The Legislative Bulletin

A publication of the Vermont Medical Society

Week of April 20, 2009

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Senate Appropriations Committee Cuts Physician Medicaid Reimbursement for Non-Evaluation and Management Procedures by Two Percent

To bring the SFY 2010 budget into balance, the Senate Appropriations Committee last Monday reluctantly cut Medicaid reimbursement rates and social services programs by two percent.

If enacted, the cut will reduce physician Medicaid reimbursement rates by two percent for all services, except for evaluation and management codes 99201through 99499, as well as reimbursement for other health care professionals, long-term care programs and facilities.

While the proposed cut will reduce physician reimbursements by approximately $800,000, it will only save the state around $250,000 because the federal government pays for 70 percent of Medicaid reimbursements. In total, the reimbursement cuts to health care practitioners and social service programs is expected to be approximately $8 million while the state expects to save only $2.7 million. Other programs and services affected by this 2-percent reduction include alcohol and drug abuse prevention programs, family services grants, residential care for adults with disabilities and children, home and community-based care for seniors, services to the blind and visually impaired and services for individuals with traumatic brain injuries.

While the proposed cut is not good news for the state's physicians, it is significantly better than the four-percent cut proposed by the Gov. Douglas administration last January. Other physician reimbursement cuts proposed by Gov. Douglas and not accepted by the Senate Appropriations Committee include:

- A 20-percent cut ($2.3 million) on most procedures for the state's 16,000 Medicare/Medicaid Eligible Patients; and,
- A 50-percent cut ($2.6 million) in primary care and case management fees.

The Senate Appropriations Committee needed to find additional savings because after the budget was voted out of the House Appropriations Committee (which included level funding for Medicaid reimbursement), the joint fiscal office learned that Vermont could not use about $2.5 million of enhanced federal Medicaid matching funds from the stimulus as well as $1 million of special education Medicaid funding that the House had counted on in its version of the budget. In a similar vein, the administration revised the date the state would be able to draw down federal match for Vermonters insured by Catamount from July 2, 2009 to Oct. 1, 2009. This date change will result in a funding loss of $1.4 million and affects people with incomes between 200 percent and 300 percent of the federal poverty level.

New Taxes on Tobacco and Liquor

The Senate Finance Committee's miscellaneous tax bill raises new revenue of about $24 million that will be needed to balance the budget. The new revenue includes $4.5 million from a 25-cent increase in the cigarette tax, $2 million from an increase in the tax on other tobacco products such as pipe and chewing tobacco and a $6 million gross receipts tax increase on hard liquor. VMS's policy as adopted by its members supports these taxes because of their positive impact on public health.

The revenue outlook for the state continues to be grim for the next few quarters at least. Administration and legislature economists will report their revised state revenue forecasts on Friday, April 24, and it is expected that the revenues will continue to decline.

House Health Care Committee Bill Passes

This year's House Health Care Committee bill, H. 444, has now passed the House on a strong 130 to two roll-call vote and is being reviewed in the Senate Health and Welfare Committee. The bill reduces the time for both health insures and workers' compensation carriers to pay claims from 45 days to 30 days, establishes contract standards for health insurer contracts and makes modest but important adjustments and additions to Vermont's health care reform initiatives.

The bill is designed to maximize Vermont's potential to compete successfully for federal stimulus funding for primary and preventive care, electronic health record systems for doctors and hospitals and a health information network to allow for the exchange of electronic information among providers and patients. It also makes several modest changes to expand eligibility for Catamount Health.

Specific proposals in the bill include:

- Allowing self-employed individuals like farmers to include depreciation as an expense in order to come up with a truer picture of their income when applying for Catamount Health insurance.
- Creating an exception from the 12-month waiting period for Catamount Health for a self-employed individual who was insured through the non-group market and whose insurance coverage ended as a direct result of either the termination of a business entity owned by the individual or the individual's inability to continue in his or her line of work.
- Lowering the threshold for what constitutes a high-deductible health care plan ($10,000 to $7,500 for an individual and $20,000 to $15,000 for family), so that people with such plans don't have to wait 12 months to be eligible for Catamount.
- Moving the oversight of Vermont's Health IT plan from Vermont Information Technology Leaders to the office of the secretary of administration so that its various functions – including preparing the state Health IT Plan and applying for and receiving the federal stimulus money – can be coordinated.
- Legalizing the current practice (now supported by national standards) whereby health care providers treat the partners of patients with Chlamydia without examining the partners.
- Establishing an immunizations purchasing pool pilot program to ensure that Vermont adults have access to several vaccines at no charge.
- Requesting or modifying several studies, including:
    - A cost-effectiveness evaluation of several aspects of how the state administers the Catamount Health program.
    - A review and recommendations from doctors for ways to implement timely, effective stroke treatment in Vermont.

House Health Care Committee Expands S.129

This week the House Health Care Committee endorsed an expanded version of the S. 129, a Senate-passed bill that seeks to address practice variation. The bill now includes provisions relating to an accountable care organization (ACO) pilot program and a number of technical changes to Vermont's certificate of need (CON) program.

