Federal Health Update

JUNE 19, 2014

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

Sponsored by:

Additional Sponsorship Opportunities Available.

Please contact Kate Theroux if you are interested in supporting this service.

ktheroux@federalhealthcarenews.com

EXECUTIVE AND CONGRESSIONAL NEWS

- **The House passed H.R. 160, the Protect Medical Innovation Act.** This legislation amends the Internal Revenue Code to repeal the excise tax on medical device manufacturers and importers.

- **On June 15, 2015, President Obama signed into law S. 1568, which extends authorization of a Department of Veterans Affairs medical facility project in Denver, Colorado, and authorizes the transfer of amounts from other accounts to fund the project.**

- **On June 18, 2015, the Senate passed (71-25) its draft of the $613 billion national defense authorization bill for fiscal year 2016.**

  The bill includes a host of pay and benefits provisions for troops, including a 1.3 percent pay raise next January and a dramatic overhaul of the military retirement system.

  But it also includes language supporting more than $35 billion in extra overseas war spending, which has drawn criticism from Democrats who call it irresponsible budgeting and a veto threat from the White House.

  House lawmakers passed a similar draft last month, and drew similar criticism from Democrats in that chamber. President Obama also threatened to veto that draft, citing the war funding language.

But Republicans — led by Senate Armed Services Committee Chairman Sen. John McCain, R-Ariz. — argued that the bill matches the total funding requested by the White House in its budget request, and brushed aside concerns about the mechanisms used to get around mandatory spending caps for the military.

If that process moves quickly, it could put the final version of the bill on Obama's desk well before the end of the fiscal year on Sept. 30, far ahead of the pace of the legislation in recent years.

The authorization bill has been approved by Congress for 53 consecutive years, but hasn't been finalized before November since 2010 and not before the start of the new fiscal year since 1997.

- **On June 10, the Department of Defense (DoD) submitted to Congress a proposal that would create a "blended defined benefit and defined contribution" military retirement system.**

  The proposal includes elements the department believes are necessary to promote retention, to maintain the all-volunteer force, and to protect service members who retire due to disability.

  Highlights of the proposal include:

  - Creating a defined contribution element through the Thrift Savings Plan for service members;
  - DoD automatically contributing an amount equal to 1 percent of a service member's basic pay to the Thrift Savings Plan account from entry into service through separation or retirement, with vesting after completion of two years of service and additional matching contributions of up to 5 percent of basic pay starting after completion of four years of service and continuing through separation or retirement; and
  - Each service having the ability to offer a bonus, called Continuation Pay, to members with eight to 16 years of service, with each service setting the rate of Continuation Pay.

  The proposal also provides additional options for attracting and managing a military force that requires ever-increasing, diverse and technical skill sets in an evolving global economy. Under the plan, about 85 percent of service members who enter the force will receive some form of a portable retirement benefit.

  Future service members would receive 80 percent of the current defined benefit — retirement pay, which effectively is a pension — if they serve for 20 years, and would have the opportunity to achieve nearly equivalent or better retirement benefits when they reach retirement age.

- **On June 12, 2015, President Obama announced his intent to appoint the following individuals to the Commission of Care:**

  - **Nancy M. Schlichting** as chairperson, Commission on Care. Schlichting is CEO of the Henry Ford Health System, a position she has held since 2003. Prior to that, Ms. Schlichting served as its executive vice president and COO from 1999 to 2003 and as senior vice president and chief administrative officer from 1998 to 1999. Schlichting received an A.B. from Duke University and an M.B.A. from Cornell University.
  - **David W. Gorman** as a member of the Commission on Care. Gorman served as executive director of the National Service and Legislative Headquarters of the Disabled American Veterans (DAV) from 1995 to 2011. Prior to this, he served as deputy national legislative director of DAV from 1994 to 1995. In 1975, he was assigned to the DAV National Appeals Staff. Mr. Gorman became a professional National Service Officer in DAV's Boston office in 1971, rising to Supervisor of the Providence office the following year. Mr. Gorman joined the

U.S. Army in 1969 and is a combat disabled veteran of the Vietnam War.

