

# Federal Health Update

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*Welcome to Federal Health Update. This newsletter is a compilation of the latest news in the federal health care sector.*

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## EXECUTIVE AND CONGRESSIONAL NEWS

- **The Senate Armed Services Committee passed its markup of the National Defense Authorization Act for Fiscal Year 2011, which authorizes \$612 billion funding for the Department of Defense and the national security programs of the Department of Energy.**

The bill:

- Authorizes a 1.3 percent across-the-board pay raise for members of the uniformed services in the grades of 0-6 and below.
- Authorizes \$135.4 billion for military personnel, including costs of pay, allowances, bonuses, death benefits, and permanent change of station moves.
- Authorizes \$32.2 billion for the Defense Health Program.
- Authorizes \$15.0 million in increased funding to improve access to care, quality of care, health outcomes, and the experience of care for military beneficiaries under the TRICARE program.
- Authorizes \$85.0 million for the enhanced financial literacy training recommended by the Military Compensation and Retirement Modernization Commission.
- Reauthorizes over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by active-duty and reserve component military personnel.
- Increases the maximum annual amount of nuclear officer bonus pay to \$50,000.
- Enhances confidential reporting options for victims of sexual assault by exempting sexual

assault response personnel from mandatory reporting requirements under state law.

- Expands authority of Special Victims' Counsel to provide services to victims of sexual assault.
- Requires the Department to ensure that primary care and mental health care providers receive evidence-based training on recognition, assessment, and management of individuals at risk for suicide.

Under the current 70-year old military retirement system, 83 percent of service members leave the service without any retirement assets. This system excludes the vast majority of current service members who will not complete 20 years of uniformed service, including many veterans of the wars in Afghanistan and Iraq. The bill creates a modernized retirement system and extends retirement benefits to the vast majority of service members through a new plan offering more value and choice.

Under the new plan, 75 percent of service members would get benefits. In many cases, the overall benefit for those serving at least 20 years will be greater than the current system. This new modernized retirement system will apply to members first joining a uniformed service on or after Jan. 1, 2018; current members are grandfathered but may choose to be covered by the new plan.

- Continues the defined benefit for those who complete at least 20 years of service at a multiplier rate of 2.0 times years of service.
- Authorizes government-matching Thrift Savings Plan (TSP) contributions for members of the uniformed services that will vest at the beginning of 3 years of service (2 years, 1 day) at a government matching rate of up to 5 percent.
- Authorizes the Secretary concerned to allow the voluntary election of lump sum payments of retired pay for those serving 20 or more years of service. Members who elect to take the lump sum may choose to take 100 percent or 50 percent of the discounted present value of their defined retirement benefit that would be due to them prior to becoming eligible for Social Security.
- Directs the Secretary concerned to provide continuation pay to service members, serving under the new military retirement system, who reach 12 years of service contingent upon such members agreeing to serve another 4 years of service. A member receiving continuation pay may elect to take the continuation pay in a lump sum or in installments of not more than four payments. A member who receives continuation pay and fails to complete the obligated service requirement shall be subject to repayment.
- Authorizes the flexibility for the Secretary of Defense to modify the years of service required for non-disability retirement under the new military retirement system for particular occupational specialties or other groupings in order to facilitate force shaping or to correct manpower shortages within an occupational specialty.
- Modifies the Department of Defense Military Retirement Fund to be treated as a qualified trust under title 26 United States Code, Section 401(a).

- **Secretary of Defense Ash Carter announced that President Obama has nominated Army Gen. Mark Milley for reappointment to the rank of general and assignment as chief of staff, U.S. Army, Pentagon, Washington, District of Columbia.** Milley is currently serving as commander, U.S. Army Forces Command, Fort Bragg, North Carolina.
- **In the face of recent aggressive and deceptive marketing practices of some compounding pharmacies targeting TRICARE, the Defense Health Agency is taking aggressive action to help TRICARE beneficiaries.**

Dr. George Jones, DHA's chief of pharmacy operations, described compounding as a way that some pharmacies prepare medications for patients who need different kinds or strengths of medications than are available in commercially available products.

"Pediatrics, for example, is a big area for compounding, where [infants or toddlers] may not be able to take tablets or capsules or need a particular strength, so a compounding pharmacy ... can make exactly what that patient needs," Jones told DoD News this week.

