

THE LEGISLATIVE BULLETIN

A PUBLICATION OF THE VERMONT MEDICAL SOCIETY

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VERMONT RECEIVES \$11.8 MILLION TO ADVANCE HIT

On February 12th, Health and Human Services Secretary Kathleen Sebelius announced American Recovery and Reinvestment Act of 2009 (ARRA) awards to help physicians and hospitals with the adoption and use of health information technology. This federal assistance at the state level is intended to facilitate physicians' efforts to adopt and use electronic health records (EHRs) in a meaningful manner in order to improve the quality of health care for their patients.

The Vermont Department of Health and Human Services received \$5.0 million in funding as a qualified State Designated Entities (SDEs) to facilitate health information exchange (HIE) at the state level. In addition, Vermont Information Technology Leaders (VITL) received a \$6.8 million federal grant to support the development of regional extension centers (RECs) that will aid physicians as they work to implement and use health information technology. VITL and other regional centers will assist physician practices in improving patient care and meet the criteria to receive the ARRA funds.

ARRA created incentive payments of up to \$44,000 under Medicare, or up to \$63,750 under Medicaid, to physicians who achieve meaningful use of certified EHR systems within a certain timeframe. As shown in the below chart, the Medicare incentive payments are greater for those practices that adopt EHRs in 2011 or 2012.

Medicare Schedule of Maximum Payments						
1st Year for Meaningful Use	Payment Year					
	2011	2012	2013	2014	2015	2016
2011 \$44k	Stage 1* \$18k	Stage 1 \$12k	Stage 2 \$8k	Stage 2 \$4k	Stage 3 \$2k	
2012 \$44k		Stage 1 \$18k	Stage 1 \$12k	Stage 2 \$8k	Stage 3 \$4k	Stage 3 \$2k
2013 \$39k			Stage 1 \$15k	Stage 2 \$12k	Stage 3 \$8k	Stage 3 \$4k
2014 \$24k				Stage 1 \$12k	Stage 3 \$8k	Stage 3 \$4k
2015 Penalties					-1%	-2%

* Adopting, implementing, or upgrading EHRs (including staff training and redesigning workflow) qualifies for a payment in 2011 but not subsequent years

VITL will be offering Vermont physician practices a package of services, including educational programs, onsite consulting and project management. VITL has developed its programs over the last several years under funding from the state of Vermont and the Vermont Health IT Fund, and is ready to immediately begin working with additional physician practices.

For more information about VITL and its services, please go to: <http://www.vitl.net/>

UNCERTAINTY OF TIMING FOR SGR PAYMENT FIX RAISING CONCERNS

Senate Majority Leader Harry Reid's (D-Nev.) decision to move forward with a jobs bill without including a Medicare physician payment fix has left many concerned about how and when Congress intends to act. The most time-sensitive of the expiring health care provisions is the need to delay a 21 percent Medicare payment cut for physicians. Physicians' Medicare reimbursement will be reduced March 1 unless Congress takes action.

The House in November 2009 passed a \$210 billion permanent Sustainable Growth Rate (SGR) physician payment fix, but the Senate has not taken action on the bill. The costs of H.R. 3961 were not offset, raising concerns among some senators about its effects on the deficit.

The Centers for Medicare & Medicaid Services can legally hold claims for 15 days, which gives Congress a little bit of breathing room. VMS President Robert Tortolani, M.D., and EVP Paul Harrington will meet with Vermont's congressional delegation next week in Washington and will urge immediate action on preventing the 21-percent cut from going into effect.

BILL COULD LEAD TO ALL VERMONT WORKERS GETTING PAID SICK TIME

A new bill would give all workers in Vermont paid leave for personal or family illnesses. The bill, H. 382, sets the minimum number of paid sick hours at 56 annually that workers could use to address issues related to health care or safety for themselves or a family member.

H. 382 was introduced in the first half of the session and taken up by House General, Housing and Military Affairs in March 2009. The committee has been hearing testimony on the bill for two weeks, including testimony from VMS member Louis DiNicola, M.D., of Randolph and Nancy Kaplan, co-owner/manger of her husband's (David Weissgold, M.D.) Burlington practice.

Advocates of the bill testified that the cost to business would be minimal, but the savings would be substantial. They stressed that if people don't go to work sick then they don't infect co-workers, that people who do go to work while sick have decreased productivity and that children recover more quickly when being cared for by a parent.

To see the text of the bill go to <http://tinyurl.com/yfqryql>.

VMS OPPOSES RADIOLOGY PRIOR AUTHORIZATION

As a way to save \$2 million in the FY 2010 budget, the Office of Vermont Health Access (OVHA) is proposing to establish a prior authorization program for certain imaging services including CT, CTA, MRI, MRA, PET and PET-CT scans. The program would not require prior authorization for imaging provided to patients in the emergency department or patients who are admitted to hospitals. Regular X-rays, mammograms, and ultrasound will not be subject to prior authorization.

VMS opposes this program because it will significantly increase administrative burden for Vermont physicians who already have among the lowest rates of CT and MRI scanning in the country. VMS also questions whether the estimated savings are realistic given the low base of spending on imaging in Vermont, and whether patients will be harmed if the vendor is required to find the savings.