- **Joyce M. Johnson** as a member of the Commission on Care. Johnson is a physician and consultant in private practice. She served as vice president of health sciences and chief medical officer for Battelle Memorial Institute from 2003 to 2013. Prior to this, Johnson served 23 years in the U.S. Public Health Service (USPHS), serving as director of Health and Safety and chief medical officer of the U.S. Coast Guard from 1997 to 2003. Johnson received a B.A. from Luther College, an M.A. from the University of Iowa, and a D.O. from Michigan State University.

The Commission on Care was established by Congress in 2007 to examine how to best deliver health care to military veterans.

MILITARY HEALTH CARE NEWS

- **The Military Times reports the change to TRICARE's compounded medication coverage policy has cut costs for these medications by more than 74 percent since May 1.**

  The Defense Health Agency saw reimbursements for approved compounds drop from nearly $1 billion in the first four months of 2015 to just $4 million in May. The decline is largely attributable to a policy change that requires all ingredients in compounded medications to be approved by the Food and Drug Administration.

  On May 11, Express Scripts began a screening process, which included using the company's "commercial reject list," a compilation of ingredients that Express Scripts does not cover for its private-sector customers. The rule had been on the books for years, but a new screening process lets TRICARE's pharmacy benefits manager, Express Scripts, screen all ingredients, allowing DHA to determine whether prescriptions meet the coverage criteria.

  The sharp rise in orders for compounded medications in the months leading up to the new policy, Tricare officials say, resulted in large part from aggressive marketing campaigns by some compounding pharmacy companies that cold-called Tricare beneficiaries or contacted them directly to sell them specialty prescriptions for ailments like pain, skin disorders and erectile dysfunction.

  The change was implemented to ensure that TRICARE pays only for compounds that are proven safe and effective. Beneficiaries whose compounded medications are rejected by the system are able to request prior authorization or, if they are denied, appeal the decision.

  In April, Tricare filled 105,200 compound prescriptions. By May, that number had dropped to 41,800.

- **Dr. Jonathan Woodson, assistant secretary of defense for health affairs, and the service surgeons general - Army Lt. Gen. Patricia D. Horoho, Air Force Lt. Gen. (Dr.) Mark A. Ediger and Navy deputy surgeon general Rear Adm. (Dr.) C. Forrest Faison III - appeared before the House Armed Services Military Personnel Subcommittee on June 11.**

  Military health care reform was examined as part of the overall Military Compensation and Retirement Modernization Commission, which sent its recommendations to President Barack Obama in January.

  The surgeons general said that while they support the objectives of the commission's findings, they have concerns about elements that threaten readiness and military medical skills.

"[Fewer than] one of five service members evacuated from Iraq and were injured in battle," Horoho noted. "During Operation United Assistance, the major threat to soldiers was endemic infectious diseases. The Army already uses joint infrastructures … [for] medical readiness. The Army does not support establishing a four-star readiness command," a commission recommendation and a point echoed by Ediger and Faison.

Though the surgeons general support affordable health care and increased choices for patients, "to establish TRICARE choice would negatively impact the readiness of our entire health care team and present financial challenges for active-duty families and retirees" Horoho said.

"To put [military treatment facilities] in competition with the private sector would drive up administrative costs and significantly detract from the operational mission of our medical facilities," Ediger agreed.

The Air Force surgeon general said requiring airmen and their families to "navigate a complex system of insurance marketplace on a recurring basis" could increase their stress.

"[The Military Health System] is working hard to recapture its [patient] workload into the direct-care system," Faison said, adding that offering commercial insurance to military patients would compete with that goal.

"Nonactive-duty beneficiaries comprise 67 percent of our total beneficiary population, 83 percent of our inpatient care and 79 percent of our high-acuity workload," Horoho emphasized.

"These patients are vital to sustain our graduate medical and health professionals' education programs," she said. "The loss of these inpatients from our direct health-care system would pose tremendous risk to our training and negatively impact our medical forces readiness posture."

Ediger and Faison agreed that the lack of military patients would harm medical training and affect overall readiness.

"We believe resilient families with excellent health care support greatly enhances the resilience of all of our airmen," Ediger said. "Significant progress in the [Military Health System], as Dr. Woodson pointed out, has occurred. And we are a progressive system of health and readiness as a result."

"We need to recognize what sets us apart from civilian medicine: that we are a rapidly deployable, fully integrated medical system," Faison said. "This allows us to support combat casualty care with unprecedented battlefield survival rates."

