Wyoming Medical Society

Physician Newsletter
Winter 2011

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Federal Update: Payroll Tax Cuts and the SGR Patch

~AMA e-News Update~

According to the American Medical Association's December 23 update, Congress acted to extend 2011 Medicare rates through February 29, 2012.

Physicians got a brief reprieve from a 27.4 percent Medicare pay cut Friday when the U.S. Senate and House of Representatives each passed a two-month extension of several important policies due to expire January 1.

The U.S. Senate last week voted to extend current Medicare payment rates for two months. After the House first balked at the two-month extension earlier in the week, the two chambers reached an agreement to extend the physician payment rates as well as the two-percentage point Social Security payroll tax cut, and to extend unemployment benefits. A House-Senate conference committee will convene in January to work on a longer-term agreement.

At a press conference, House Speaker John Boehner (R-Ohio) said the goal is to extend all the expiring programs for a full year, except for the physician payment cut reprieve, which is to be extended for two years.

AMA President Peter W. Carmel, MD, called on Congress to "enact a real and fiscally responsible solution to this sorry cycle of scheduled cuts and short-term patches that compromises access to care for patients and drives up costs for taxpayers. Members of Congress need to use this time to work in a bipartisan manner to provide long-term stability for seniors, military families and the physicians who care for them." ■

Committee Approves Extension of Medicaid Studies

~Wy Hospital Assn. News Briefs, Dec. 16~

The Legislature's Joint Labor, Health, and Social Services Committee approved a bill at its final meeting that gives state health officials more time to review options for improving Wyoming's Medicaid program.

The studies resulted from legislation passed in the 2011 session. That measure was focused on preparing the state to deal with increased cost pressures on the Medicaid program as a result of federal healthcare reform.

A study of the financial impact of Medicaid expansion is due in September. A separate study of options for improving the program was due in May 2012. The bill approved by the committee pushes that deadline back until May 2013.

Health Department Director Tom Forslund and Meredith Asay said the department needs the additional time to hire a consultant and complete the study.

Forslund said the review would assess whether there are ways to control costs in Medicaid that are more effective than approaches used to date.

At the same time, the study will consider ways to improve patient care, including incentives for doctors who keep patients healthy, rather than simply paying for the volume of patients a doctor sees.

State Legisalture Cont. on Page 3

Safety and Security Issues with the Use of Social Media

~ Kristen Lambert, JD, MSW, LICSW~

Social media impacts us personally and professionally on a daily basis. Most of us could not have envisioned the effect that social media has had upon us within the healthcare sector, including the field of psychiatry. In the coming years, social media use will only increase, potentially causing risk management and legal concerns within your practice. Although there is minimal caselaw of statutory regulations nationally concerning social media, it is anticipated that legal challenges will arise.

There are a multitude of issues when using social media including boundary issues, ethical issues, confidentiality issues, standard of care issues, and privacy issues. This column will address specifically safety and security of patient information with respect to the use of social media.

Social media refers to the use of web-based and mobile technologies to turn communications into an interactive dialog.2 Social media is used to connect individuals with each other in an online format. It can take on a variety of forms including electronic mail, Facebook, MySpace, Google+, LinkedIn, Twitter, YouTube, Skype, Foursquare, blogs and on-line dating sites. The use of social media spans across all ages and all professions, including psychiatry.

A critical issue when accessing or using a social media site when communicating with and about patients, is the degree of privacy and security available within that medium. As you all know, patients are entitled to confidentiality and whichever form of social media outlet you use, it remains of the utmost importance.

The use of social media could potentially expose you to liability under HIPAA privacy laws. Consider if one of your office staff breaches HIPAA when posting information online concerning a patient. For example, your office assistant dealt with a difficult patient and later that day posts on Facebook about his/her interaction with the patient. Although you may not have interacted with the patient directly, may not have been in the office at the time and may not have observed the interaction, this posting could expose you to liability. Not only could a post like this result in a breach of privacy under HIPAA, the Federal Trade Commission could impose liability (FTC may impose liability upon businesses for statements made by their employees on social networking sites even if the company itself had no actual knowledge).3

