



Health Policy Briefing

June 2, 2014

Congress and White House Respond to VA Scandal; WH Scrutinizes FFS Health Care

VA Waiting List Problem Brings Down Secretary Shinseki

After the Veterans Affairs (VA) Office of Inspector General (OIG) confirmed that the Phoenix VA hospital is only symptomatic of the systemic problems with veterans getting needed health care, Secretary Eric Shinseki's resignation was accepted by **President Obama** "with deep regret". As the Senate returns this week, legislation to address the problems in the VA are being readied in that body as well as in the House of Representatives.

Health Legislative Actions in House

The House Energy and Commerce Health Subcommittee approved without objection the bill H.R. 4631, the Combating Autism Act, which reauthorizes the program for five years. The substitute amendment by **Chairman Joe Pitts (R-PA)** was pre-approved by **Senator Robert Menendez (D-NJ)** and other principals in the Senate which should ease passage in both bodies. However, **Rep. Frank Pallone Jr. (D-NJ)** said he would still like to resolve several outstanding issues, such as the specification of the federal agency to have responsibility for assessing the needs of children and adolescents with autism who are transitioning to adulthood as well as the information necessary for reporting. Also, the Association of University Centers on Disabilities has called on Congress to rename the legislation as the "Autism Research Training and Education (ARTE) Act". Among other things, the bill would require the U.S. Department of Health and Human Services (HHS) to designate a department official to oversee national autism spectrum disorder research, services and support activities. The Health Subcommittee also *continued on page 2*

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voice voted H.R. 4299, legislation that would require the Attorney General to issue regulations for scheduling drugs and make final decisions on registration applications for manufacturing or distributing controlled substances that will only be used for clinical trials. In like manner the panel approved H.R. 4709, legislation that intends to make improvements to the process for revoking and suspending registrations for controlled substances and report to Congress on the extent of any potential negative effects that law enforcement activities might have on patient access to medications. The House also suspended the rules and passed H.R. 4261, the Gulf War Health Research Reform Act of 2014, legislation designed to improve the research of Gulf War illnesses.

FY 2015 Appropriations Matters

The House Appropriations Committee voted 31-18 to send to the House floor the fiscal year (FY) 2015 Agriculture/ Food and Drug Administration (FDA) appropriations bill which provides the FDA with \$4.5 billion in total funding (\$2.6 billion in discretionary funding which is an increase of \$23 million over FY 2014). Given that the Senate Appropriations Committee has approved its version (with a \$36 million increase in discretionary funding); actions in the Senate and House are expected to move this legislation along in a timely manner. The House Appropriations Committee also approved the FY 2015 Defense appropriations bill which includes \$570.4 billion in discretionary funding.

PPACA Health Reform Update

Republicans Call for New Investigations of PPACA Implementation

The Senate Majority Leader, Mitch McConnell (R-KY), and Senators Orrin Hatch (R-UT) and Tom Coburn (R-OK) sent a letter to the HHS OIG requesting the agency to examine the extent of the problems with HHS' certification of the ability of Patient Protection and Affordable Care Act (PPACA) health insurance exchanges to verify the eligibility of individuals who apply for tax credit premium subsidies. Compounding a problem that news reports said may have allowed up to a million individuals to have received improper subsidies, the Inspector General for Tax Administration in the Treasury Department testified at a Senate Appropriations Committee hearing that some of the Internal Revenue Service (IRS) computer systems required to prevent improper subsidy payments have yet to become operational. Republicans on the House Ways and Means Committee also sent a letter to the Treasury Department demanding that the agency refrain from processing any unverified subsidy payments. State Medicaid directors have also complained that their agencies continue to have severe problems processing new Medicaid enrollees using the data provided by the various health insurance exchanges.

IRS Says Employees Cannot Receive Pre-tax Lump Sums for Health Insurance

The IRS has stymied the practice by many small employers to provide employees with pre-tax lump sums that they can use to buy their own health insurance coverage. In a Q&A the agency said that the continued practice would result in a \$36,500 per year penalty, although the payments could continue if reported as taxable income. The practice is being curtailed because such employer pre-tax plans do not meet the requirements that all group health plans have to meet under the PPACA. In related news, Senator Lamar Alexander (R-TN) and Reps. Stephen Fincher (R-TN) and Dianne Black (R-TN) introduced legislation that would require Center of Medicare and Medicare Services (CMS) and the Government Accountability Office (GAO) to report to Congress annually on the results of their cost analyses of the PPACA's employer mandate as an aid to determine whether legislation is needed to correct unnecessary burdens on small businesses, unwarranted premium increases or the stifling of job creation.