However, this is an incredibly tough budget year and VMS appreciates that OVHA has not proposed any across-the-board rate reductions for physicians at a time when significant cuts have been proposed for almost all other services. VMS discussed this program with OVHA staff and proposed a number of safeguards for patients and program criteria designed to reduce administrative burden in the event the program moves forward over VMS opposition. The safeguards and criteria VMS proposed to OVHA are listed below, along with OVHA's response, where available.

1. Prior authorization approval criteria should be transparent, readily available and based on peer-reviewed published clinical standards;
2. Responses to prior authorization requests and appeals to the medical director should be acted on in a timely manner;
3. Physicians who order imaging consistent with evidence-based guidelines should be exempt from the prior authorization process (gold card);
4. OVHA should form a physician advisory committee to assist in the development of contract standards, the selection of the vendor and the implementation of the prior authorization process with the goal of minimizing the administrative burden on practices;
5. The terms of the contract should not include financial incentives to deny requests for imaging services;
6. The prior authorization process should be aligned with other prior authorization imaging processes within the state, as long as the alignment is consistent with the goal of minimizing the administrative burden on practices;

RADIOLOGY PRIOR AUTHORIZATION

(cont'd from pg. 2)

7. The prior authorization process should be informed by the imaging-related findings from report, that found Vermont physicians' imaging rates are among the lowest in the country;
8. OVHA should track and report to the legislature imaging rates, imaging expense, and administrative expense for this program, including administrative expenses incurred by physician practices; and,
9. OVHA should track imaging in emergency departments to determine whether the prior authorization program results in increased ED imaging.

OVHA agreed that approval criteria used by the vendor should be evidence-based and available to physicians and that appeals and medical director access should be timely. OVHA was agreeable to physician involvement in the program after a vendor has been selected. If OVHA uses a risk contract, it stated that its measures will address quality and performance, not denials. OVHA was willing to look at a "gold card" exemption for physicians in the future after they have data to support it.

Given findings that show Vermont having some the lowest utilization rates of imaging services nationally, VMS remains concerned that OVHA's budget goal of reducing imaging costs by \$2.0 million on a base of \$9.54 million (a 21-percent reduction) would result in medically necessary CT, MRI and PET diagnostic services being denied for Medicaid beneficiaries.

VMS staff testified about this program to the House Health Care Committee and will be meeting with the chair and vice-chair of the House Appropriations Committee next week.

Prior to testifying, VMS solicited input from its members on the issue. The responses, which were overwhelmingly against OVHA's proposal, were used to formulate VMS's policy, and were shared with OHVA and key members of legislative committees.

A handful of representative responses from members include:

"Adding another hurdle to caring for these patients will only cost providers more, e.g. staff time chasing prior authorizations. Ultimately this represents another disincentive to accepting and caring for Medicaid patients." – Rutland County

"The (prior authorization) process significantly increases all direct and indirect healthcare costs. It prevents efficient and cost effective delivery of care and therefore delays good outcomes, further adding to costs." – Chittenden County

"The savings will be gone when the added cost of adding more personnel and using more time is factored in. Other, better ways to save exist." - Windham County

"Is there any proof that these tests are over utilized or that patient care has in some way suffered? All I see is intrusion and the tendency not to do one of these tests due to the hassle level." – Windham County

PECOS MEDICARE ENROLLMENT DEADLINE EXTENDED TO JANUARY 2011

The Centers for Medicare & Medicaid Services (CMS) has again delayed the date it will begin to reject Medicare claims submitted by physicians who are not enrolled in the PECOS database, from April 5, 2010 to Jan. 3, 2011. In the meantime, CMS will mail letters to practitioners who have not updated their Medicare enrollment record since CMS began using PECOS in 2003. Even if there are no changes to a physician's enrollment data, if the physician is not enrolled in PECOS they need to submit an application and establish a record in the PECOS system.

To view the lists of physicians with up-to-date enrollments, visit <http://www.vtmd.org/PECOS.html>.

ACTION NEEDED: AHEC EDUCATIONAL LOAN REPAYMENT ALERT

The administration has again proposed to reduce funding for the Area Health Education Center Educational Loan Repayment Program from \$870,000 in FY 2010 to \$570,000 in FY 2011, with only \$285,000 likely to be available to support primary care. This program has already been cut significantly. Last year in the FY 2010 budget funding for educational loan repayment was reduced almost 50 percent, from a \$1.4 million funding level in FY 2009 to only \$870,000 in FY 2010.

This program is a valuable health care workforce recruitment and retention tool. Loan repayment funds make it possible for physicians graduating from medical school with six figure debt levels to practice in Vermont. If the

proposed cuts are implemented this year, 80 fewer professionals will receive loan repayment and commit to service obligations in Vermont, including 36 fewer primary care physicians. Last year's cuts have already reduced the number of recipients drastically.

The House Appropriations Committee will mark up the budget this week. Please contact members of the House Appropriations Committee and ask them to support funding for the educational loan repayment program.

Contact information for legislators is on the VMS website: http://www.vtmd.org/Advocacy/Key_Leg_Contacts_Home.html.

Vermont Medical Society 197th Annual Meeting

Saturday, November 6, 2010

Equinox, Manchester, Vermont

Make your reservations today! Call 1-877-854-7625.

(Make sure you tell them you are with the VMS)

VERMONT MEDICAL SOCIETY

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