Some pharmacies have the expertise and equipment to compound medications and others specialize only in compounding, the clinical pharmacist added. Specialty compounding pharmacies create creams, ointments, capsules and liquids to make specific products and doses.

But a phenomenon that's arisen over the past five or six months involves compounding pharmacies "that are charging unsupportable costs for some of these products, and expanding into areas where there is not good evidence to support the products' safety," Jones added.

According to DHA, DoD costs for compound drugs have skyrocketed from \$5 million in fiscal year 2004 to \$514 million in fiscal 2014. In the first six months of fiscal 2015, DoD costs already exceed \$1 billion.

The normal compounding process begins when a doctor writes a prescription for a compounded product for a patient -- in this case a TRICARE beneficiary. The patient takes the prescription to a compounding pharmacy, which then makes the product and bills TRICARE for the medicine, typically using the average wholesale prices of the medications they use in the compounded product.

A new breed of compounding pharmacy is distorting some of the elements of this traditional process by using aggressive outreach programs to target TRICARE beneficiaries and collect their personal information. Once they have the information, they use it to bill TRICARE as high as \$15,000 for a single compound prescription. These prescriptions may not be tailored to the beneficiary's needs, and sometimes the beneficiary never even meets or speaks to a doctor before the pharmacy sends them the drug. Not only that, but often there is little or no evidence that these products are safe or effective.

Such aggressive pharmacies "put these combinations [of ingredients] together and then put them on the market. They're supposed to be on a prescription for an individual patient, but it seems nowadays they're trying to do a one-size-fits-all with a lot of pain and scar creams," Jones said.

The pharmacies combine ingredients, he added, "where you think they might work but there's no study, no evidence, nobody has looked carefully" to make sure it will not do harm and that it will benefit the patient."

Some pharmacies reach out to beneficiaries, calling them and requesting personal information to use to create prescriptions. Using aggressive marketing efforts, pharmacies are trying to give compounding creams away, almost like door prizes, he added.

When the pharmacies get a beneficiary's personal information, they can create a file, create a prescription, then submit the prescription to TRICARE for payment -- sometimes \$10,000 to

\$15,000 for a prescription, Jones said -- and if TRICARE pays, the pharmacy sends the beneficiary the medication.

Several websites have been created to look like TRICARE websites, Jones said, "they look like something for you as a TRICARE beneficiary but they're not. They suck you in and get your information and then start sending you these prescriptions and billing the government."

Patients are being exploited with these marketing efforts. Beneficiaries should be very careful if someone calls asking for patient information, social security number or TRICARE number.

"TRICARE will almost never call you and ask you for personal information, so if someone does and tells you they're going to give you a prescription, be very wary of that kind of call," Jones noted.

On May 1 TRICARE began extra screening of compound prescriptions to look at the ingredients to see if there's evidence of safety, to see if it's something that can be marketed in the United States, to make sure it's in the best interest of that patient and that it's cost effective.

TRICARE has been monitoring compound activity for the past couple of years but only over the last four or five months has the aggressive marketing outreach and exorbitant prices become a factor.

For the last six months, Jones said DHA has been working to make beneficiaries aware of some of the nefarious practices and outreach efforts being made to try to get their personal health information and scam the government.

Preliminary data for May indicate that this screening is having an impact. DHA will continue to closely monitor and assess the effects of these new policies.

"It will be an ongoing process," Jones said, "and we'll continue to make adjustments to ensure that we can provide access to legitimate compounds and still be good stewards of taxpayer dollars, and do what we can to help protect patients from some of these bad actors."

## VETERANS AFFAIRS NEWS

- ***The Washington Post reports that the Department of Veterans Affairs has been spending at least \$6 billion a year in violation of federal contracting rules to pay for medical care and supplies, wasting taxpayer money and putting veterans at risk, according to an internal memo written by the agency's senior official for procurement.***

In a 35-page document addressed to VA Secretary Robert McDonald, the official accuses other agency leaders of "gross mismanagement" and making a "mockery" of federal acquisition laws that require competitive bidding and proper contracts.

