



THE AAEM | NOVEMBER 2024 ACTION REPORT

CHAMPION OF THE EMERGENCY PHYSICIAN



The AAEM Action Report is a monthly newsletter designed to keep you informed on the critical developments affecting our mission. Your continued engagement remains crucial as we confront these challenges and work towards lasting solutions. We are deeply grateful for your unwavering support and dedication to our mission - thank you for standing with us. Additionally, we would like to extend our gratitude to our lobbying firm, I Street Advocates, for their tireless efforts in advancing our advocacy goals.

Together, we can shape the future of emergency medicine.

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Congressional Activity

AAEM Due Process Meetings

As part of AAEM's PAC work, Dr. Durkin and I Street staff met with Rep. Raul Ruiz (D-CA), Rep. August Pfluger (R-TX), Rep. Rich McCormick (R-GA), Senator Marshall (R-KS) and Rep. Ronny Jackson (R-TX) during the week of November 18th. In the meetings Rep. Ruiz and Senator Marshall committed again to leading the Physician and Patient Safety Act next Congress and outlined ways for AAEM to continue partnering with their offices to bolster support for the bills in Congress.

Rep. Pfluger asked several detailed questions about the corporate practice of medicine, and requested our ongoing assistance in thought leadership as he was just elected Chair of the Republican Steering Committee. Rep. Pfluger expressed interest in co-leading the Workforce Mobility Act next Congress; he plans to speak to the bill's Democratic lead in the next few days.

Reintroduction of Due Process Bill in 119th Congress

AAEM continues to meet with bill leads about reintroduction early next year. On November 19th, I Street staff met with Senator Warren's staff to discuss strategy and timing for reintroduction. I Street Advocates also spoke with Senator Marshall's new health staffer in October, and has remained in touch with Rep. Ruiz's staff to push for an early introduction next Congress paired with a robust effort to obtain additional original cosponsors.

Grassroots Updates on Due Process Bill

I Street Advocates launched a comprehensive grassroots campaign supporting the Physician and Patient Safety Act. On November 19th 2,936 AAEM members received an email blast calling on them to write to their Members of Congress. On November 21st, the remaining 2,936 AAEM members received the final blast. By the evening of November 21st, 25% of all the emails sent had been opened. Thus far, 143 AAEM members have sent 458 emails to Senators, Senator-elects, Representatives, and Representative-elects. The California, Florida, Pennsylvania, Texas, and Virginia delegations have received the most outreach.

Corporate Practice of Medicine Legislation

During the recent meeting with Senator Warren's team, I Street also discussed the Senator's draft Corporate Practice of Medicine bill; the AAEM Board provided suggested edits to the bill earlier this fall. Senator Warren's team accepted all our feedback in the pending draft. In light of the election, they are deferring introduction until the next Congress and are conducting outreach to Republican offices that may be interested in portions of the bill.

Reintroduction of Workforce Mobility Act

With the FTC's non compete rule likely to be withdrawn, I Street continues to work closely with Rep. Peters' office, the lead of the Workforce Mobility Act to attract a new Republican co-lead for the bill. Rep. Pfluger is currently the only Republican elected to serve in the 119th Congress who has cosponsored the bill, and as reported earlier I Street has been working closely with the office to encourage them to co-lead next session.

Congressional Short-Term Spending Resolution

On September 25th Congress approved a short-term spending deal that would fund the federal government until December 20th. The President signed the legislation into law on September 26th. Congress returned on November 12th for a lame duck session. Given the political climate, it remains unclear whether and how the 118th Congress Democrats and Republicans will work together on the key remaining priorities, such as passing or extending funding for the government.

As stated earlier, funding the government remains the highest priority for the returning Congress. Expiring or must pass provisions of relevance to AAEM likely to be included in the funding package are the Medicare fee update patch. While Congressional action could take the form of another Continuing Resolution (CR), an omnibus package, or a series of mini packages, the current thinking is that Congress will pass another CR to consider the FY 2025 funding bill in March when the Republicans have a majority next year.

House Energy and Commerce Chair urges FTC to halt controversial items.

Retiring Energy and Commerce Chair Cathy McMorris Rodgers (R-WA) sent a letter on November 6th urging FTC Chair Lina Khan to halt work on all controversial items stating: "The results of the 2024 presidential election are now apparent and leadership of the Federal Trade Commission (FTC) will soon change. As a traditional part of the peaceful transfer of power, the FTC should immediately stop work on any partisan or controversial item under consideration, consistent with applicable law and regulation."

119th Congress Leadership Races

The House and Senate have elected their new leaders for the 119th Congress.

Senate: On the Republican side, Senator John Thune's (R-S.D.) is the new Majority Leader and Senator John Barrasso (R-WY), who is a physician, is the Majority Whip. On the Democratic side, Minority Leader Chuck Schumer and Minority Whip Dick Durbin will continue in their current roles.

House: On the Republican side, Speaker Mike Johnson, Majority Leader Steve Scalise and Whip Tom Emmer were reelected. Johnson still needs to win a vote on the floor in January. On the Democratic side, Minority Leader Hakeem Jeffries, Whip Katherine Clark and Caucus Chair Pete Aguilar won reelection.

Medicare Physician Update

On November 1, the Centers for Medicare & Medicaid Services (CMS), released the calendar year (CY) 2025 Medicare Physician Fee Schedule (PFS) final rule. In accordance with statute, CMS reduced finalized average payment rates under the PFS by 2.9% in CY 2025 compared to the average payment rates for CY 2024. This amounts to a finalized CY 2025 PFS conversion factor of \$32.35, a decrease of \$0.94 (or 2.83%) from the current CY 2024 conversion factor of \$33.29.