There are a number of ways privacy could be breached by the use of social media. One such way is with the use of Skype. Since the inception of Skype's video conferencing in 2006, it is becoming more widely used in healthcare, including within the behavioral health sector.4 If using Skype in treatment of patients, there are certainly a variety of risk management and legal issues concerning safety and security. First, how are you visualizing the patient and what safety precautions do you have in place in the event that something adverse were to occur? Further, how do you know that it is a secure connection? Skype claims to be secure and encrypted; however, it is impossible to verify that the algorithms are used correctly, completely and at all times. Skype has been found to have a number of security issues.5

Security issues can also occur with use of other forms of social media,

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Wyoming Medical Society

Save the Date

2012 Annual Meeting

The Premiere Educational Showcase and Vendor Expo for Wyoming Physicians

June 8-10 at the Jackson Lake Lodge near Moran, WY

P.O. Boxes No Longer Permitted in Billing Provider Address

~AMA Practice Management Center~

Do you use a P.O. Box or lock box address as your billing provider address to receive payments? If you submit claims electronically, you will be required to use only a street address or physical location as the billing provider address as of January 1, 2012. Continuing to report a P.O. Box in the billing provider address field will cause your claims to reject.

Under the Health Insurance Portability and Accountability Act (HIPAA), all physicians and other health care providers that submit claims electronically are required to transition to the Version 5010 transactions by January 1. One of many data reporting changes in the Version 5010 transactions is the requirement to report only a street address or physical location as the billing provider address.

Practices that wish to continue having payments sent to a P.O. Box or lock box will report this address in the "pay-to" address field.

You may need to work with your practice management system vendor, billing service, or clearinghouse to have this address change made for your claims. Talk to them today to find out if a change is needed and when it will be done. This work needs to be done prior to Jan. 1 to prevent claims rejections and interruptions in your cash flow.

Visit www.ama-assn.org/go/5010 or www.cms.gov/Versions5010andDO for more information on data reporting changes in the Version 5010 transactions and to prepare your practice for the Jan. 1 deadline. ■

State Legislature Continued from pg 1

In addition to the timing of the Medicaid studies, the joint committee heard reports and considered a number of other issues as well.

Among them was a lengthy discussion of the state workers' compensation program. The committee plans to strengthen protocols regarding the use of workers' compensation benefits in an effort to ensure services are accessed and delivered as effectively as possible.

The committee also heard an update on the state's exploration of a health benefits exchange solution. In addition to reports from Elizabeth Hoy, Gov. Mead's health policy advisor, the committee heard from PCG Consultants, a firm that has studied health benefits exchanges around the country.

The committee continues to consider the three general options for an exchange: setting up a state-based program; developing a state/federal approach; or simply allowing the federal government to implement an exchange in Wyoming.

The issues surrounding that decision are complex, and in the course of hearing reports, legislators on the committee probed the impact that the rollout of federal health reform will have on insurance premiums, as well as the nature and need for exchanges.

Adding another element to an already complicated discussion, PCG Consultants also presented the key elements of the Supreme Court's review of the federal health reform law in 2012.

Though the review will focus primarily on the individual mandate for citizens to buy insurance, a number of questions exist as to whether the mandate can be 'severed' from the rest of the law.

And if that portion can be struck down, questions will still remain about the effect of the remaining elements of the law. ■