Medicare/Medicaid/PHSA Corner

White House Council Cites FFS as Barrier to Health Care Efficiency

The White House released a report from the President's Council of Advisors on Science and Technology (PCAST) which finds that the predominance of fee-for-service payment methods is the greatest barrier to improving efficiency in the health care system by rewarding procedures and not personalized care. Among the Council's recommendations: moving to methods that use value rather than volume as the criteria for payment; developing new metrics to identify high-value care; engaging communities in systematic health care improvement; supporting the training of health care workers in the use of new means to improve the delivery of care; and requiring HHS to improve the health data infrastructure and to speed up its alignment of payment incentives with better health outcomes.

VA IG Report Shines Light on Need for Top Level Changes

The Acting Inspector General at the VA released a preliminary report which finds that there exists widespread mismanagement at the Phoenix VA facility which negatively impacted veterans access to quality care at the facility. The report also said "Allegations at the Phoenix Health Care System include gross mismanagement of VA resources and criminal misconduct by VA senior hospital leadership..." The preliminary report did not address whether delays in obtaining appointments resulted in delayed diagnoses or treatment, particularly for veterans who died while on a waiting list. Senator Mark Udall (D-CO) of Veterans Affairs are so entrenched that they require new leadership to be fixed..." House Veterans Affairs Committee Chairman Jeff Miller (R-FL) also called on the Attorney General to immediately launch a criminal investigation into the reported problems. Legislators are rushing to help address the issues with the Senate Appropriations Committee including language from the House-passed bill, H.R. 4031, that would give the VA Secretary the ability to remove key health officials in the department. Senators John McCain (R-AZ), Tom Coburn (R-OK) and Richard Burr (R-NC) said they will introduce legislation that would give veterans improved means to seek health care in the private sector. The Veterans' Affairs Committee has plans for a hearing on pending legislation this Thursday.

Phase Two of Physician Payments Sunshine Act Starts

CMS alerted affected drug manufacturers and group purchasing organizations that phase two data collection for the CMS Open Payments program began on June 1 which allows them to complete their registration in the system and submit all required data by June 30th. Payment information for the last five months of 2013 will be available by September 30th while affected physicians and teaching hospitals will be able to register with the Open Payment system to give them access to any information about them which has been submitted and to object to the information within 45 days.

White House Healthy Kids & Safe Sports Concussion Summit

President Obama convened the first White House Healthy Kids & Safe Sports Concussion Summit to raise awareness about concussions and to help advance research on how to assess and treat concussions among young athletes and others. Private organizations were cited as helping fund such research and the President also said that the Department of Defense and the National Collegiate Athletic Association have provided \$30 million to fund research on concussions and other head injuries.

GAO Names Three New MedPAC Members

The Government Accountability Office, which has the duty to appoint members to the Medicare Payment Advisory Commission (MedPAC), named three new members who will serve through April 2017, as follows: Kathy Buto, an expert in U.S. and international health policy; Francis "Jay" Crosson, Group VP of the American Medical Association (AMA), and Warner Thomas, President and CEO of the Ochsner Health System in New Orleans.

Upcoming Health-Related Hearings and Markups

Senate Veterans' Affairs Committee: will hold a hearing on pending legislation including veterans' health care, education, job-training and other benefits. 10 a.m., 418 Russell; June 5.

Health Legislation Recently Introduced

H.R. 4746 (WOMEN'S HEALTH), to amend the Public Health Service Act to establish a program of research regarding the risks posed by the presence of dioxin, synthetic fibers, chemical fragrances and other components of feminine hygiene products; CAROLYN B. MALONEY of New York; to the Committee on Energy and Commerce, May 28.

H.R. 4750 (PROVIDER STANDARDS), to clarify the treatment of health care provider standards of care under federal health care provisions; GINGREY of Georgia; jointly, to the committees on Energy and Commerce and the Judiciary, May 28.