

Federal Health Update

MAY 23, 2014

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Happy Memorial Day!

EXECUTIVE AND CONGRESSIONAL NEWS

- **Rep. Chris Stewart (R-Utah) and Rep. Tulsi Gabbard (D-HI), both veterans, introduced H.R. 4682, the Veterans TRICARE Choice Act of 2014.**

This bipartisan bill gives TRICARE-eligible veterans the ability to contribute to a Health Savings Account (HSA) program.

Under current Veterans Administration policy, it is illegal for a TRICARE-eligible veteran to participate in an HSA program. The Veterans TRICARE Choice Act of 2014 gives veterans the choice to voluntarily pause their TRICARE benefits in order to participate in an HSA program.

Health Savings Accounts have proven to be an effective way to pay for medical costs and proactively save for future medical expenses. Employees invest and save tax-free money in HSAs, which are then used to pay for qualified medical expenses. These have become increasingly popular healthcare plans in the private sector.

For a PDF copy of the bill, [click here](#).

- **The House passed H.R. 4335, the Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, on May 22, 2014.**

The House version of the NDAA FY 2015 bill authorizes \$521.3 billion in spending for national defense in fiscal 2015, and an additional \$79.4 billion for overseas contingency operations, which is \$30.8 billion less and \$1.3 billion less respectively than enacted for fiscal 2014.

The bill authorizes a 1.8 percent pay bump for troops, which the automatic fiscal 2015 cost-of-living adjustment scheduled for the military and prohibits the Department of Defense from using funds to close commissary stores.

The House bill also rejected the administration's proposed changes to TRICARE, including an annual enrollment fees for the Medicare-eligible retirees in the TRICARE for Life program, and pharmacy prescription co-payments for all active-duty and military retirees to "incentivize" the use of mail order and generic drugs, which cost less.

The bill also rebuffed the administration's proposal to execute another round of base closures.

- **The Federal Information Technology Acquisition Reform Act passed in the House on May 22, as part of the fiscal 2015 National Defense Authorization Act.** The bill would give agency chief information officers greater authority over component technology purchasing, elevate the role of CIO by requiring presidential appointment and allow more funding flexibility in the form of multi-year commodity IT budgets.

- **The House passed H.R. 4031, the *Department of Veterans Affairs Management Accountability Act*, on May 21, 2014.** This legislation amends title 38 U.S.C., and gives the Secretary of the Department of Veterans Affairs authority to remove employees of the Senior Executive Service, whose performance the Secretary believes warrants removal, from the government service completely or transfer them to a General Schedule position within the current civil service system. The ability to remove such an employee is modeled after the same authority that Members of Congress have to remove their professional staff members who work for them.

This legislation is in response to revelations that some VA health facilities had submitted falsified records, resulting in the deaths of veterans.

- **The Senate Appropriations Military Construction-VA Subcommittee approved a bill total funding of \$165.4 billion for Military Construction, Veterans Affairs and Related Agencies for fiscal year 2015.**

The measure, which would provide \$71.9 billion in discretionary funds for the VA and military construction accounts of the Defense Department, and \$93.5 billion in mandatory funding. The bill also includes \$58.7 billion in fiscal year 2016 advance appropriations for veterans' medical services.

The bill includes an additional \$5 million above the budget request for the Office of Inspector General to conduct a nationwide investigation throughout all veterans Integrated Service Networks of scheduling practices and procedures. The bill also prohibits the payment of performance bonuses to Veterans Health Administration (VHA) medical directors, assistant medical directors and Senior Executive System employees until the investigation is completed and reforms have been instituted.

For more details about the legislation, please visit

http://www.appropriations.senate.gov/sites/default/files/05_22_14%20MilConVa%20full%20committee%20bill%20summary%20final.pdf

MILITARY HEALTH CARE NEWS

- **The Department of Defense published a final rule, *TRICARE Revision to CHAMPUS DRG-Based Payment System, Pricing of Hospital Claims*, in the [Federal Register](#) in May 21, 2014.**

The final rule changes TRICARE's current regulatory provision for inpatient hospital claims priced under the DRG-based payment system. Claims are currently priced by using the rates and weights that are in effect on a beneficiary's date of admission. This Final rule changes that provision to price such claims by using the rates and weights that are in effect on a beneficiary's date of discharge.

This final rule is effective June 20, 2014 and applies to claims with a discharge date of Oct. 1, 2014, or later from hospitals paid by TRICARE under the Inpatient Prospective Payment System/Diagnosis-Related Groups-based payment system.

