

THE LEGISLATIVE BULLETIN

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H. 530 FY 2014 BUDGET PASSES THE HOUSE WITH THREE PERCENT COST OF LIVING INCREASE INTACT

The House approved the FY 2014 appropriations bill (H.530) last week and the Shumlin Administration's proposed three-percent Medicaid cost-of-living-increase was included in full in the budget after surviving efforts in committees and on the House floor to reduce the amount of the increase in order to fund other initiatives.

The three-percent reimbursement increase will begin on Oct. 1, 2013. In succeeding budget years, annual cost-of-living-increases will reflect the priorities of Vermont's payment reform plan and increases for payments to hospitals will be tied to achieving high-quality outcomes. An amendment to the budget requires the Department of Vermont Health Access (DVHA) to implement a new attribution model for primary care case management (PCCM) payments to ensure that providers who are actually seeing Medicaid patients for primary care receive those payments. Currently if a patient does not choose a primary care practitioner, he or she is automatically assigned to a primary care practitioner. The auto-assigned practitioner receives the monthly case management payment whether or not the patient actually receives care from the practitioner. DVHA reduced the case management payment to \$2.50 per member per month from \$5.00 per member per month effective in January. The budget also includes a requirement that the governor's proposed budget include health care inflation trends that are consistent with payment methods approved by the Green Mountain Care Board.

VMS has advocated for annual inclusion of a cost of living increase for physicians for many years and strongly supports including the three-percent increase in the FY 2014 budget.

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S. 88 TELEMEDICINE SERVICES PROVIDED OUTSIDE OF A FACILITY

The Senate passed a bill that requires the Department of Vermont Health Access (DVHA) and the Green Mountain Care Board to consider implementation of one or more pilot projects for delivery of telemedicine services outside of health care facilities. In the pilot projects telemedicine will be used to expand access to health care services. DVHA and the Board will use the pilot projects to determine the scope of services that should be provided through telemedicine outside of a health care facility, the potential costs of those services and changes in access to those services relative to current service delivery, and safeguards needed to ensure quality of care, and patient confidentiality. VMS supports S. 88.

S. 104 EXPEDITED PARTNER THERAPY

The Senate has passed a bill, S. 104, that permits health care professionals to provide expedited partner treatment to a patient's sexual partner or partners for the treatment of Chlamydia, gonorrhea, and any other sexually transmitted disease designated by the Commissioner of Health by rule. The bill authorizes the Department of Health to promulgate rules that establish treatment standards for expedited partner treatment and to authorize expedited partner treatment for sexually transmitted diseases that conforms to the best practice recommendations of the CDC. VMS supports S. 104.

NATUROPATH PRESCRIBING REPORT

The Office of Professional Regulation released its report on naturopaths prescribing in February. The report recommends permitting naturopaths to prescribe all drugs by all routes of administration after they obtain a license endorsement from the Office of Professional Regulation (OPR). To qualify for the endorsement, naturopaths would be required to take a course offered by the department of pharmacology at the University of Vermont College of Medicine. Their prescriptions would have to be reviewed by a medical or osteopathic physician for a period of one year or 100 prescriptions.

The report, which was endorsed by the Department of Health, focuses on the professionalism of naturopaths and their capability to prescribe medication that is within their scope of practice. VMS is concerned, however, because naturopaths have a very broad scope of practice and it is not clear that their training appropriately addresses the use of prescription drugs to treat these conditions. The list of conditions treated by naturopaths listed by the Vermont Association of Naturopathic Physicians (VANP) on their website http://www.vanp.org/conditions_treated.php includes:

- Endocrine: diabetes, hypoglycemia, obesity, thyroid disorders;
- Gastrointestinal: acid reflux/GERD, IBS, indigestion, inflammatory bowel disease;
- Heart Disease: hypertension, high cholesterol, CHF, atherosclerosis;
- Immune and Inflammatory Conditions: allergies, ear infections, eczema, asthma;
- Mental Health: ADHD, anxiety, depression, fatigue, insomnia;
- Musculoskeletal: arthritis, low-back pain, fibromyalgia, tendonitis, headaches, rheumatic diseases;
- Neurological: insomnia, migraines, neuropathy, multiple sclerosis, seizures, autism;
- Urological: chronic or frequent infections, prostate conditions, interstitial cystitis;
- Women's Health: yeast infections, infertility, PMS, menopausal symptoms, incontinence; and,
- Cancer: prevention and complementary treatment.

VMS believes that taking a test, even a rigorous and accredited test such as the that offered by the UVM College of Medicine, is only one part, and a small part, of the education needed to prescribe and administer drugs safely and effectively. Medical students have two full years of training in therapeutics in clinic settings. In Vermont after completion of medical school, a one-year residency is required for physicians to obtain a license to practice

medicine, and almost all physicians in Vermont are board certified after completion of a minimum three-year residency program.

