Welcome to *Washington Update*, the weekly e-newsletter on the latest health care happenings in the nation's capital that affect APG's members.

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New Maternal Care Model Unveiled

A new decade-long payment and care delivery model will support state Medicaid agencies seeking to dramatically improve pregnancy through postpartum care, the federal Department of Health and Human Services announced this week. Under the planned Transforming Maternal Health (TMaH) Model, the Centers for Medicare & Medicaid Services (CMS) will issue cooperative agreements to up to 15 state Medicaid agencies to enable them to address existing gaps in maternal care. "Despite spending more per capita for maternity care than any other nation in the world, the U.S. has higher rates of adverse pregnancy outcomes than any other high-income country," HHS's news release announcing the model notes.

Among the activities to be supported under the model will be providing access to midwives and doulas; designating specific provider organizations as "birthing friendly;" improving prenatal care for chronic conditions such as diabetes and hypertension; and reducing cesarean sections for low-risk mothers. CMS will release a Notice of Funding Opportunity (NOFO) in spring 2024, with applications due in the summer.

House Adopts Site-Neutral Payment And Transparency Provisions

A narrow site-neutral payment provision; reporting requirements designed to shed light on health care costs, consolidation, and integration; and an extension of funding for community health centers were all adopted by the House this week as part of the Lower Costs, More Transparency Act. The bill, which passed 320-71 with overwhelmingly bipartisan support, may now become part of a broader congressional spending package that could be enacted by mid-January.

The site-neutral payment provision, which would require consistent Medicare payment rates for administration of drugs by physicians in hospital outpatient departments and physician offices, is a more limited measure than many proponents of equalizing payment across health care settings had hoped. Nonetheless, it marks an expansion of lawmakers' focus on such site-neutral policies as one means of controlling Medicare spending. The Congressional Budget Office estimated that the provision would save $3.7 billion in Medicare outlays over ten years.

Tracking prices and transformational change: Transparency provisions adopted in the bill include those that codify in law existing regulations that require hospitals to publish prices annually, including their discounted cash prices and negotiated charges. They also extend these same requirements to clinical laboratories, imaging providers, and ambulatory surgery centers that participate in the Medicare program. Meanwhile, the Department of Health and Human Services is charged with producing an annual report beginning in 2026 on the impact of provider and payer consolidation, vertical and horizontal integration, and the implications for regulating the different parts of Medicare.

Other major provisions of the bill would both boost and extend funding for community health centers, the National Health Service Corps, and the Teaching Health Center Graduate Medical Education programs, which support residents and providers who practice in underserved communities. Similar to a provision that passed the Senate Finance Committee recently, the bill would also defer for another two years scheduled cuts in Medicaid Disproportionate Share Funding for hospitals that serve large numbers of Medicaid and uninsured patients.

New Federal Rule Requires Transparency On Predictive Artificial Intelligence Models

The federal government will require developers of predictive artificial intelligence (AI) models used in health care to provide transparency on how such models are "designed, developed, trained, evaluated, and how [they] should be used," Micky Tripathi, the National Coordinator for Health Information Technology, told a House panel this week. The requirements, which are part of a rule published this week by Tripathi's agency, will also "establish an industry-wide baseline of information that will enable users to determine the quality of predictive AI models," and will also create guardrails around the use of electronic health record data that are a major source of information used to develop and train AI models.

Tripathi's remarks came at a House Energy and Commerce Committee hearing at which he and other federal officials elaborated on efforts by the Department of Health and Human Services to implement provisions of the Biden Administration's recent executive order on AI. His remarks implied that the government is now rushing to keep pace with the flood of investment in AI, and with the fact that so-called generative AI applications such as ChatGPT are "projected to grow faster in health care than in any other industry, with a compound annual growth rate of 85% through 2027."

Trust Commitments: Separately, the Biden Administration also announced this week that 28 health care providers and payers had made voluntary commitments to ensure that "AI is deployed safely and responsibly" in health care, including by informing users if they are presented with content that is largely generated by AI without human review. The organizations include APG member organizations John Muir Health and Mass General Brigham, as well as CVS Health, parent company of APG Member Oak Street Health.

National Health Care Spending Growth Continues At Moderate Pace

Following a surge of 10.6 percent during the height of the COVID–19 pandemic in 2020, growth in national spending on health care continued to slow last year, climbing just 4.1 percent from 2021 to 2022, according to an **analysis** from the Office of the Actuary at the Centers for Medicare & Medicaid Services published this week. In effect, a rapid 9.6 percent growth in Medicaid spending – driven by pandemic-era policies that fueled enrollment growth – was largely offset by declines in other aspects of government health spending, which increased overall by just 1 percent. The health care share of the nation's gross domestic product fell slightly to 17.3 percent. The analysis provides other detailed breakouts in spending trends by provider type and payer.

Recent national health care spending growth rates have been similar to pre-pandemic rates, which averaged 4.4 percent per year

from 2016 to 2019. National health care spending has been experiencing more moderate growth since 2009, averaging 4.6 percent – sharply lower than the previous growth rates from 1975 to 2009, which averaged **9.0 percent** per year.

New Framework Could Allow For First-Ever Exercise Of Federal "March-In" Rights On Drugs

Advocates of lower drug prices have long contended that the federal government should demand them as a means of obtaining more of a direct return on its investment in federally funded biomedical research. The Biden Administration has now proposed the most significant step yet toward making this idea a reality, releasing a draft framework for agencies on exercising "march-in rights" for products developed with the aid of that research.

Established by the Bayh-Dole Act of 1980, these rights enable an agency that provided funding for research that led to drug discovery and development to "march-in" under certain circumstances, such as high prices, to require that the patent owner grant licenses to others to make drugs more affordable. Such rights have never yet been invoked, however, but under a new Request for Information from the U.S. Commerce Department, other federal agencies and the public are asked to "consider both the practical impact and the potential impact [use of march-in could have] on the broader R&D ecosystem." The framework also provides eight hypothetical scenarios in which march-in rights could be exercised.

A 60-day comment period will close on Feb. 6, 2024, after which the Commerce Department's National Institute of Standards and Technology will finalize its guidance.

APG Announcements And Offerings

- APG will host a focus group to gather members' input for a comment letter on the 2025 Medicare Part C & D Proposed Rule (Tuesday, December 19, at noon ET; APG members can register here).
- As APG discussed in a webinar on October 26, CMS has introduced a new Guiding an Improved Dementia Experience (GUIDE) Model and has opened the Request for Applications (RFA) portal. Applications are due by January 30, 2024.

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