Jan R. Frye, deputy assistant secretary for acquisition and logistics, describes a culture of "lawlessness and chaos" at the Veterans Health Administration, the massive health-care system for 8.7 million veterans.

"Doors are swung wide open for fraud, waste and abuse," he writes in the March memo, which was obtained by The Washington Post. He adds, "I can state without reservation that VA has and continues to waste millions of dollars by paying excessive prices for goods and services due to breaches of Federal laws."

Frye describes in detail a series of practices that he says run afoul of federal rules, including the widespread use of purchase cards, which are usually meant as a convenience for minor purchases of up to \$3,000, to buy billions of dollars worth of medical supplies without contracts. In one example, he says that up to \$1.2 billion in prosthetics were bought using purchase cards

without contracts during an 18-month period that ended last year.

He also explains how VA has failed to engage in competitive bidding or sign contracts with outside hospital and health-care providers that offer medical care for veterans that the agency cannot provide, such as specialized tests and surgeries and other procedures. Frye says VA has paid at least \$5 billion in such fees, in violation of federal rules that the agency's own general counsel has said since 2009 must be followed.

"These unlawful acts may potentially result in serious harm or death to America's veterans," Frye wrote. "Collectively, I believe they serve to decay the entire VA health-care system."

VA spokeswoman Victoria Dillon said in a statement that some of the care the agency pays for is not covered by federal acquisition law. She also said that the agency is trying to manage rapid growth in medical care administered by outside providers, with authorizations for outside medical care jumping 46 percent in the first four months of 2015 over the same period last year.

Dillon said VA officials are urging Congress to pass legislation that would allow an "expedited form of purchasing care" for veterans who need to go outside the VA system. She said the bill "would also resolve legal uncertainties that have arisen" regarding the use of purchasing agreements other than those required by federal acquisition regulations.

VA operates one of the largest health-care systems in the country, spanning 150 hospitals and more than 800 outpatient clinics. The agency has been struggling to serve not only the veterans returning from Iraq and Afghanistan, but also a surge in veterans who served in the 1960s and 1970s.

Frye testified before the House Veterans' Affairs Committee about waste and fraud in the purchase card program.

Frye, 64, is a retired Army colonel who has overseen VA's acquisitions and logistics programs — one of the federal government's largest — since 2005. In his role as the agency's senior procurement executive, he is responsible for developing and supervising VA's practices for acquiring services and supplies, but he is not in charge of making the purchases. A former Army inspector general, he has held senior acquisition positions over 30 years in government.

## GENERAL HEALTH CARE NEWS

- **Nationwide, about 137 million individuals, including 55 million women and 28 million children, have private health insurance that covers recommended preventive services without cost sharing, according to a new ASPE Data Point from the Department of Health and Human Services.**

Under the Affordable Care Act, most health plans are required to provide coverage for recommended preventive health care services without copays. Increased access to preventive services can reduce and prevent costly chronic diseases and help Americans live healthier lives. These services include but are not limited to:

- \* Blood pressure screening
- \* Well-baby and well-child visits
- \* Obesity screening and counseling
- \* Flu vaccination and other immunizations
- \* Well-woman visits
- \* Tobacco cessation interventions

\* Domestic violence screening and counseling

\* Vision screening for children

\* Breastfeeding support and supplies

\* HIV screening

\* FDA-approved contraceptive methods

\* Depression screening

The data are broken down by state, age, gender, and race and ethnicity. Of the about 137 million individuals with access to recommended preventive services without cost sharing:

- 28.5 million are children, who have access to free preventive service coverage for flu vaccinations and other immunizations, vision screening, and well-baby and well-child visits.
- 55.6 million are women, who have access to free preventive services such as well-women visits, breastfeeding support and supplies, and recommended cancer screenings.
- 53.5 million are men, who have access to annual wellness visits, blood pressure screening, and cancer screenings.
- And an estimated 15 million are Black, 17 million are Latino, and 8 million are Asian-Americans who have access to recommended preventive services without cost sharing.

Some of the estimated 137 million individuals that are guaranteed access to preventive services without cost sharing today may have had access to one or more of those services without cost sharing prior to the implementation of the Affordable Care Act. According to the Kaiser Family Foundation's Employer Health Benefits Survey in 2012, 41 percent of all workers were covered by employer-sponsored group health plans that expanded their list of covered preventive services due to the Affordable Care Act.

