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Capital (30) Minutes

[Click here](#) to watch yesterday's Capital (30) Minutes webinar, during which ACEP's advocacy team answered questions about COVID-19 relief packages, the physician fee schedule, PPE, telehealth, and more. [Click here](#) to view the schedule of upcoming events and register for future airings.

COVID 4 Negotiations Stall

On July 27, Senate Republicans released their \$1 trillion COVID relief package. The proposal is made up of several bills that are collectively being referred to as the "Health, Economic Assistance, Liability Protection and Schools (HEALS) Act." While the first three major COVID response legislative proposals were approved by Congress with large bipartisan majorities, this round of discussions has proven to be much more challenging. After intense negotiations all week between Democratic congressional leaders and representatives from the White House, a deal is looking very unlikely, at least until after Congress returns in September following the August recess.

The House Democratic bill, the HEROES Act, which was approved in May, included more than \$3 trillion in funding and program support and negotiators have had a difficult time reconciling the two proposals, especially since some Senate Republicans believe \$1 trillion is too much and others are opposed to another funding package entirely. One significant ACEP-supported proposal that was included in the HEALS Act, but not the House bill, would provide liability protections for emergency physicians, other health care providers, businesses, and schools arising from COVID.

ACEP continues to monitor the negotiations closely and is advocating to make sure the provisions most favorable to emergency medicine from both bills make it into the final version that is signed into law. In addition to liability protections, we continue tracking access to PPE, mental health support services for frontline physicians, Provider Relief funds, testing and tracing resources, state and local support, hazard pay, and telehealth services, and others.

ACEP Leaders Promote Mental Health Support Services for Emergency Physicians

As part of ACEP's ongoing Leader Visit Program, we held several meetings this week with Senate and House committee staff to discuss the need for legislation that would provide resources for physician mental health support services. On Wednesday, Sullivan Smith, MD, FACEP, participated on a teleconference with Senate HELP Committee Chairman Lamar Alexander's (R-TN) staff and Stephen Anderson, MD, FACEP, and Cameron Buck, MD, FACEP, participated on a teleconference with Senate HELP Committee Ranking Member Patty Murray's (D-WA) staff. The purpose of these discussions was to promote S. 4349, "Dr. Lorna Breen Health Care Provider Protection Act," and urge its inclusion in the next COVID-19 relief package that is currently being negotiated by Congress. This legislation would create behavioral health and well-being training courses in medical and nursing schools;

establish an education and awareness campaign encouraging health care professionals to seek support and treatment when needed; award grants to health care providers to establish or expand programs promoting mental health; and conduct a comprehensive study on health care professional mental health and burnout.

This morning, Tony Cirillo, MD, FACEP, conducted a similar meeting with House Energy and Commerce Committee Chairman Frank Pallone's (D-NJ) staff. As part of that conversation, we discussed several physician mental health support proposals that have been introduced in the House, including the ACEP-supported "Coronavirus Health Care Worker Wellness Act" (H.R. 7255), sponsored by Rep. Raja Krishnamoorthi (D-IL), and the amendment offered by Rep. Mike Burgess (R-TX) to the "HERO Act" (H.R. 1646). We expect a House companion to "Dr. Lorna Breen Health Care Provider Protection Act" will be introduced next week.

ACEP, APA, and Others Send Letter to DoD Secretary Esper

On August 3, ACEP joined a number of other physician specialties on a letter to Department of Defense (DoD) Secretary Mark Esper, expressing support for the Military Health System, the Uniformed Services University of the Health Sciences (USU), and the DoD graduate medical education training infrastructure. In addition to ACEP, the letter was signed by the American Psychiatric Association, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, American College of Physicians, the American Academy of Family Physicians, and the American Osteopathic Association.

The letter also expresses concerns about potential funding cuts that have been discussed or proposed by DoD officials that would reduce or eliminate medical-clinical research or training within the USU. These training and research opportunities not only provide critical training for emergency physicians and other much-needed specialties, but they also ensure that our nation's service members have access to physicians trained to provide culturally competent treatment and care. Additionally, many of the physicians trained in these programs commit to long-term military service, providing a stable pipeline of leaders that strengthen both our military and medical readiness.

To read the letter, [click here](#).

NEMPAC Charity Match

While [making your contribution to NEMPAC](#), you will have the opportunity to select one of three COVID-19 related charities that ACEP will match 10 cents on every dollar of your donation. It is our way of thanking you for your support and giving back during these unprecedented times. Join your fellow ACEP members to support meaningful [political and charitable](#) involvement.

