

Federal Health Update

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Happy Memorial Day!

EXECUTIVE AND CONGRESSIONAL NEWS

- The House and Senate are in recess until June 5, 2018
- **On May 19, 2017, Secretary of Defense Jim Mattis announced that the president nominated Marine Corps Gen. Joseph F. Dunford to be reappointed as chair of the Joint Chiefs of Staff.** Dunford has been serving as the chair of the Joint Chiefs of Staff since September 2015.
- **Defense Secretary Jim Mattis also announced that the president nominated Air Force Gen. Paul J. Selva to be reappointed as vice chair of the Joint Chiefs of Staff and appointment to the grade of general.**

MILITARY HEALTH CARE NEWS

- **The *Military Times* reports that President Trump's proposed budget for the Department of Defense includes an increase in TRICARE fees for current and future retirees.**

The new Administration's proposal would remove the 'grandfathering clause' included in the 2017 National Defense Authorization Act (NDAA), which updated the fee structure. Currently, the new fees only affects those who enter the force after January 2018. The 2018 proposed budget does not affect TRICARE For Life (TFL) beneficiaries.

To date, retiree families must pay an annual TRICARE Standard enrollment of \$150 for individual and \$300 for families or \$282.60 for individuals and \$565.20 for TRICARE Prime. Fees under the 2017 NDAA are \$450 for individuals and \$900 for families on TRICARE Select and \$350 for individuals and \$700 for families under TRICARE Prime.

The 2017 NDAA, signed into law in December, focused for current troops and retirees primarily on program title changes from "TRICARE Standard" and "TRICARE Extra" to "TRICARE Select," back end management and limited expansions for current retirees and troops.

But under that legislation, those new to the military in 2018 see new cost structures once they hit retirement, including annual enrollment fees of at least \$900 per family for the new "TRICARE Select" option and \$700 for TRICARE Prime.

The 2018 budget proposal expands those retiree health care fee increases to everyone, regardless of when they entered the military.

Under the plan, Prime enrollment costs for retiree families would increase by almost \$150 per year, while the fee for the "Select" plan, similar to the current "Standard" option, would triple. The annual catastrophic cap -- the most users pay out of pocket for covered services -- would also increase from \$3,000 to \$3,500 for retirees.

Exempted from the changes under the proposal are medical retirees and the family members of those who died while on active duty.

The president's proposal also increases TRICARE pharmacy fees.

Currently a 30-day supply of generic medication at a retail pharmacy is \$10 while a brand-name drug is \$24 and drugs outside the formulary \$50. Drugs received through the mail-order pharmacy cost less, with a generic medication free, a 90-day supply of brand-name drugs \$20 and non-formulary drugs \$49. Medication received at a military treatment facility is free. The fees were last changed in 2016.

The new proposal would gradually increase Tricare drug prices to \$14, \$46 and \$90, respectively, by 2027 for 30-day supplies at in-network retail pharmacies, with the same price tags for mail-order drugs, but for longer, 90-day supplies. Medications from military treatment facility pharmacies would continue to be free.

The budget proposal also includes a 2.1 percent pay increase for military troops in fiscal 2018 -- the same as was recently approved by Congress for the current year -- and overall Defense spending of \$603 billion.

The new TRICARE fees and catastrophic caps would also be subject to annual increases, budget documents state, which would be tied to the National Health Expenditures per capita rate, which is compiled by government's Centers for Medicare and Medicaid Services. That office projects a 5.9 percent increase for 2018 to 2019, according to forecast documents.

Congress still has to review and approve or modify the proposed budget before it becomes law.

VETERANS AFFAIRS NEWS

- **In his fiscal year (FY) 2018 budget, President Trump is proposing \$186.5 billion for the Department of Veterans Affairs (VA).**

This year's budget request includes 82 legislative proposals that will help enable the department to better serve veterans.

Highlights From the President's 2018 Budget Request for VA

The FY 2018 budget includes \$82.1 billion in discretionary funding, largely for health care, and \$104.3 billion in mandatory funding for benefit programs, such as disability compensation and pensions, and for continuation of the Veterans Choice Program (Choice Program).

The discretionary budget request is \$4.3 billion (5.5 percent) above the 2017 enacted level, including nearly \$3.3 billion in medical care collections from health insurers and veteran copayments. The budget also requests \$74 billion, including collections, for the 2019 advance appropriations for medical care, an increase of \$1.7 billion and 2.4 percent above the 2018 medical care budget request. The request includes \$107.7 billion in 2019 mandatory advance appropriations for Compensation and Pensions; Readjustment Benefits; and Veterans Insurance and Indemnities benefits programs in the Veterans Benefits Administration (VBA).

