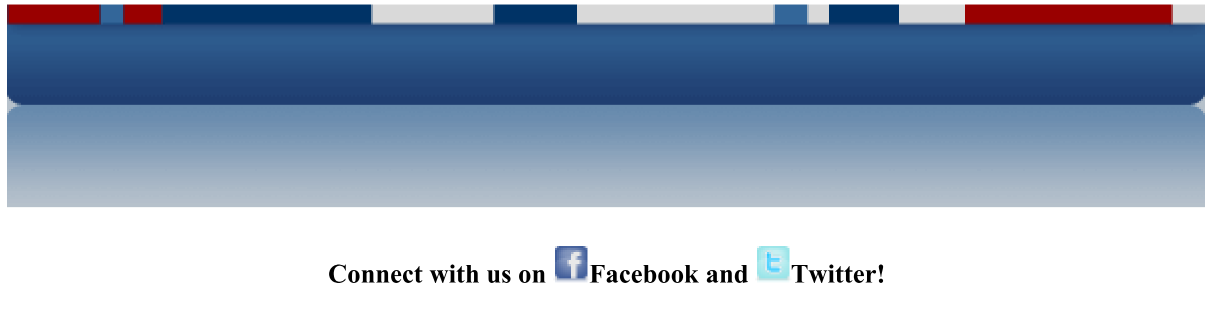

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