- **The Defense Health Agency announced that Defense Manpower Data Center (DMDC) has scheduled a downtime for maintenance on May 24, 2014 at 6:00 p.m. (Pacific Time), which may last for up to 12 hours.**

DMDC hosts several websites and applications you and your providers use to verify eligibility and complete other secure functions:

- [MilConnect](#) – update personal information, verify eligibility, get new TRICARE cards, get proof of coverage
- [Defense Enrollment Eligibility Reporting System \(DEERS\)](#) – checked by providers and pharmacies to verify eligibility for TRICARE
- [Beneficiary Web Enrollment](#) – enroll in TRICARE Prime, the US Family Health Plan or the dental plans
- [Reserve Component Purchased TRICARE Application](#) – qualify and purchase TRICARE Reserve Select or TRICARE Retired Reserve

During this scheduled downtime, you may not be able to:

- Verify eligibility
- Update your personal information in DEERS
- Enroll in TRICARE Prime, TRICARE Prime Remote or the US Family Health Plan
- Enroll in the TRICARE Dental Program or TRICARE Retiree Dental Program
- Purchase TRICARE Reserve Select or TRICARE Retired Reserve
- Get new wallet cards
- Request proof of coverage
- Perform other secure functions

Also, providers and pharmacies may not be able to verify your eligibility for TRICARE. If you need an emergency prescription filled during the scheduled downtime, you may need to pay out of pocket and file a claim for reimbursement. Note: The prescription processing will be the last part to be brought offline and the first part brought back online for the scheduled downtime.

VETERANS AFFAIRS NEWS

- **The Associated Press reports that the inspector general for the Department of Veterans Affairs has expanded its investigation to include 26 facilities around the country accused of mismanagement and hiding long wait times.** During a Senate hearing last week, Inspector General Richard Griffin said that allegations at 10 new facilities had surfaced since initial reports about a Phoenix facility's attempt to disguise long wait times for veterans using a secret wait list.

- **Veterans Affairs Secretary Eric Shinseki released the following statement on May 22, 2014:**

Fellow Veterans and Family Members,

After 38 years in The Army, I am now honored and privileged to serve as your Secretary of Veterans Affairs (VA). VA remains committed to providing the high quality benefits you have earned and deserve.

Allegations of VA employees' misconduct have surfaced over the last several weeks, beginning with scheduling delays at the Phoenix VA Health Care System. As I testified before Congress on May 15, I take any allegations about patient safety or employee misconduct very seriously. The reports of Veterans' negative experiences while seeking VA care are of great personal concern to me. I fully agree with President Obama's statement on May 21, 2014: "If these allegations prove to be true, it is dishonorable, it is disgraceful"

In response to these allegations at the Phoenix VA Medical Center and a number of other facilities, the VA Office of Inspector General is conducting a comprehensive, independent review. In addition to the IG's independent review, I ordered the Veterans Health Administration (VHA) to conduct a nationwide audit of all other major VA healthcare facilities to ensure understanding of, and compliance with, our appointment policy. That audit is being conducted now by more than two hundred senior VHA staff. All teams are independent of the facilities they are visiting. You and your families deserve to have full faith in your VA, and we intend to earn it every day.

As President Obama made clear to the American people May 21, 2014, "Every single day, there are people working in the VA who do outstanding work and put everything they've got into making sure that our Veterans get the care, benefits, and services that they need."

I echo that praise and commend the hard work and dedication of the vast majority of our VA employees, many of whom are Veterans themselves. Every year, dedicated employees are prepared to provide care for over 8.9 million veterans enrolled in VA healthcare. Every day, VHA conducts approximately 236,000 outpatient healthcare appointments—about 85 million last year.

Since 2009, we have enrolled two million more veterans in high-quality VA healthcare, reduced veterans' homelessness by 24 percent, and provided Post-9/11 GI Bill educational benefits to more than one million student veterans and eligible family members. We have opened up new presumptives for veterans to receive long overdue care for exposure to Agent Orange, for combat-related PTSD, and for Gulf War illnesses. And, we have decreased the disability claims backlog by over 50 percent in the last 14 months. We will meet our goal of eliminating the claims backlog in 2015.

Every VA medical facility is accredited by The Joint Commission, an independent, non-profit organization that ensures the quality of U.S. healthcare through intensive evaluation of more

than 20,000 healthcare organizations. In 2012, The Joint Commission, recognized 19 VA hospitals as top performers, and that number increased to 32 in 2013.