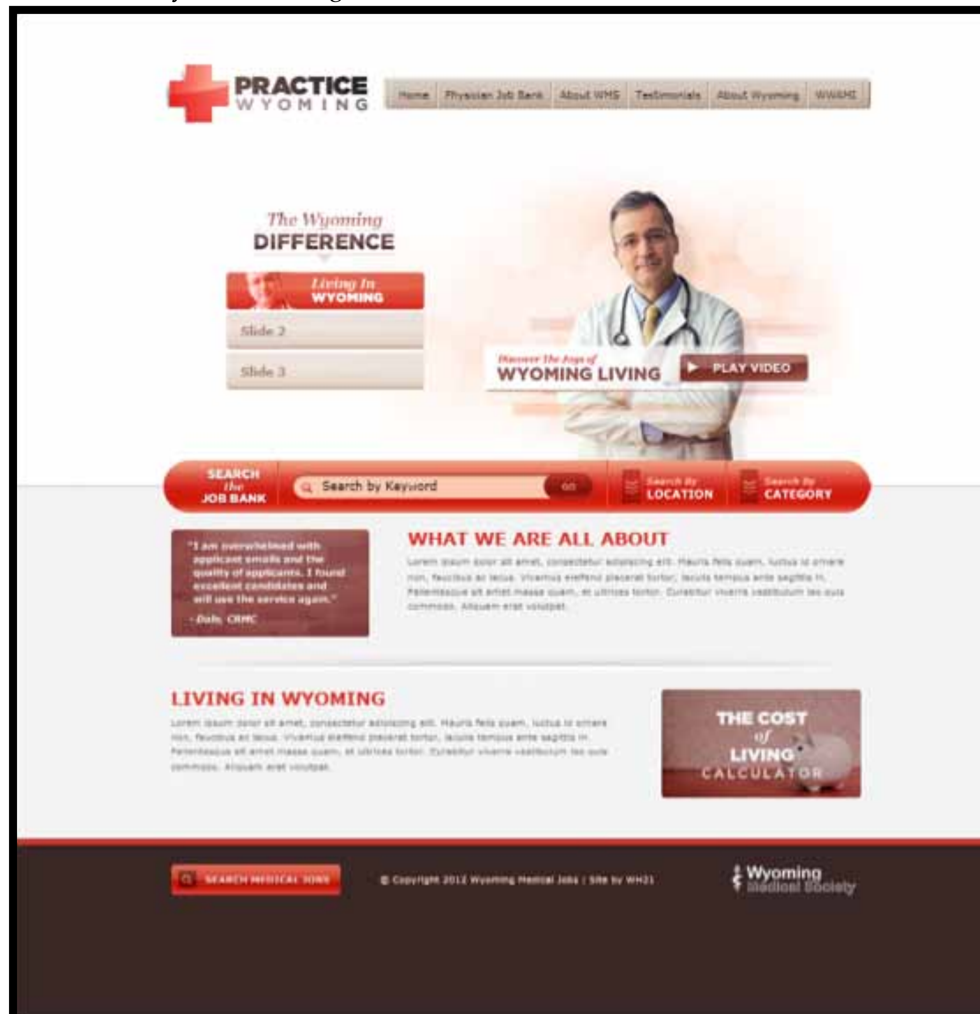
WMS Works to Promote Practicing in Wyoming

~Physician Recruitment Plans Moving Forward~

In 2010, after considering results from a statewide membership survey, the Wyoming Medical Society Board of Trustees unanimously voted to embark on the ambitious journey of creating a robust physician recruitment website for the state of Wyoming. The project is coming together nicely with the help of incredible partners that to date include the University of Wyoming, WWAMI, the UW Family Medicine Residencies, Cheyenne Regional Medical Center, the Wyoming Chapter of the American Academy of Pediatrics and the Wyoming Chapter of the American Academy of Family Physicians.

WMS has contracted with Warehouse Twenty One to develop the comprehensive job bank and video to promote Wyoming and physician jobs. In order to ensure the success of this exciting endeavor WMS needs your help to collect physician job opportunities. The goal is to include every physician listing available in the state whether it be within a hospital, free clinic, private clinic or larger group practice. The job bank will provide hospitals, free clinics, private clinics and larger group practices the ability, free of charge, to post their job opportunities. It will also provide the ability for individuals to express interest in those jobs and for the providers to view contact information for WWAMI and Family Medicine Residency students and others who have expressed interested in Wyoming job opportunities. The bells and whistles WMS includes in the site through video, physician testimonials and scenic Wyoming photos won't matter if the job bank is not a comprehensive, accurate, and up-to-date listing of available openings. Please contact the WMS office at 307-635-2424 or email info@wyomed.org with any information you have about physician openings in your community.