Health Care

With a total medical care budget of \$75.2 billion, including collections and new mandatory funding for the Choice Program, VA is positioned to continue expanding health-care services to over 7 million patients. Health care is being provided to more than 858,000 veterans who served in Operation Enduring Freedom/Operation Iraqi Freedom/Operation New Dawn/Operation Inherent Resolve and Operation Freedom's Sentinel.

Major categories funded within the health care budget are:

- \$13.2 billion for community care;
- \$8.8 billion for long-term care;
- \$8.4 billion for mental health care;
- \$1.7 billion for programs for homeless and at-risk Veterans;
- \$751 million for Hepatitis-C treatment;
- \$604 million for Caregivers' benefits; and
- \$316 million for treatment of traumatic brain injuries.

Expanding Access

The president's budget ensures that care and other benefits are available to veterans when and where they need them. Among the programs that will expand access under the proposed budget are:

- \$13.2 billion for community care, compared with \$11.2 billion in 2017, a 13 percent increase;
- \$505 million for gender-specific health-care services for women, an increase of 7 percent over the 2017 level;
- \$862 million for the activation of new and enhanced health-care facilities;
- \$855 million for major and minor construction projects, including a new outpatient clinic at Livermore, California, and expansion of cemeteries at Calverton, New York; Sacramento, California; Bushnell, Florida; Phoenix, Arizona; Bridgeville, Pennsylvania; and Elwood, Illinois.

Disability Compensation Claims Backlog and Appeals Reform

VBA has continued aggressive efforts aimed at bringing down the disability compensation claims backlog, completing a record-breaking 1.3 million claims in 2016 and reducing the claims backlog by 88 percent, cumulatively, from a peak of 611,000 claims in March 2013 to 71,690 on Sept. 30, 2016. In 2016, Veterans waited, on average, 203 fewer days for a decision than four years ago. In 2018, VBA is projected to complete 1.4 million claims, and the number of claims pending longer than 125 days is anticipated to remain at about 70 thousand claims. This pending claims status may change as the volume of claims receipts increases or decreases, and as claims processing becomes more efficient. VBA's success in reducing the rating claims backlog has also resulted in a growing appeals inventory.

Veterans Choice Program—Community Care

VA is requesting a total of \$13.2 billion in 2018 for Veterans Community Care. This consists of a request for \$9.7 billion in discretionary funding for the Medical Community Care account, plus an additional \$2.9 billion in new mandatory budget authority for the Choice Program. When combined with \$626 million in estimated start-of-year unobligated balances from the original Choice Program appropriation, the total Community Care funding level is \$13.2 billion in 2018. The budget also requests \$3.5 billion in mandatory budget authority in 2019 for the Choice Program. This additional funding will allow VA to continue increasing Veterans' access to health-care services by allowing them to choose VA direct care or community care.

Enhanced Oversight of VA's Programs

The 2018 budget requests \$159.6 million for the Office of Inspector General (OIG) to enhance oversight and assist the OIG in fulfilling its statutory mission of making recommendations that will help VA improve the care and services it provides.

GENERAL HEALTH CARE NEWS

- **On May 23, 2017, the Trump Administration released its Health and Human Services (HHS) budget proposal of \$69 billion in discretionary budget authority and \$1,046 billion in mandatory funding for fiscal year 2018.**

The proposed 2018 budget cuts HHS spending by \$665 billion over 10 years.

The budget proposal includes \$250 billion in net deficit savings over 10 years associated with health care reform as part of the Administration's commitment to expand choices, increase access, and lower premiums.

It extends the Children's Health Insurance Program for two years (through FY 2019) and makes modest reforms that taken together save a net \$5.8 billion over the budget window.

It also proposes medical liability reforms that will save HHS programs \$31.8 billion over 10 years and \$55 billion to the federal government overall. A significant portion of these savings are attributable to the estimated reduction in unnecessary services and curbing the practice of defensive medicine. These medical liability reforms will benefit all Americans by cutting unnecessary health care spending.

Specifically, the Budget proposes the following medical liability reforms:

- Capping awards for noneconomic damages at \$250,000 indexed to inflation;
- Providing safe harbors for providers based on clinical standards;
- Authorizing the Secretary to provide guidance to states to create expert panels and administrative health care tribunals;
- Allowing evidence of a claimants' income from other sources such as workers

compensation and auto insurance to be introduced at trial;

- Providing for a three-year statute of limitations;
- Allowing courts to modify attorney's fee arrangements;
- Establishing a fair-share rule to replace the current rule of joint and several liability;
- Excluding provider expressions of regret or apology from evidence; and
- Requiring courts to honor a request by either party to pay damages in periodic payments for any award equaling or exceeding \$50,000.

To read more about the proposed budget, please visit:

<https://www.hhs.gov/about/budget/fy2018/budget-in-brief/index.html#budget>

▪ **The U.S. Food and Drug Administration granted accelerated approval to a treatment for patients whose cancers have a specific genetic feature (biomarker).**

This is the first time the agency has approved a cancer treatment based on a common biomarker rather than the location in the body where the tumor originated.