Since 2004, the American Customer Satisfaction Index (ACSI) survey has consistently shown that, on average, veterans who use VA healthcare award our hospitals and clinics a higher customer satisfaction score than patients give private sector hospitals. When asked if they would use a VA medical center the next time they need inpatient or outpatient care, 96 percent and 95 percent of veterans, respectively, indicated they would. Veterans across the nation are receiving quality care from VA. We must encourage other veterans to seek it.

Notwithstanding these accomplishments, VA will do even better. If any allegations under review are substantiated, we will act.

As we approach our observance of Memorial Day and its special significance to our Nation, VA is re-doubling its efforts, with integrity and compassion, to earn your trust.

As President Obama said, Veterans have “done their duty, and they ask nothing more than that this country does ours—that we uphold our sacred trust to all who have served.”

And, we will.

GENERAL HEALTH CARE NEWS

- **The Centers for Medicare & Medicaid Services (CMS) announced plans to expand a successful demonstration project, which give Medicare beneficiaries prior authorization for power mobility devices.**

Prior authorization supports the administration’s ongoing efforts to safeguard beneficiaries’ access to medically necessary items and services, while reducing improper Medicare billing and payments. The proposed rule is estimated to reduce Medicare spending by \$100 to \$740 million over the next ten years.

The original Medicare Prior Authorization of Power Mobility Device Demonstration was launched in 2012, and decreased monthly expenditures for certain power mobility devices from \$12 million in September 2012 to \$4 million in August 2013 across the seven demonstration states (California, Florida, Illinois, Michigan, New York, North Carolina, and Texas) with no reduction in beneficiary access to medically necessary items.

CMS seeks to leverage this success by extending the demonstration to an additional 12 states. These states include Arizona, Georgia, Indiana, Kentucky, Louisiana, Maryland, Missouri, New Jersey, Ohio, Pennsylvania, Tennessee, and Washington. This will bring the total number of states participating in the demonstration to 19.

- **Additionally, CMS will test prior authorization in additional services in two new demonstration programs, and propose regulation for prior authorization for certain durable medical equipment, prosthetics, orthotics, and supplies.**

CMS also proposes to establish a prior authorization process for certain durable medical equipment, prosthetics, orthotics, and supplies items that are frequently subject to unnecessary utilization. Through a proposed rule, CMS will solicit public comments on this prior authorization process, as well as criteria for establishing a list of durable medical items that are frequently subject to unnecessary utilization that may be subject to the new prior authorization process. The proposed rule is currently on display at <https://www.federalregister.gov/public-inspection> and will be published in the Federal Register on May 28, 2014. The deadline to submit

comments is July 28, 2014.

CMS will launch two payment model demonstrations to test prior authorization for certain non-emergent services under Medicare. These services include hyperbaric oxygen therapy and repetitive scheduled non-emergent ambulance transport. Information from these models will inform future policy decisions on the use of prior authorization.

Prior authorization does not create additional documentation requirements or delay medical service. It requires the same information that is currently necessary to support Medicare payment, but earlier in the process. CMS believe prior authorization is an effective way to ensure compliance with Medicare rules for some items and services.

- **The U.S. Food and Drug Administration, in partnership with other federal and international agencies, took action this week against websites that sell potentially dangerous, unapproved prescription drugs to U.S. consumers.**

The FDA and the U.S. Customs and Border Protection (CBP) also conducted extensive examinations at U.S.-based international mail facilities, where many packages containing prescription drugs enter the U.S., and found that most of the examined packages contained illegal prescription drugs that had been ordered from online sources.

Operation Pangea VII's coordinated efforts at mail facilities resulted in the detention or seizure of 19,618 packages containing medicines purportedly from Australia, the United Kingdom (UK), New Zealand and Canada. These packages actually contained unapproved or suspected counterfeit drugs from other countries, such as India, China, Singapore, Taiwan, Mexico, Laos, Malaysia, as well as Australia, New Zealand and the UK.

The FDA and the CBP inspected packages at the mail facilities in Los Angeles, New York and Chicago, and detained or seized 583 packages. Preliminary findings show that certain drug products from abroad, such as insulin, estrogen, bimatoprost, human chorionic gonadotropin, tramadol, tadalafil and sildenafil citrate were on their way to U.S. consumers. The FDA also notified Internet service providers, domain name registrars and related organizations that 1,975 websites were selling products in violation of U.S. law.

