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NCOILetter

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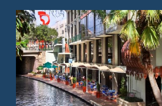
2015 NCOIL ANNUAL MEETING
November 12 to 15
San Antonio, TX



NCOIL Plans Special Look at Proposed Telemedicine Model Laws

In an effort to expand access to healthcare, including in rural and other areas where seeing doctors may be difficult, NCOIL legislators during a special Friday, November 13, meeting will consider proposed model laws to establish reimbursement and licensure requirements for long-distance care. The draft models would require parity between coverage for traditional in-person treatment and telemedicine services, in which patients consult with providers using video or other technological means. Discussion of the proposed model laws will take place during a Health, LTC & Health Retirement Issues Committee session from 10:30 to 11:45 a.m. during the NCOIL San Antonio Annual Meeting.

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Negotiators Finalize Controversial Trans-Pacific Partnership

After roughly five years of controversial negotiations, U.S. officials and those of 11 other countries announced on October 4 that they had finalized a Trans-Pacific Partnership (TPP) agreement. If ratified by all negotiating countries, the TPP would impact approximately one-third of all world commerce.

The TPP addresses an array of industries and concerns in its 30 chapters—including trade barriers for autos, dairy, textiles, and tobacco products, among others; financial and other service industries; intellectual property, including protections for pharmaceutical companies; digital privacy and e-commerce; environmental and labor standards; government-owned enterprises; dispute resolution; various transparency issues; and other concerns.

Under the terms of fast-track trade authority that Congress enacted in June, President Obama must give Congress a 90-day notice, which he has not done yet, that he intends to sign the TPP. Congress can then take an up-or-down vote on the agreement as submitted or can lift that fast-track requirement if lawmakers believe that federal officials did not consult them appropriately during negotiations or did not hold true *(cont. on p. 2)*

U.S. Financial Services Comm. Passes Bill to Slow DOL Fiduciary Duty

The U.S. House Financial Services Committee, adding fuel to the fire regarding a controversial Department of Labor (DOL) fiduciary duty proposal, approved on September 30 a *Retail Investor Protection Act (H.R. 1090)* that would slow DOL efforts. The legislation passed by a 34 to 25 vote and awaits consideration in the full House.

H.R. 1090 would make the Secretary of Labor wait until 60 days after the Securities and Exchange Commission (SEC) issues a final rule for broker/dealer standards of conduct before DOL could issue its new ERISA definition of "fiduciary."

H.R. 1090—sponsored by Rep. Ann Wagner (R-MO)—also could delay the SEC effort. Under the bill, the SEC could not put forward a rule that applies standards of conduct for investment advisors to brokers and dealers until the SEC reports on certain key issues to congressional committees. For instance, the SEC would have to explain whether consumers are harmed by the fact that standards for investment advisors currently differ from those for brokers and *(cont. on p. 4)*

NCOIL Plans Special Look at Telemedicine Models...

(cont. from page 1 sidebar)

Below is a summary of key provisions in the draft model laws, which are sponsored by Rep. Brian Kennedy (RI) and proposed by the American Medical Association (AMA).

PROPOSED MODEL TELEMEDICINE REIMBURSEMENT ACT

prohibits an insurer, corporation, or HMO from excluding coverage for a service solely because it's provided through telemedicine; ***requires*** that reimbursement for telemedicine treating/consulting providers is the same as reimbursement for the equivalent, in-person treatment; ***requires*** additional reimbursement to the "originating site" of a telemedicine service in order to cover the costs of delivering that long-distance care

allows deductibles, copayments, and coinsurance for telemedicine services, but only on same level as for in-person care; ***authorizes*** annual or lifetime benefit limits for telemedicine services, but only on par with traditional treatment

excludes accident-only, Medicare, and certain other health

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Negotiators Finalize Trans-Pacific Partnership...

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to congressional objectives.

In general, labor groups oppose the TPP while many business entities support it, although industry support is far from universal. Drug companies, for example, had pushed for 12-year patent protections for biologics but now must make do with five years, with some allowance for additional time.

Also, although the TPP like other trade deals allows companies to challenge participating countries that they think are not abiding by the trade requirements, tobacco companies under the TPP have no such right. The exclusion was prompted by a still-unresolved dispute between Philip Morris and Australia, which requires plain packaging of cigarettes.

TPP countries include the United States, Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. ■

According to USTR, Trans-Pacific Partnership (TPP) provisions related to financial services, in part:

> include exceptions so that TPP financial regulators can take measures to promote financial stability/integrity of their financial system—including a prudential exception and an exception of non-discriminatory measures designed to pursue monetary or certain other policies

> allow financial services suppliers in one TPP country to sell in another TPP country without having to establish operations there—subject to registration/authorization by the other TPP country

> set out rules to formally recognize the importance of regulation that expedites the offering of insurance services by licensed suppliers

> include specific provisions on portfolio management, electronic payment card services, and transfer of data-processing info

Amtrak Buys First-Ever Catastrophe Bond, Covers Multiple Perils

Amtrak, the long-distance passenger railroad created by Congress in 1970, has secured $275 million in catastrophe bond protection for natural catastrophes akin to Superstorm Sandy in 2012.