In his Senate testimony on S. 129, VMS President John Brumsted, M.D., pointed out that Vermont consistently ranks as one of the lowest cost and most efficient health care systems in the country. He also indicated the major reason for examining practice variation should be to improve the quality of health care and that it should not be used solely as a mechanism to reduce health care costs.

Under the bill, the Commissioner of the Banking, Insurance, Securities and Health Care Administration (BISHCA) is required to contract with VPQHC to identify treatments or procedures for which the utilization rates varies significantly among geographic regions within Vermont and to recommend solutions to contain health care costs by appropriately reducing variation.

The House Health Care Committee has added a section to the bill directing the Commission on Health Care Reform to convene a workgroup to support the development of an application for anticipation in a national ACO state learning collaborative. Under the bill, an ACO is defined as an entity that enables healthcare providers to be accountable for the overall cost and quality of care for the population they serve and to share in savings created by improving quality and slowing spending growth. The new section assumes that ACOs will likely be a part of President Obama's national health care reform legislation.

Finally, the bill includes a number of CON provisions that have been agreed to by BISHCA and the Vermont Association of Hospitals and Health Systems. These include: technical provisions on calculating expenditures for jurisdictional determinations; clarification of when a CON would expire; a new definition of non-material change; and, a requirement that all new ambulatory surgical centers go through the CON process.

Personnel and Statutory Changes Impact VITL

Gregory Farnum, the president of Vermont Information Technology Leaders, Inc. (VITL), Vermont's health information exchange, will leave the company on June 30 to be a consultant for state and local health information technology initiatives. Joshua Slen, the former director of Vermont's Medicaid program and now a senior consultant with Bailit Health Purchasing is now the interim CEO while a national search is underway for a permanent CEO.

During Farnum's tenure, VITL developed a Vermont Health Information Technology Plan that received recognition from the Office of the National Coordinator as one of the best in the country. In addition, Farnum assembled a medication history service that is recognized as one of the most comprehensive in the U.S. VITL also launched a results messaging service that has delivered thousands of lab results from hospitals around the state to physician electronic health records systems since the service began last September.

"Greg Farnum's outstanding work over the last four years has built a strong foundation for the adoption of electronic health records systems and the implementation of health information exchange in Vermont," said VITL Chairman Don George, the president and CEO of Blue Cross Blue Shield of Vermont.

In addition to these personnel changes, H. 444 – the House Health Care Committee's comprehensive bill – includes changing VITL's role in a number of areas. Many of these changes are intended to better position Vermont to access the new federal information technology funds available under the HITECH Act provisions of the economic stimulus bill (ARRA).

The bill reassigns VITL's responsibilities for the development of the statewide health information technology plan to the secretary of administration. The health information plan (VHIT) is intended to support the statewide use of electronic health information and ensure the use of national standards for the development of interoperable information technology systems. VHIT's plan also serves as a framework within which the Commissioner of BISHCA reviews certificate of need applications for information technology.

VITL is charged to establish a financing program, including loans and grants, to provide electronic health record systems to physicians and other healthcare professionals, with priority given to Blueprint communities and primary care practices serving low-income Vermonters. To the extent required by federal law, VITL is authorized to certify the meaningful use of healthcare information technology and electronic health records by health care professionals in order to qualify for the new payments under the Medicare program, beginning in 2011.

Paul Reiss, M.D., Craig Jones, M.D, and VMS Executive Vice President Paul Harrington current serve on the eleven-member VITL board of directors.

Vermont Department of Health Opens Vermont Prescription Monitoring System to Practitioners

With Monday's opening of the Vermont Prescription Monitoring System (VPMS), Vermont-licensed health care providers and dispensers who are registered with the system can now request information relating to a current patient directly from the VPMS database via the Web.

Each time a Schedule II, III or IV controlled substance is dispensed to a patient, VPMS collects a standard set of information on the patient, prescriber, dispenser, and the drug, and holds that information in a central database for six years. Authorized by 2006's Act 205, VPMS's database contains more than 750,000 records dating back to July 1, 2008.

To learn more information about VPMS or to register to participate in the program, please visit: *http://www.healthvermont.gov/adap/VPMS.aspx.*

Red Flags Rule: What You Need to Do Beginning May 1st

In November 2007, the Federal Trade Commission (FTC) issued a set of regulations, known as the "Red Flags Rule," requiring that certain entities, including physicians and other health care practitioners, develop and implement written identity theft prevention and detection programs to protect consumers from identity theft. The American Medical Association (AMA) expressed its concerns and successfully delayed implementation of the rule until May 1, 2009, but FTC continues to assert that medical practices begin complying with the rules on this date.

To learn more about complying with the rule and how AMA and the Vermont Medical Society are working to exempt physicians from the rule, visit *www.vtmd.org/Red%20Flag%20Rules.html* or go to the VMS homepage and click on Red Flags Rule: What You Need to Know under Quick Links.

VMS Annual Meeting to Be Held Saturday, October 3rd, 2009

SAVE THE DATE

Vermont Medical Society 196th Annual Meeting

Saturday, October 3, 2009
Basin Harbor Club, Vergennes, Vermont

Make your reservations today! Call 1-800-622-4000.

Make sure to specify you are attending the Vermont Medical Society Meeting
Room Block Deadline is September 1, 2009

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