"The Army needs a medically ready force," Horoho said, with Ediger and Faison in agreement. "Commanders need to know … soldiers will be ready to deploy," she added.

"When wounded soldiers hear the rotor blades of a medevac helicopter, they need to continue to have confidence that our providers are trained and ready," Horoho said. "Any radical departure presents significant risk to a system that has produced record levels of both combat casualty survival and readiness."

VETERANS AFFAIRS NEWS

- **The Department of Veterans Affairs (VA) published a new regulation that expands eligibility for some benefits for a select group of Air Force Veterans and Air Force Reserve personnel who were exposed to the herbicide Agent Orange through regular and repeated contact with contaminated C-123 aircraft that had been used in Vietnam as part of**

Operation Ranch Hand (ORH).

VA published this regulation as an interim final rule so that it could immediately begin providing benefits to eligible Air Force veterans and Air Force Reserve personnel who submit a disability compensation claim for any of the 14 medical conditions that have been determined by VA to be related to exposure to Agent Orange.

Secretary of Veterans Affairs Robert A. McDonald made the decision to expand benefits following receipt of a 2015 report by the National Academy of Sciences Institute of Medicine (IOM) on Post-Vietnam Dioxin Exposure in Agent Orange-Contaminated C-123 Aircraft. This VA-requested report found evidence that as many as 1,500 to 2,100 Air Force and Air Force Reserve personnel who served as flight, medical and ground maintenance crew members on ORH C-123 aircraft previously used to spray Agent Orange in Vietnam were exposed to the herbicide.

Under this new rule, Air Force and Air Force Reserve flight, medical and ground maintenance crewmembers who served on the contaminated ORH C-123s are presumed to have been exposed to herbicides during their service, thus making it easier for them to establish entitlement for some VA benefits if they develop an Agent Orange-related presumptive condition. In addition, for affected Air Force Reserve crew members, VA will presume that their Agent Orange-related condition had its onset during their Reserve training. This change ensures that these reservists are eligible for VA disability compensation and medical care for any Agent Orange-related presumptive condition, and that their surviving dependents are eligible for dependency and indemnity compensation and burial benefits.

The interim final rule can be found on the Federal Register: www.federalregister.gov/public-inspection. VA will immediately begin processing claims and issuing benefits to eligible Air Force crew members.

For more information about those eligible and how to submit claims, please visit: http://www.va.gov/opa/pressrel/pressrelease.cfm?id=2714

- **The Department of Veterans Affairs (VA) announced a partnership with the Richmond International Raceway (RIR) to promote greater access and awareness to VA benefits and services at the upcoming NASCAR races on Sept. 11 and 12 in Richmond.**

  The partnership with RIR is part of VA's "Summer of Service" initiative designed to encourage and grow the number of individuals and organizations serving Veterans in their communities.

  As part of a series of activities beginning this summer to reach veterans, service members and their families, VA will honor past and present military members during the Pole Qualifying and Federated Auto Parts 400 NASCAR Sprint Cup Series. VA's Mobile Vet Center will be onsite with a team of health and benefits experts who can answer Veterans' questions, share information and help veterans and family members' access VA benefits and services. As part of the collaboration, RIR will offer veterans and their families a 70-percent discount on tickets for the Sept. 11 race, as well as their traditional military discount on tickets for the Sept. 12 race.

  Prior to the Richmond race, VA and RIR will hold a "Driving VA Benefits and Services Home" event Sept. 10 at the Richmond VA Medical Center featuring NASCAR drivers, RIR representatives, VA benefits and services outreach staff, and a NASCAR pace car. These outreach events are part of the larger MyVA initiative, which is dedicated to improving the Veteran experience and increasing customer-service access points in communities where veterans live.

  In addition to the upcoming RIR activities, VA participated in six other NASCAR events and will conduct outreach at three more during the remaining 2015 race season. VA's health and benefits

experts will be onsite to bring VA benefits and services directly into the community. Look for VA at Michigan International Speedway (Aug. 15-16), Darlington Raceway (Sept. 5-6) and Chicagoland Speedway (Sept. 18-20).

For more information about tickets and to learn more about the September RIR event, visit www.benefits.va.gov/benefits/nascar-outreach.