WMS is investing staff resources and funds to launch what we believe is a critical component to addressing physician shortage and patient access issues in Wyoming. We can not do this alone, and hope that we can count on our members across the state to assist in making this a joint success. We know that doctors recruit doctors, so let's make this happen together! ■



The site is still in development and subject to change

CMS Announcement

~Dept. of Health and Human Services -CMS~

Information Regarding the Holding of 2012 Date-of-Service Claims for Services Paid Under the 2012 Medicare Physician Fee Schedule

The negative update under current law for the 2012 Medicare Physician Fee Schedule is scheduled to take effect on Sun Jan 1, 2012. Consequently, as on numerous occasions in the past, CMS will instruct its Medicare claims administration contractors to hold claims containing 2012 services paid under the Medicare Physician Fee Schedule for the first 10 business days of January 2012 (i.e. Sunday Jan 1 through Tuesday Jan 17). The hold should have minimal impact on provider cash flow because, under current law, clean electronic claims are not paid sooner than 14 calendar days (29 days for paper claims) after the date of receipt.

Medicare Physician Fee Schedule claims for services rendered on our before Saturday Dec 31 are unaffected by the 2012 claims hold and will be processed and paid under normal procedures and time frames. ■

2012 HIPAA 5010 Compliance

~American Medical Association~

January 1, 2012 marks the compliance deadline for use of the new version of the standard electronic Health Insurance Portability and Accountability (HIPAA) transactions. Version 4010 has been in use since 2003 and CMS is requiring all HIPAA covered entities to begin using Version 010 starting January 1.

The AMA and partnering state medical societies have aggressively advocated to CMS that overall lack of industry readiness should not compromise physician cash flow following the January 1, 2012 compliance date. For this reason, CMS has indicated they will not levy any enforcement actions for the first three months of 2012 while HIPAA covered entities continue to work towards compliance. What this means is that the HIPAA 5010 compliance date remains January 1, 2012 and all physicians and other HIPAA covered entities should continue to make every effort to comply with the use of the new standards, but that CMS will not take any enforcement action during this period. ■

Weighty Surgical Concerns with Opiods and the Obese

~The Doctors Company, Risk Tip~

With 93 million obese Americans, the issue of accommodating the obese is one that all physicians with surgery in their practice must consider. Nationwide, a surge is underway to expand and retrofit hospital emergency rooms to accommodate obese patients.

Numerous case reports of adverse postoperative outcomes with the obese include respiratory arrest exacerbated or caused by obstructive sleep apnea (OSA).

When considering opioid pain medication with obese patients, consider the following :

- Include a focused history and calculation of BMI and neck circumference in the preoperative evaluation.
- Consider a sleep apnea study prior to scheduled surgery.
- Identify patients at substantial risk or history of OSA, and place them on continuous monitoring—ideally with apnea monitors, oximeters, and capnometers.
- Consider the use of nonopioid medications (such as NSAIDS) instead of or in combination with judicious and careful opioid dosing, and use regional analgesic techniques rather than systemic opioids whenever possible.
- Consider constant positive airway pressure machines (CPAPs) to alleviate postoperative airway obstruction and decrease major postoperative complications.
- Carefully titrate pain medication. Avoid assuming that BMI directly correlates to medication dose.
- Be aware that oral opiates may cause respiratory depression in OSA patients.
- Encourage patients with CPAP devices at home to use them while in the hospital, especially if they are receiving narcotics.
- Ensure that everyone involved in the patient's treatment plan is aware of the diagnosis or suspected diagnosis of OSA, particularly in obese patients.
- Train health care professionals providing postoperative monitoring to recognize potential signs of sleep apnea. ■

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including use of Facebook and email. One case involves a Rhode Island physician who was reprimanded by the state licensing board and her privileges were revoked due to posting information online. The physician did not include the patient's name; however, sufficient information was conveyed such that others within the community would be able to identify the patient.6 Another case from California involves patient communication with a therapist through a work email account. The California Appeals Court found that the patient's communication with her therapist may lose protection under patient-therapist privilege when there is a transmission from a workplace device.7 These cases involve very distinct and separate issues with different forms of social media but are examples of how issues may arise when engaging in online communication.

While this column touches upon some safety and security issues when using social media, it does not constitute an exhaustive list of issues to consider. Social media is a moving target that evolves with every click, post and blog. Engaging in the use of social media should not be entered into lightly and its impact on psychiatry is wide-reaching.

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End Notes

1. This information is not intended to be and should not be used as a substitute for legal advice. Rather it is intended to provide general risk management information only. Legal advice should be obtained from qualified counsel to address specific facts and circumstances and to ensure compliance with applicable laws and standards of care.
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