The per-occurrence catastrophe bond has different triggers depending on the peril, but covers storm surge and wind resulting from named storms as well as earthquakes in Amtrak's highly traveled Northeast Corridor, which stretches from Boston to DC. The coverage will last for a little more than three years.

According to GC Securities, which placed the cat bond, the first-ever offering was oversubscribed, with over 25 investors participating. ■

Register today for the NCOIL

ANNUAL MEETING

in San Antonio

November 12 to 15, 2015

Hilton Palacio Del Rio

full tentative agenda online at www.ncoil.org

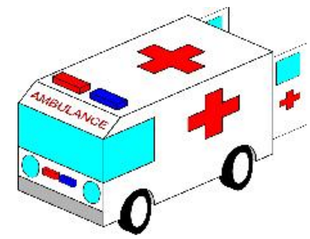
Medicare Paid Too Much for Ambulance Rides, Study Says

The Office of the Inspector General in the Department of Health & Human Services (HHS) released on September 29 a report that exposed millions of dollars in Medicare overpayments for ambulance rides and offered five ways in which the Center for Medicare & Medicaid Services (CMS) might address the problem.

Noting up front that "Medicare billing for ambulance transports warrants scrutiny, given its rapid growth and its vulnerability to fraud and abuse," the study—entitled *Inappropriate Payments and Questionable Billing for Medicare Part B Ambulance Transports*—focused on the first six months of 2012, during which Medicare paid an overall total of $2.9 billion for ambulance rides and associated mileage.

Twenty-one (21) percent of ambulance suppliers had questionable billing, which accounted for **$207 million** in Medicare payments. "Questionable billing" could mean charging excessive mileage for urban transports and/or having a high number of transports per beneficiary, among other sketchy behaviors.

The 36-page study revealed that more than half of the questionable ambulance transfers were provided to beneficiaries in four metropolitan areas—Philadelphia, Los Angeles, New York, and Houston. Questionable billing in these locations accounted for **$104 million** of the $207 million that Medicare paid on questionable ambulance claims.



According to the Inspector General, Medicare paid **$24.2 million** for transports that didn't meet Medicare requirements. For instance, these rides went to destinations that Medicare does not cover or were for rides to-and-from an inappropriate combination of destinations and transport levels (e.g., emergency versus specialty care).

The program also spent **$30.2 million** it shouldn't have on ambulance rides for which the beneficiary never received Medicare treatment. The Inspector General concluded that some of these rides may never have taken place. ■

INSPECTOR GENERAL MAKES RECOMMENDATIONS TO CURB MEDICARE FRAUD AND ABUSE

In its September 29 report, the HHS Inspector General offered the following five (5) recommendations to curb fraud and abuse:

> determine if a temporary moratorium on ambulance supplier enrollment in additional geographic areas is warranted

> require ambulance suppliers to include the National Provider identifier of the certifying physician on transport claims that require certification

> implement new claims processing edits or improve existing edits to prevent inappropriate payments for ambulance transports

> increase CMS monitoring of ambulance billing

> determine the appropriateness of claims billed by ambulance suppliers identified in the report and take appropriate action

The full Inspector General's report is available at
http://oig.hhs.gov/oei/reports/oei-09-12-00351.pdf

NCOIL Plans Special Look at Telemedicine Models...

(cont. from page 2 sidebar)

coverages; ***includes*** a drafting note that allows for utilization review services, but in the same manner as review of services for any other illness, condition, or disorder covered by the health insurance policy

PROPOSED MODEL TELEMEDICINE LICENSURE ACT

requires physicians that treat patients in another state via telemedicine to be licensed by that state and subject to regulation by that state's Board of Medicine; ***excludes*** (1) informal consultations on an infrequent basis with no expectation of compensation and (2) furnishing emergency medical assistance without charge

includes a drafting note that gives samples from state laws identifying exceptions to telemedicine licensure; ***offers*** another drafting note that gives sample language regarding different types of telemedicine licensure, including (1) special telemedicine licenses, (2) registration-only requirements, and (3) expedited licensing

The proposed models are available at www.ncoil.org, under Model Laws & Resolutions. ■

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U.S. Financial Services Committee...

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dealers and would have to identify alternative remedies if any confusion or harm does exist.

Additionally, the SEC would need to report on whether a uniform fiduciary standard would adversely impact commissions and the availability of products that brokers and dealers offer. H.R. 1090 also would, among other things, have the SEC report on whether a uniform fiduciary standard would make it tougher for retail investors to get personalized, cost-effective investment advice.

Though NCOIL has no official position on H.R. 1090, the organization has urged the DOL to further consult with state officials before finalizing its rule. In a July 28 letter to DOL Secretary Perez, NCOIL wrote that "Since the proposal would make significant changes to retirement plan fiduciary rules in place for almost 40 years, we believe it would best serve state and federal officials—in our shared responsibility—to make sure that its impact is not adverse in any way."

The NCOIL letter acknowledged certain concerns with the draft DOL language, including possible inadvertent harm to middle-income Americans and small businesses, reduced access to financial advice and products, and potential liability and costs for financial advisors.

NCOIL will explore DOL fiduciary duty issues at a Nov. 13 Life Insurance & Financial Planning Committee session at the NCOIL Annual Meeting. ■