To read a fact sheet explaining today's data point, please visit:

[http://aspe.hhs.gov/health/reports/2015/Prevention/ib\\_Prevention.pdf](http://aspe.hhs.gov/health/reports/2015/Prevention/ib_Prevention.pdf)

- **A new study from the American Heart Association finds that people with chronic depression have a higher risk of stroke and the risk seems to remain high even after the depression goes away.**

This study found people who have a high depression screening score, will have more than a two-fold increase in risk of stroke. In the follow up period, if the depression symptoms resolve, you still have 66 percent risk of having a stroke.

The study was conducted by a group of public health researchers at Harvard, University of California San Francisco, the University of Washington and University of Minnesota, who looked at data from over 16,000 people age 50 and older gathered over a dozen years for the Health and Retirement study. Every two years between 1998 and 2010, people were quizzed about their depressive symptoms, their stroke history and their behaviors that might put them at risk for stroke.

Researchers aren't sure why the risk doesn't diminish. Depression is known to be related to unhealthy behaviors that increase cardiovascular risk, such as physical inactivity and smoking, but researchers don't believe these fully explain their findings.

## REPORTS/POLICIES

- **The Institute of Medicine published “Scaling Program Investments for Young Children Globally: Evidence from Latin America and the Caribbean—Workshop in Brief,” on May 14, 2015.** The purpose of this interactive public workshop was to highlight efforts made to scale program investments across health, education, nutrition, and social protection that aim to improve children’s developmental potential. <http://www.iom.edu/Reports/2015/Scaling-Investments-WIB.aspx>

## HILL HEARINGS

- The House and Senate Veterans Affairs Committees will hold a joint hearing on **May 20, 2015**, to receive the legislative presentation of multiple veterans service organizations.
- The House Veterans Affairs Committee will hold a hearing on **May 21, 2015**, to mark-up pending legislation.

## LEGISLATION

- **H.R.2256** (introduced May 12, 2015): To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit an annual report on the Veterans Health Administration and the furnishing of hospital care, medical services, and nursing home care by the Department of Veterans Affairs was referred to the House Committee on Veterans' Affairs.  
Sponsor: Representative Dan Benishek [MI-1]
- **H.R.2300** (introduced May 12, 2015): To provide for incentives to encourage health insurance coverage, and for other purposes was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, the Judiciary, Natural Resources, House Administration, Rules, Appropriations, and Oversight and Government Reform.  
Sponsor: Representative Tom Price [GA-6]
- **H.R.2311** (introduced May 13, 2015): To expand the research activities of the National Institutes of Health with respect to functional gastrointestinal and motility disorders, and for other purposes was referred to the House Committee on Energy and Commerce.  
Sponsor: Representative F. James Sensenbrenner, Jr. [WI-5]
- **S.1287** (introduced May 12, 2015): A bill to amend the Public Health Service Act to revise and extend the program for viral hepatitis surveillance, education, and testing in order to prevent deaths from chronic liver disease and liver cancer, and for other purposes was referred to the Committee on Health, Education, Labor, and Pensions.  
Sponsor: Senator Mark Steven Kirk [IL]
- **S.1290** (introduced May 12, 2015): A bill to ensure the ability of covered beneficiaries under the TRICARE program to access care under a health plan under such program in each TRICARE program region, and for other purposes was referred to the Committee on Armed Services.  
Sponsor: Senator Mike Rounds [SD]
- **S.1302** (introduced May 12, 2015): A bill to amend the Family and Medical Leave Act of 1993 to provide leave because of the death of a son or daughter was referred to the Committee on

Health, Education, Labor, and Pensions.  
Sponsor: Senator Jon Tester [MT]

## MEETINGS

- The AUSA 2015 Annual Meeting & Exposition will be held **Oct. 12-14, 2015**, in Washington DC. <http://ausameetings.org/2015annualmeeting/>
- 2015 AMSUS Annual Continuing Education Meeting - The Society of Federal Health Professionals will be held on **Dec. 1-4, 2015**, in San Antonio, Texas. <http://amsusmeetings.org/annual-meeting/>

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