Investigations and operations such as Operation Pangea VII have revealed that many American consumers order medicines from online sources believing they will receive the same medicine as the U.S. approved version. These medicines, however, are often unapproved or counterfeit and from countries with less stringent manufacturing standards or regulatory controls. Many illegal online pharmacies purport to sell drugs identical to the U.S. approved versions to attract consumers but then send them unapproved, counterfeit or substandard versions.

The FDA provides consumers with information on how to identify an illegal pharmacy website and advice on how to find a safe online pharmacy through [BeSafeRx: Know Your Online Pharmacy](#).

REPORTS/POLICIES

- **The GAO published “Federal Autism Activities: Funding and Coordination Efforts,” (GAO-14-613T) on May 20, 2014.** In this report, GAO discusses federal autism activities, including the extent to which federal agencies fund potentially duplicative autism research and the extent to which IACC and agencies coordinate and monitor federal autism activities. <http://www.gao.gov/assets/670/663313.pdf>

- **The GAO published *Medicare: Further Action Could Improve Improper Payment Prevention and Recoupment Efforts*,” (GAO-14-619T) on May 20, 2014.** In this report, GAO examines on the progress made and steps still to be taken by CMS to improve improper payment prevention and recoupment efforts in the Medicare FFS program. <http://www.gao.gov/assets/670/663316.pdf>

HILL HEARINGS

- There are no hearings scheduled next week.

LEGISLATION

- **H.R.4677** (introduced May 19, 2014): To amend the Patient Protection and Affordable Care Act to require States with failed American Health Benefit Exchanges to reimburse the Federal Government for amounts provided under grants for the establishment and operation of such Exchanges was referred to the House Committee on Energy and Commerce. Sponsor: Representative Tom Reed [NY-23]
- **H.R.4682** (introduced May 20, 2014): To provide for coordination between the TRICARE program and eligibility for making contributions to a health savings account was referred to the Committee on Ways and Means, and in addition to the Committee on Armed Services. Sponsor: Representative Chris Stewart [UT-2]
- **H.R.4683** (introduced May 20, 2014): To amend title XXIX of the Public Health Service Act to reauthorize the program under such title relating to lifespan respite care was referred to the House Committee on Energy and Commerce. Sponsor: Representative James R. Langevin [RI-2]
- **S.2359** (introduced May 20, 2014): A bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes was referred to the Committee on Finance. Sponsor: Senator Al Franken [MN]
- **S.2362** (introduced May 20, 2014): A bill to prohibit the payment of performance awards in fiscal year 2015 to employees in the Veterans Health Administration, and for other purposes was referred to the Committee on Veterans' Affairs. Sponsor: Senator Deb Fischer [NE]

MEETINGS/WEBINARS

- The National Center for Disaster Medicine and Public Health will host the 2014 Learning in Disaster Health Workshop on **Sept. 9-10, 2014**, in the Washington DC area. <http://ncdmph.usuhs.edu/>
- The AUSA 2014 Annual Meeting & Exposition will be held **Oct. 13-15, 2014**, in Washington DC. <http://www.ausa.org/meetings/2014/Pages/AnnualMeeting.aspx>
- The 30th Annual Meeting of the International Society for Traumatic Stress Studies (ISTSS) will be held **Nov.6-8, 2014**, in Miami, Fla. <http://www.istss.org/MeetingsEvents.htm>
- The AMIA 2014 Annual Symposium will be held on **Nov. 15-19, 2014**, in Washington DC. <http://www.amia.org/amia2014>

- AMSUS Annual Continuing Education Meeting will be held **Dec. 2-5, 2014**, in Washington, DC <http://amsusmeetings.org>
- The 100th Annual Meeting of Radiological Society of North America (RSNA) 2014: **Dec. 5-9, 2014**, in Chicago, Ill. http://www.rsna.org/Annual_Meeting.aspx
- The 2014 Special Operations Medical Association (SOMA) Science Assembly will be held on **Dec. 8-11, 2014**, in Tampa, Fla. <http://www.specialoperationsmedicine.org/Pages/scientificassembly.aspx>
- The AAMA 2015: The National Summit of Medical Administrators will be held on **Jan. 19-21, 2015**, in Clearwater, Fla. <http://aameda.org/p/cm/ld/fid=159>

If you need further information on any item in the *Federal Health Update*, please contact Kate Theroux at (703) 447-3257 or by e-mail at katetheroux@federalhealthcarenews.com.