After making your donation online, you will be asked to select one of these charities for the match.

Eligible charities are:

- [GetUsPPE.org](#)
- [Emergency Medicine Foundation/COVID-19 EM Research](#)
- [American Foundation for Suicide Prevention](#)

[Click here](#) to make your donation and select a charity!

CMS Releases Calendar Year (CY) 2021 Medicare Physician Fee Schedule Proposed Rule

CMS published a [proposed rule](#) impacting Medicare physician payments for 2021. For a high-level summary of the rule, [click here](#). Also, please read this week's [Regs & Eggs blog](#) for ACEP's initial reactions. Stay tuned for a more comprehensive summary in the coming days. Comments on the proposed rule are due on October 5, 2020.

Of utmost concern is a potential 6 percent pay cut to emergency physicians in 2021 due to the budget neutrality adjustment to the physician fee schedule conversion factor. ACEP was already able to successfully shave off some of the reduction to emergency medicine. However, more work needs

to be done. **We fundamentally believe that it is unacceptable for emergency physicians to face a pay cut during a pandemic!**

Just hours after CMS released the proposed rule, ACEP sent a [letter](#) to key committees in Congress requesting that Congress waive the budget neutrality requirement.

What can you do?

[Urge your member of Congress](#) to waive the budget neutrality requirement for calendar years 2021 and 2022 by signing on to a bipartisan “Dear Colleague” letter led by Rep. Bobby Rush.

Congress is already juggling many other priorities as a result of the pandemic and pressure from the upcoming November elections. **It is essential that they hear directly from emergency physicians in their district just how devastating these cuts could be for access to emergency care for patients across the country.**

[Click here](#) to send a message to your member of Congress today.

President Trump Issues Executive Order on Rural Health and Telehealth

On Monday, President Trump issued an [Executive Order](#) related to rural health and telehealth. A summary of the Executive Order is found below, but overall, the President is calling on HHS to develop new payment models aimed at transforming how rural health care providers are reimbursed under Medicare. Further, the President believes that many of the telehealth flexibilities available during the pandemic should be made permanent.

Summary of the Executive Order

- Within 30 days, the Center for Medicare & Medicaid Innovation (CMMI) will issue a new alternative payment model (APM) to test innovative payment mechanisms in order to ensure that rural healthcare providers are able to provide the necessary level and quality of care. This model should give rural providers flexibilities from existing Medicare rules, establish predictable financial payments, and encourage the movement into high-quality, value-based care.
- Within 30 days, the HHS Secretary and the Secretary of Agriculture shall, consistent with applicable law and subject to the availability of appropriations, and in coordination with the Federal Communications Commission and other executive departments and agencies, as appropriate, develop and implement a strategy to improve rural health by improving the physical and communications healthcare infrastructure available to rural Americans.
- Within 30 days, the HHS Secretary shall submit a report to the President, through the Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, regarding existing and upcoming policy initiatives to:
 - increase rural access to healthcare by eliminating regulatory burdens that limit the availability of clinical professionals;
 - prevent disease and mortality by developing rural specific efforts to drive improved health outcomes;
 - reduce maternal mortality and morbidity; and
 - improve mental health in rural communities.
- Within 60 days of the date of this order, the Secretary shall review the following temporary measures put in place during the PHE, and shall propose a regulation to extend these measures, as appropriate, beyond the duration of the PHE:
 - the additional telehealth services offered to Medicare beneficiaries; and

- the services, reporting, staffing, and supervision flexibilities offered to Medicare providers in rural areas.

CMS Releases the CY 2021 Outpatient Prospective Payment System (OPPS) Proposed Rule

On Tuesday, CMS released the [CY 2021 Outpatient Prospective Payment System \(OPPS\) proposed rule](#), the major annual rule that impacts Medicare payments for hospital outpatient services. In the proposed rule, CMS is proposing to eliminate the Inpatient Only (IPO) list over a three-year transitional period with the list completely phased out by CY 2024. This is a list of procedures which currently can only performed in the hospital inpatient setting. CMS will begin with the removal of nearly 300 musculoskeletal-related services, which would make these procedures eligible to be paid by Medicare in the hospital outpatient setting when outpatient care is appropriate in addition to the inpatient setting. Additionally, procedures removed from the IPO list will eventually become subject to the “two-midnight rule.”

Further, CMS is proposing to expand the number of procedures that can be performed in ambulatory surgical centers (ASCs). CMS is not proposing any changes to current payment policies for clinic and emergency department hospital outpatient visits.

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