Oct. 31, 2019: National Advocacy Update

Advocacy efforts on e-cigarette regulation continue

The AMA continues its strong advocacy on tighter regulation of e-cigarettes, particularly with respect to banning flavors, which are popular with youth. The AMA publicly supported the administration's plan, announced on Sept. 11, to clear the market of all non-tobacco-flavored e-cigarettes, including mint and menthol flavors, until they can be reviewed by the Food and Drug Administration (FDA).

Given recent press reports that the administration was reconsidering the inclusion of mint and menthol flavors, due to pressure from the vaping industry, the AMA signed on to two letters circulated by the Campaign for Tobacco-Free Kids, one to HHS Secretary Alex Azar (PDF) and the second to First Lady Melania Trump (PDF). The letters argue that there is no public health reason to exempt mint and menthol flavors and urge the administration to stay the course and implement their previously stated plan of banning all non-tobacco-flavored e-cigarettes. Also related to e-cigarettes, AMA President Patrice A. Harris, MD, MA joined the Presidents-elect of the American Academy of Pediatrics (AAP) and the American College of Physicians (ACP) in calling for tighter regulation of e-cigarettes at a National Press Club Headliners Newsmaker event on Oct. 30.

Executive Order raises concerns about scope of practice laws

An Executive Order issued by President Trump entitled "Protecting and Improving Medicare for our Nation's Seniors," intended to make Medicare Advantage plans more attractive to seniors, raised a number of policy issues. One notable area where the executive order is unclear and concerning involves state scope of practice laws. The AMA along with 102 state medical societies and national specialty organizations wrote a letter (PDF) to Health and Human Services Secretary Alex Azar on Oct. 28, expressing concerns about broad language related to the supervision, licensing and reimbursement of nonphysician health professionals, noting safety concerns and skillsets that do not make these health care professionals interchangeable with fully trained physicians.

Three House Committees approve H.R. 3, Democratic drug

price negotiation bill

All three House committees of jurisdiction, the House Ways and Means Committee, House Education and Labor Committee and House Energy and Commerce Committee, have approved H.R. 3, the Lower Drug Costs Now Act of 2019, backed by House Speaker Nancy Pelosi (D-CA), along party-line votes. The three different marked-up versions of the bill will be merged and voted on by the House in mid-November.

This legislation would give HHS the power to negotiate prices for prescription drugs without generic or biosimilar competition. Negotiated prices would be available to all payers, including the commercial market. The maximum negotiated price would be set at no more than 120% of an international price index, called the "Average International Market" price. The bill would also create a $2,000 out-of-pocket spending cap for Medicare beneficiaries.

H.R. 3 is expected to pass the House on a party-line vote. It is not expected to pass the Senate. House and Senate Republicans remained unified in opposing H.R. 3. While they support portions of the bill, they strongly oppose the drug negotiation and maximum price provisions, arguing they would hurt the development of new medicines in the future.

Improvements made to Primary Care First model as applications become available

CMS has now released a request for applications (PDF) for Primary Care First, the new patient-centered primary care medical home model that will be available in 26 localities around the country. The newly released details include key improvements to the model advocated by the AMA and primary care specialty societies.

Previously the participating practices were to be grouped into five categories based on their patient population's average risk score. Monthly primary care payments would have been $24 per patient for the group with the lowest risk scores and $28 per patient for the next group. Now there will be four categories instead of five and the group with the lowest average risk score will receive $28 per patient per month. This change was critical to making sure that payments under the model will be enough to support the care changes that practices will have to make, and allow participating physicians to make as much or more as they would by staying in the fee-for-service system.

Another concern had been that certain performance-based payments were only to be available to those in the top 50% of performance on a measure of acute hospital utilization. Now these performance-based payments will be tied to a benchmark so that everyone with good performance

relative to the benchmark has access to the additional payments.

Primary Care First also offers a special track for physicians managing patients with serious illness. The model defines seriously ill patients as those who have significant chronic or other serious illnesses with a Medicare risk score of 3.0 or greater, or have high hospital utilization, or those who show signs of frailty as evidenced by claims for durable medical equipment.

Physicians who want to learn more about Primary Care First can find additional information and resources at the CMS website.

More articles in this issue