On October 29, a bipartisan group of House members introduced the Medicare Patient Access and Practice Stabilization Act of 2024, H.R. 10073. This bill proposes a 4.73% payment increase for physicians in 2025. The payment increases fully offset the finalized 2.9% Medicare reimbursement cut while also providing a partial inflation adjustment to physicians. The bipartisan bill -- introduced by Reps. Murphy (R-NC), Miller-Meeks (R-IA), Bucshon (R-IN) and Joyce (R-PA), along with Reps. Panetta (D-CA), Bera (D-CA), Ruiz (D-CA), and Schrier (D-WA) includes a

partial inflation adjustment equal to 50% of the Medicare Economic Index (MEI), which tracks inflation based on practice costs and wages, for one year in 2025.

The Paragon Health Institute, a right-leaning think tank has taken on the physician payment issue. Paragon recommends that Congress only partially resolve the 2.83% cut rather than fully waive it. Paragon is urging Congress to prioritize permanent reform instead of continuing the annual short-term fixes.

It is likely that regardless of vehicle, Congress will include some form of Medicare payment relief in their end of year spending measure.

DeGette, Bucshon To Unveil ‘Cures 2.1’ White Paper By Year’s End

Rep. Diana DeGette (D-CO), retiring Rep. Larry Bucshon (R-IN), and Rep. Buddy Carter (R-GA) recently announced plans to unveil by year’s end a white paper for next Congress on Cures 2.1 legislation -- the next iteration of the 21st Century Cures Act.

The white paper will incorporate feedback gathered from stakeholders earlier this year. AAEM commented on the information blocking provisions of the 21st Century Cures Act earlier this year.

Administrative Activity

Medicare Physician Rule and Emergency Physicians

As stated above, CMS released the CY 2025 Medicare Physician Fee Schedule (PFS) final rule. One commenter stated they believe that, “every urgent care should seek to have an emergency physician on staff and that in the setting of physician-led teams, urgent care should be capable of caring for the full range of non-life-threatening conditions. (See page 613 of the rule) In response, CMS stated they would consider this input for potential policy proposals through future rulemaking.

FTC Premerger Reporting Requirements

The Federal Trade Commission finalized changes to a rule in mid October that will require healthcare companies, including hospitals and providers, to provide more information to regulators ahead of mergers and acquisitions. Under the new policy, merging companies will be required to submit a high-level business plan related to competition, as well as details about their current and developing business lines, supply chains and investors. The agency says more documentation is needed to help regulators determine which deals require in-depth antitrust investigation.

Administration Proposes Expanded Coverage of Preventive Services

Proposed CMS rules would further bolster coverage of certain recommended preventive services, such as over-the-counter birth control. On October 21, 2024, the Administration, through the Departments of Health and Human Services, Labor, and of the Treasury (together, the Departments), proposed new rules that expanded coverage of ACA preventive health services. As part of this proposal by CMS, most group health plans and health insurance issuers would be required to cover over-the-counter (OTC) contraceptives without cost sharing or requiring a prescription. For more information on the proposed rules, consult the fact sheet available [here](#).

State Developments

There are no state developments to report at this time. States will begin pre-filing bills in the next couple of weeks.

Additional Updates

GAO Hospital Transparency Report

In an October report, the GAO explored a statutory requirement for hospitals to publicly post their prices. Hospitals have historically provided limited pricing information. The GAO reviewed CMS's implementation of hospital price transparency requirements and (1) describes users' experiences with hospital pricing data prior to CMS's 2024 updates; (2) describes the 2024 updated requirements; and (3) examines CMS's enforcement of the requirements.

No Surprises Act Circuit Court Decision

On October 30th a Fifth Circuit Court of Appeals decision reversed a lower court decision and approved the Biden administration's method for calculating the qualified payment amounts (QPA) under the No Surprises Act. The ruling reversed a lower court decision from August 2023 that ruled largely in favor of the Texas Medical Association's (TMA) challenges to the QPA methodology and vacated relevant pieces of a July 2021 interim final rule (IFR). Under the No Surprises Act, providers cannot bill patients for out-of-network (OON) emergency services or for OON services conducted at in-network facilities. No Surprises also established a federal independent dispute resolution (IDR) process that eligible parties can use to determine the winner of a payment fight.

TMA challenged several of the rule provisions implementing the IDR process in the U.S. District Court, Eastern District of Texas, particularly those related to the QPA or the median in-network rate for a particular item or service. In its decision on the methodology, the appeals court panel considered the Supreme Court's ruling in *Loper Bright Enterprises v. Raimondo*, which eliminated Chevron deference in agency rulemaking. The appeals court found the IFR followed the plain language of the statute, which says an item or service must have been made available, but not necessarily performed, for the rate to be included in the QPA.

CMS will need to revise its initial guidance on the QPA methodology to adhere to the new ruling and clarify that only contracted rates for the same or similar specialty in the same geographic region can be included in the QPA.

Medicare Physician Payment Reform

Earlier this week several outlets reported that the HHS Secretary nominee, Robert F. Kennedy Jr., is exploring a proposal to revise the CPT and RUC process. In particular, reporters noted RFK's concern with the AMA's role in the process. It revives a proposal that has been raised by Republican policymakers intermittently over the past twenty years. The proposal is still in its early stages. Kennedy has not been confirmed by the Senate, so final policy proposals remain uncertain at this point.

This newsletter content was provided by [I Street Advocates](#), the advocacy partner of the American Academy of Emergency Medicine (AAEM). I Street Advocates works closely with AAEM to advance policy solutions and legislative efforts that impact emergency medicine, ensuring that your voice is heard on the issues that matter most.