Keytruda (pembrolizumab) is indicated for the treatment of adult and pediatric patients with unresectable or metastatic solid tumors that have been identified as having a biomarker referred to as microsatellite instability-high (MSI-H) or mismatch repair deficient (dMMR). This indication covers patients with solid tumors that have progressed following prior treatment and who have no satisfactory alternative treatment options. It also includes patients with colorectal cancer that has progressed following treatment with certain chemotherapy drugs.

MSI-H and dMMR tumors contain abnormalities that affect the proper repair of DNA inside the cell. Tumors with these biomarkers are most commonly found in colorectal, endometrial and gastrointestinal cancers, but also less commonly appear in cancers arising in the breast, prostate, bladder, thyroid gland and other places. Approximately 5 percent of patients with metastatic colorectal cancer have MSI-H or dMMR tumors.

Keytruda works by targeting the cellular pathway known as PD-1/PD-L1 (proteins found on the body's immune cells and some cancer cells). By blocking this pathway, Keytruda may help the body's immune system fight the cancer cells. The FDA previously approved Keytruda for the treatment of certain patients with metastatic melanoma, metastatic non-small cell lung cancer, recurrent or metastatic head and neck cancer, refractory classical Hodgkin lymphoma, and urothelial carcinoma.

The FDA granted this application Priority Review designation, under which the FDA's goal is to take action on an application within six months where the agency determines that the drug, if approved, would significantly improve the safety or effectiveness of treating, diagnosing or preventing a serious condition.

The FDA granted accelerated approval of Keytruda to Merck & Co.

REPORTS/POLICIES

- **The Congressional Budget Office released its analysis of H.R. 1628, American Health Care Act of 2017 on May 24, 2017.** In the report, the CBO and JCT estimate that enacting the American Health Care Act would reduce federal deficits by \$119 billion over the coming decade and increase the number of people who are uninsured by 23 million in 2026 relative to current law. <https://www.cbo.gov/publication/52752>

HILL HEARINGS

- There are no hearings scheduled next week.

LEGISLATION

- **S.1201** (introduced May 22, 2017): A bill to allow individuals living in areas without qualified health plans offered through an Exchange to have similar access to health insurance coverage as members of Congress and congressional staff was referred to the Committee on Finance Sponsor: Senator Claire McCaskill, [D-MO]
- **S.1194** (introduced May 22, 2017): A bill to provide for the coverage of medically necessary food and vitamins for digestive and inherited metabolic disorders under federal health programs and private health insurance, and for other purposes was referred to the Committee on Finance. Sponsor: Senator Robert P. Casey, Jr. [D-PA]
- **H.R.2587** (introduced May 22, 2017): To provide for the coverage of medically necessary food and vitamins for digestive and inherited metabolic disorders under Federal health programs and private health insurance, and for other purposes was referred to House Oversight and Government Reform. Sponsor: Representative John K. Delaney [D-MD-6]
- **S.1227** (introduced May 24, 2017): A bill to amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment under Medicaid and the Children's Health Insurance Program, and for other purposes was referred to the Committee on Finance. Sponsor: Senator Sherrod Brown [D-OH]
- **H.R.2628** (introduced May 24, 2017): To amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment of individuals under the Medicaid program and Children's Health Insurance Program, and for other purposes was referred to the House Committee on Energy and Commerce. Sponsor: Representative Gene Green [D-TX-29]
- **H.R.2648** (introduced May 24, 2017): To amend title 38, United States Code, to ensure that the requirements that new federal employees who are veterans with service-connected disabilities are provided leave for purposes of undergoing medical treatment for such disabilities apply to certain employees of the Veterans Health Administration, and for other purposes was referred to the House Oversight and Government Reform. Sponsor: Representative Steve Stivers [R-OH-15]
- **H.R.2555** (introduced May 19, 2017): To require the Secretary of Veterans Affairs to ensure compliance of medical facilities of the Department of Veterans Affairs with requirements relating to the scheduling of appointments, to require appointment by the President and confirmation by the Senate of certain health care officials of the Department, and for other purposes was referred to the House Oversight and Government Reform. Sponsor: Representative Mia B. Love, [R-UT-4]
- **H.R.2569** (introduced May 19, 2017): To promote transparency in health care pricing, and for other purposes was referred to the House Oversight and Government Reform. Sponsor: Representative Ed Perlmutter [D-CO-7]

MEETINGS

- The AUSA 2017 Annual Meeting & Exposition will be held **Oct. 9-11, 2017**, in Washington DC. <http://ausameetings.org/2017annualmeeting/>

- The 2017 AMSUS Annual Continuing Education Meeting will be held on **Nov. 27- Dec. 1, 2017**, at the Gaylord National Harbor, Md. <http://www.amsus.org/annual-meeting/>

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.