GENERAL HEALTH CARE NEWS

- **Department of Health and Human Services (HHS) Secretary Sylvia M. Burwell and Attorney General Loretta E. Lynch announced a nationwide sweep led by the Medicare Fraud Strike Force in 17 districts, resulting in charges against 243 individuals, including 46 doctors, nurses and other licensed medical professionals, for their alleged participation in Medicare fraud schemes involving approximately $712 million in false billings.**

  In addition, the Centers for Medicare & Medicaid Services (CMS) also suspended a number of providers using its suspension authority as provided in the Affordable Care Act. This coordinated takedown is the largest in Strike Force history, both in terms of the number of defendants charged and loss amount.

  The defendants are charged with various health care fraud-related crimes, including conspiracy to commit health care fraud, violations of the anti-kickback statutes, money laundering and aggravated identity theft. The charges are based on a variety of alleged fraud schemes involving various medical treatments and services, including home health care, psychotherapy, physical and occupational therapy, durable medical equipment (DME) and pharmacy fraud. More than 44 of the defendants arrested are charged with fraud related to the Medicare prescription drug benefit program known as Part D, which is the fastest-growing component of the Medicare program overall.

  According to court documents, the defendants participated in alleged schemes to submit claims to Medicare and Medicaid for treatments that were medically unnecessary and often never provided. In many cases, patient recruiters, Medicare beneficiaries and other co-conspirators allegedly were paid cash kickbacks in return for supplying beneficiary information to providers, so that the providers could then submit fraudulent bills to Medicare for services that were medically unnecessary or never performed. Collectively, the doctors, nurses, licensed medical professionals, health care company owners and others charged are accused of conspiring to submit a total of approximately $712 million in fraudulent billing.

  The Medicare Fraud Strike Force operations are part of the Health Care Fraud Prevention & Enforcement Action Team (HEAT), a joint initiative announced in May 2009 between the Department of Justice and HHS to focus their efforts to prevent and deter fraud and enforce current anti-fraud laws around the country. Since their inception in March 2007, Strike Force operations in nine locations have charged over 2,300 defendants who collectively have falsely billed the Medicare program for over $7 billion.

  Including today's enforcement actions, nearly 900 individuals have been charged in national takedown operations, which have involved more than $2.5 billion in fraudulent billings. Today's announcement marks the first time that districts outside of Strike Force locations participated in a national takedown, and they accounted for 82 defendants charged in this takedown.

- **Through the course of the ongoing investigation into the cyber intrusion that compromised personnel records of current and former federal employees announced on**

June 4, OPM has recently discovered that additional systems were compromised.

These systems included those that contain information related to the background investigations of current, former, and prospective federal government employees, as well as other individuals for whom a Federal background investigation was conducted.

Department of Defense civilian employees were among those whose personal information may have been compromised. For those individuals potentially affected by the incident announced on June 4 regarding personnel information, OPM is offering affected individuals credit monitoring services and identity theft insurance in order to mitigate the risk of fraud and identity theft with CSID, a company that specializes in identity theft protection and fraud resolution.

This comprehensive, 18-month membership includes credit report access, credit monitoring, identity theft insurance, and recovery services and is available immediately at no cost to affected individuals identified by OPM. Additional information is available on the company's website, (external link) and by calling toll-free 844-777-2743 (International callers: call collect 512-327-0705).

For more information about the steps to protect your identity and financial information, please visit: http://www.opm.gov/news/latest-news/announcements/.

- **The Centers for Medicare & Medicaid Services (CMS) announced positive and promising results from the first performance year of the Independence at Home Demonstration, including both higher quality care and lower Medicare expenditures.**

The CMS analysis found that Independence at Home participants saved over $25 million in the demonstration's first performance year – an average of $3,070 per participating beneficiary – while delivering high quality patient care in the home. CMS will award incentive payments of $11.7 million to nine participating practices that succeeded in reducing Medicare expenditures and met designated quality goals for the first year of the demonstration.

According to CMS' analysis, all 17 participating practices improved quality in at least three of the six quality measures for the demonstration in the first performance year. Four participating practices met all six quality measures. Medicare beneficiaries who are participating in Independence at Home practices, on average:

- Have fewer hospital readmissions within 30 days;
- Have follow-up contact from their provider within 48 hours of a hospital admission, hospital discharge, or emergency department visit;
- Have their medications identified by their provider within 48 hours of discharge from the hospital;
- Have their preferences documented by their provider; and
- Use inpatient hospital and emergency department services less for conditions such as diabetes, high blood pressure, asthma, pneumonia, or urinary tract infection.

