

Federal Update
NCSL Standing Committee on
Health & Human Services



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas



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KEY ENACTMENTS

- ✓ **Medicare Access and CHIP Reauthorization Act of 2015 (H.R. 2; P.L. 114-10)**
- ✓ **The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (H.R. 3236)**



Medicare Access/CHIP (H.R. 2, P.L. 114-10)

- Repealed the Sustainable Growth Rate (SGR).
- Extends the Children's Health Insurance Program (CHIP) for two years.
 - Extends the CHIP Express Lane Eligibility and Outreach and Enrollment Programs.
- Permanently extended the Transitional Medical Assistance (TMA) and the Qualified Individual (QI) Programs.
- Extends the State Abstinence Education Grant and the Personal Responsibility Education Program (PREP Act) for one year.
- Extends the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program through FY 2017.



Veterans Health

- Makes \$3.348 billion from the Veterans Choice Fund available to pay for non-VA care provided to eligible patients from May 1-October 1, 2015
- Modifies the existing Veterans Choice Program to:
 - eliminate the requirement for a veteran to have been enrolled in the VA health care system by August 1, 2014;
 - expand the number of non-VA providers who are allowed to participate in the Program by allowing VA to include Medicaid providers and other providers as appropriate;
 - allow the VA to waive the wait time criteria for a veteran in need of an appointment but unable to schedule one prior to 30 days based on clinical necessity;



Veterans Health cont.

- allow veterans who live within 40 miles of a VA community-based outpatient clinic that does not have a full-time physician on staff to access primary care through the Program.
- Amends the Internal Revenue Code of 1986 to permit an employer, when determining whether it must provide health care coverage to its employees under the Affordable Care Act (ACA), to exclude employees who have coverage under a health care program administered by the Department of Defense (DOD), including TRICARE or coverage provided by the Department of Veterans Affairs (VA).
- Prohibits VA funds from being used to expand internal dialysis capabilities until independent analysis of the ongoing dialysis pilot program is complete and 180 days after the VA has submitted reports on the analysis and a 5-year investment plan to Congress.



Veterans Health cont.

- Prohibits the VA from using more than \$500 million of the transferred funds from the Veterans Choice Fund to cover Hepatitis C pharmaceutical expenses.
- Requires the VA to develop a plan to consolidate all non-VA programs into a single program called the “Veterans Choice Program” and submit a report on the plan the House and Senate Committees on Veterans’ Affairs by November 1, 2015.





PENDING LEGISLATION

**Appropriations, Child Welfare
Health Research & Innovation, TANF, Child
Nutrition, Prescription Drug Monitoring, Older
Americans Act**





Pending Legislation

- FY 2016 Labor/HHS/Education Appropriations (H.R. 3020; S. 1800)
- FY 2016 Agriculture Appropriations (H.R. 3049; S.1695)
- 21st Century Cures Act (H.R. 6)
- Ensuring Access to Clinical Trials Act of 2015 (S. 139)
- Elementary and Secondary Education Act Reauthorization (S. 1177; H.R. 5)
- Older Americans Act Reauthorization (S. 192)
- The National All Schedules Prescription Electronic Reporting Reauthorization Act (NASPER) (H.R. 1725)
- Protecting Our Infants Act of 2015 (H.R. 1462)
- Early Hearing Detection and Intervention Act (H.R. 1344)



Pending Legislation cont.

- **Improving Opportunity in America Welfare Reauthorization Act of 2015** (Discussion Draft-House Ways and Means)----House Ways and Means Hearing, July 15, 2015
- **Child Nutrition Programs Reauthorization** (Senate Agriculture Committee Mark-up scheduled for 9/17/2015. No bill or discussion draft available yet)----Senate Agriculture Hearing, Meeting the Challenges of Feeding America's School Children, July 23, 2015
- **The Family Stability and Kinship Care Act** (Discussion draft – Senator Ron Wyden (D-OR) and Representative Lloyd Doggett (D-TX)----**Senate Finance Hearing, August 4, 2015** – “A Way Back Home: Preserving Families and Reducing the Need for Foster Care”



Regulations

**Medicaid Managed Care, Medicaid and Mental
Health Parity, Child Support Enforcement,
ACA Benefits and Payment Parameters for
2016**





Regulations – Comments Submitted

NCSL submitted comments---

- NPRM: Medicaid Managed Care, CHIP Delivered in Managed Care, Medicaid and CHIP Comprehensive Quality Strategies, and Revisions Related to Third Party Liability (July 27, 2015)
- NPRM: Application of Mental Health Parity Requirements to Coverage Offered by Medicaid Managed Care Organizations, the CHIP program, and Alternative Benefit Plans (June 9, 2015)
- NPRM: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (January 16, 2015)
- NPRM: HHS Notice of Benefit and Payment Parameters for 2016 (December 22, 2014)



Pending Regulations

- NPRM: Head Start Performance Standards (comments due 8/18/2015)
- NPRM: SNAP—Implementation of the Agricultural Act of 2014—Purchasing and Delivery Services for the Elderly and Disabled (Comments due 9/14/2015)
- NPRM: Reform of Requirements for Long-Term Care Facilities (Comments due 9/14/2015)
- NPRM: Guidance under Section 529A: Qualified ABLE Programs (comments due 9/19/2015)
- Developmental Disabilities Program (Final Rule in 7/27/2015 *Federal Register*)



Hot Topics



- o Opioid Abuse/Substance
- o New Hepatitis C Drug
- o Planned Parenthood (S. 1881)





CMSLetters

Letters to State Medicaid Director (SMD) and State Health Official (SHO) from the Centers for Medicare and Medicaid Services

- **New Service Delivery Opportunities for Individuals with a Substance Use Disorder**
- Tri-Agency Letter on Cost Allocation Requirements Set Forth in OMB Circular A-87
- Medicaid/CHIP Provider Fingerprint-Based Criminal Background Check
- ACA Amendments to the Spousal Impoverishment Statute





GAO Reports

- o Medicaid - Key Issues Facing the Program
- o Medicaid Financing – States Increased Reliance on Funds from Health Care Providers and Local Governments Warrants Improved CMS Data Collection
- o Medicaid Program Integrity – Increased Oversight Needed to Ensure Integrity of Growing Managed Care Expenditures





U.S. Supreme Court

DECIDED

- *King v. Burwell* (Decided June 28, 2015)
- *North Carolina Board of Dental Examiners v. FTC* (Decided February 25, 2015)
- *Armstrong et al. v. Exceptional Child Center, Inc.* (Decided March 15, 2015)

PETITION DENIED

- *Mary C. Mayhew, Commissioner, Maine Department of Health and Human Services v. Sylvia Burwell, Secretary of Health and Human Services, et al* (Petition for certiorari denied June 8, 2015)

PENDING

- *Gobeille v. Liberty Mutual Insurance Company* (2015-2016)



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