VMS has a number of specific concerns with the report, which was not prepared in consultation with a clinical pharmacist, was not reviewed by the UVM College of Medicine, and fails to address whether naturopaths receive appropriate education and training needed to prescribe all drugs, including controlled substances, by any route of administration, either on or off-label. The report does not include sufficient information about the education and clinical training that naturopaths receive to support the determination of the Office of Professional Regulation and the Department of Health that they are qualified to prescribe all drugs on and off-label.

In addition, VMS believes that the current regulatory model in place for the naturopaths is insufficient to ensure patient safety and public protection. The Director of the Office of Professional Regulation licenses and disciplines naturopaths with input from two naturopath advisors appointed by the Secretary of State, one of whom has served as an advisor since naturopaths were first licensed in 1996. In contrast physicians are regulated by the Vermont Board of Medical Practice, a board consisting of nine physicians, one podiatrist, one physician assistant and six public members. The members of the board are appointed by the governor with the advice and consent of the Senate for five-year terms. Board members are limited to two-consecutive terms.

Allowing full prescribing authority to naturopaths is not consistent with physicians' understanding of the naturopaths' approach to care. Physicians believe that naturopaths' practice is not focused on prescription drugs; and similarly the majority of their training is not in prescribing prescription drugs. Physician training in prescribing is not just a single course in pharmacology. Clinical training in how to prescribe drugs is a major part of clinical rotations in both medical school and residency programs. Physicians learn what they don't know during residency, which is extremely important for safe care. Doctors are concerned about their patients. Prescribing drugs is not easy. The report also implies that allopathic and osteopathic physicians minimize aspects of care such as wellness and prevention, which is simply not the case. The Office of Professional Regulation plans to propose rules to implement the prescribing endorsement for naturopaths. Many thanks to Dr. Michael Scollins, Dr. David Coddair, and Dr. Jack McCormack, a pharmacology professor at the UVM College of Medicine who have been working closely with VMS in an effort to protect patients.

ORGAN DONATION

The House has passed H. 178, a bill that creates an organ and tissue donation working group that will make recommendations to the General Assembly and the Governor, concerning:

- Coordination of public and private entities that are involved in organ donation and transplantation;
- Creation of a comprehensive statewide program for organ and tissue donations and transplants;
- Establishing goals and strategies for increasing donation rates in VT for deceased and live organs and tissues; and

- Issues relating to health insurance and employment leave for organ donors.

The bill requires the Commissioner of Health to report to the legislature in January of 2014 and 2015. VMS supports H. 178, which will be considered next by the Senate Health and Welfare Committee.

FAQS ON THE 2 PERCENT ACROSS-THE-BOARD CUT IN MEDICARE PROVIDER PAYMENTS

On Monday, April 1, a two-percent across-the-board cut in Medicare provider payments will take effect. The sequestration is required by the Budget Control Act that was signed into law in August 2011. It was originally intended as an incentive for the so-called Super Committee convened that year to design an alternative package to achieve \$1.2 trillion in budget savings.

How will Medicare physician payments be affected?

- All Medicare physician claims with a date of service on or after April 1 will be subject to a two-percent payment cut;
- Costs for physician-administered drugs included on the physician claim will also be subject to the two-percent cut;
- The cut will be applied to the payment itself, not the underlying “allowed charge” in the Medicare fee schedule. As a result, beneficiary copayments and deductibles will not change. In other words, the two-percent cut is imposed only on the 80 percent of the allowed charge that a participating physician would receive directly from Medicare. The 20-percent copayment amount (and any deductible) that the physician collects from the patient will be based on the full allowed charge amount.

How will Medicare payments to other providers be affected?

- Hospitals, home health services, durable medical equipment suppliers, and all others who provide services to Medicare patients will receive the same two-percent payment cut for dates of discharge, rental agreements, etc., beginning on or after April 1;
- This reduction will also affect Medicare direct and indirect graduate medical education payments.

How long will the sequestration last?

- The Budget Control Act requires that \$1.2 trillion in federal spending cuts be achieved over the course of nine years. So, unless Congress takes action to change the law, federal spending will be subject to sequestration until 2022;
- As an entitlement program, the Medicare payment cut is treated a little differently than the cuts being imposed on programs subject to the appropriations process. The Medicare cut will never be higher than two percent;
- Importantly, the Medicare cuts each year are not cumulative. So, the two-percent cut this year will not be followed by another two-percent cut next year, and so forth, producing a cumulative double-digit cut at the end of the sequestration period. In other words, this year’s two-percent cut will simply remain in place every year through 2022 (unless Congress takes action to stop it).

What are the prospects of Congressional action to stop the sequester?

- With all the fiscal deadlines facing Congress this year, the sequester will remain a subject for debate. However, we are mid-way through the fiscal year and, barring a major backlash, it is expected that the sequester cuts will remain in effect through at least Sept 30, 2013.

VMS will continue to work with the AMA and other physician organizations to encourage our Congressional delegation to repeal the cuts due the impact of the Medicare program’s instability on physicians’ practices and their patients.