The Independence at Home Demonstration provides chronically ill Medicare beneficiaries with primary care services in the home setting. In the first performance year, 17 participating practices served over 8,400 Medicare beneficiaries.

The Independence at Home Demonstration is part of the innovative framework established by the Affordable Care Act to move our health care system toward one that rewards doctors based on the quality, not quantity, of care they give patients. The Administration earlier this year announced the ambitious goal of tying 30 percent of Medicare payments to quality and value through alternative payment models by 2016 and 50 percent of payments by 2018.

To learn more about the Independence at Home Demonstration, including individual practice

results, visit: http://innovation.cms.gov/initiatives/Independence-at-Home/.

REPORTS/POLICIES

- **The GAO published *"Military Personnel: Army Needs a Requirement for Capturing Data and Clear Guidance on Use of Military for Civilian or Contractor Positions,"* (GAO-15-349) on June 15, 2015.** This report examines the extent to which the Army, during fiscal years 2013 and 2014, used borrowed military personnel, and what is known about any readiness and training impacts and considered costs when making decisions for this use. http://www.gao.gov/assets/680/670794.pdf

- **The GAO published *"Mental Health: Better Documentation Needed to Oversee Substance Abuse and Mental Health Services Administration Grantees,"* (GAO-15-405) on June 12, 2015.** This report identifies CMHS's criteria for awarding grants to grantees, and how CMHS documents the application of these criteria; the types of information CMHS uses to oversee its grantees; and the steps CMHS takes to demonstrate how its grant programs further the achievement of SAMHSA's goals. http://www.gao.gov/assets/680/670148.pdf

HILL HEARINGS

- The Senate Appropriations Subcommittee on Departments of Labor, Health and Human Services, and Education, and Related Agencies will hold a business meeting on **June 23, 2015**, to markup the "Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2016."
- The Senate Veterans Affairs Committee will hold a hearing on **June 24, 2015**, to examine pending health care and benefits legislation.

LEGISLATION

- **H.R.2756** (introduced June 12, 2015): the *Patient Freedom Act of 2015* was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce.
  Sponsor: Representative Ralph Lee Abraham [LA-5]
- **H.R.2759** (introduced June 12, 2015): the *Mental Health Access Improvement Act of 2015* was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means
  Sponsor: Representative Christopher P. Gibson [NY-19]
- **S.1574** (introduced June 15, 2015): A bill to amend the Older Americans Act of 1965 to establish a community care wrap-around support demonstration program, a pilot project on services for recipients of federally assisted housing, and a national campaign to raise awareness of the aging network and to promote advance integrated long-term care planning, and for other purposes was referred to the Committee on Health, Education, Labor, and Pensions.
  Sponsor: Senator Jeff Merkley [OR]

- **S.1588** (introduced June 16, 2015): A bill to amend the Public Health Service Act to revise and extend projects relating to children and violence to provide access to school-based comprehensive mental health programs was referred to the Committee on Health, Education, Labor, and Pensions.
  Sponsor: Senator Al Franken [MN]
- **S.1590** (introduced June 17, 2015): A bill to amend the Civil Rights Act of 1964 to provide protections against pregnancy discrimination in the workplace, and for other purposes was referred to the Committee on Health, Education, Labor, and Pensions.
  Sponsor: Senator Lisa Murkowski [AK]
- **S.1597** (introduced June 17, 2015): A bill to enhance patient engagement in the medical product development process, and for other purposes was referred to the Committee on Health, Education, Labor, and Pensions.
  Sponsor: Senator Roger F. Wicker [MS]

MEETINGS

- The 2015 Military Health System Research Symposium will be held **Aug. 17-20, 2015**. The location has yet to be determined. https://mhsrs.amedd.army.mil/SitePages/about-public.aspx
- The 2015 AHRQ Research Conference, "Producing Evidence and Engaging Partners to Improve Health Care", will be held **Oct. 4–6, 2015**, in Crystal City, Va.
  http://www.ahrq.gov/news/events/conference/index.html
- 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/

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.