

Advocacy/Policy Quarterly E-Newsletter

June 2024

Since the start of the year, a whirlwind of legislative/regulatory activity has been taking place at both the federal and state levels, impacting audiology and hearing-health care. This e-newsletter is designed to provide you with a summary of the highlights or “need-to-know” issues that have occurred to date, as well as upcoming events of interest.

2024 Election Year

Not only is 2024 a presidential election year, but all 435 seats in the House of Representatives and 34 of the 100 seats in the Senate are up for re-election. Several long-time Senate leaders are retiring including Senator Tom Carper (D-DE), Senator Debbie Stabenow (D-MI), Senator Joe Manchin (D-WV), and Senator Ben Cardin (D-MD). Senate Republican Minority Leader Mitch McConnell has also announced he will be stepping down. In addition, elections will be held in 44 state legislative chambers and gubernatorial elections will be held in 11 states and two territories.

Federal Updates

Medicare Advantage

In 2024, the Medicare Advantage (MA) program has garnered the interest of federal legislators and regulators who are interested in increasing transparency and gaining additional data on various aspects of the program including supplemental benefits such as hearing, vision, and dental. The following changes to MA directly impact supplemental hearing benefits provided under the plans.

Academy Recommends Increased Transparency in MA Hearing Benefits

In response to a Centers for Medicare and Medicaid (CMS) request for information (RFI) on ways to increase transparency in MA around supplemental benefits, the Academy submitted comments urging increased transparency around the nature and amount of the supplemental hearing benefit and the professional services included to provide consumers with the requisite information necessary to make an informed decision. Provider network listings should be readily available, and consumers should have the ability to choose their provider. Third-party administrator (TPA) contracts should not constrain the professional judgment of the audiologist/provider in discussing appropriate clinical treatment options, nor should they include provisions that unfairly bind the audiologist to participation in other

contracts/networks. Finally, there should be greater connectivity between the insurer/plan and the TPA that is charged with administering the benefit.

[View the Academy's comments.](#)

MA Plans Now Required to Inform Beneficiaries of Hearing Benefits

In April, CMS issued a final rule that now requires MA plans to send enrollees annual personalized notices regarding supplemental benefits (including hearing) they have not accessed in the first six months of the year. The notice will include “the scope of the benefit, cost-sharing, instructions on how to access the benefit, any network application information for each available benefit, and a customer service number to call if additional help is needed.”

MA Plans Now Required to Submit Utilization Data on Hearing Benefits

Supplemental benefits are a defining feature of MA, yet data are lacking on how many enrollees use them, who is accessing them, the specific services used, and which benefits are most meaningful to consumers. On February 21, CMS sent a directive to all MA plans, clarifying that they are required to submit encounter data on supplemental benefits and providing instructions on how to do so. They also clarify that additional guidance will be forthcoming.

[View the directive.](#)

MedPAC Outlines Possible Plan for Standardization of Hearing Benefits in MA

The Medicare Payment Advisory Commission (MedPAC), a non-partisan legislative agency that provides Congress with policy analysis and recommendations on the Medicare program, is considering standardizing supplemental hearing, vision, and dental benefits in MA plans. They are contemplating this action to make it easier for beneficiaries to compare plans, and the framework for standardization would be set by regulation to allow for stakeholder comment and ongoing changes.

[View the standardized benefits plan.](#)

State Updates

Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC)

Legislation aimed at implementing the interstate licensure compact was introduced in several states, signaling a concerted effort to streamline licensure processes and facilitate mobility for audiologists across state lines. Thus far in 2024, two states passed legislation to join the ASLP-IC—Florida and Minnesota, bringing the total to 32 states . The ASLP-IC will allow audiologists to apply for a privilege to practice in other participating states both in-person and via telepractice without having to obtain a separate license. The compact also allows participating states to share enforcement information thereby increasing consumer protection.

Maryland

House Bill 464/Senate Bill 795 was passed into law in late May without the governor’s signature. This bill will allow audiologists to perform health screenings, cerumen removal, and order blood work/cultures and imaging as it relates to auditory and vestibular conditions.

New Jersey

Senate Bill 1171 would expand Medicaid coverage for unilateral or bilateral hearing aids, cochlear implants, or osseointegrated devices and related services. The Academy submitted a letter of support.

Oklahoma

House Bill 3951 and 3952 would implement required hearing screening for children in elementary and secondary schools with best practice protocols, and added an audiologist as a member of the State Department of Education Literacy Instruction Team respectively. The Academy submitted letters of support.

Wyoming

Senate Bill 0057 was signed into law and establishes an adult hearing aid program for persons ineligible for coverage through private insurance, Medicaid, Medicare, or other third-party payers.

Donate to the Academy's Political Action Committee (PAC)

Other News

FTC Votes to Ban Non-Compete Agreements

The Federal Trade Commission (FTC) issued a [new rule](#) on April 23, 2024, banning new non-compete agreements in all employment contexts. This new rule is expected to have significant impacts on employers in a wide swath of industries—including health care. The FTC's 560-page report repeatedly addresses the expected impact on the health-care industry—perhaps more than any other—and cites "thousands" of comments from veterinarians, optometrists, physicians, physician assistants, nurse practitioners, and other health-care providers complaining about their non-competes.

NASEM Examines Meaningful Outcome Measures in Adult Hearing Health Care

An ad-hoc committee of the National Academies of Sciences, Engineering, and Medicine (NASEM) will examine the state of the science in outcomes research for interventions in adult hearing health care (excluding surgically placed prosthetic devices), with an emphasis on measures that are meaningful to the individual and the clinician. The prepublication report is estimated to be released in April 2025. This effort is sponsored by the Centers for Disease Control (CDC) and the National Institutes of Health (NIH).

Academy Nominates Audiology for Recognition as STEM Discipline

The Academy recently nominated the field of audiology for recognition as a STEM discipline by the Department of Homeland Security (DHS). Audiology is currently not recognized as a STEM profession by the DHS, and therefore foreign students in the United States in a graduate audiology program are limited in the amount of time they can stay after graduation. This currently deters foreign students from studying audiology in the United States and also is a disincentive to employers who may be reluctant to offer these students a job after graduation.

Settlement in Kaiser Exclusion of Hearing Aids and Related Services

The class action against the Kaiser Foundation Health Plan of Washington arising out of its categorical exclusion of all hearing loss treatment except for cochlear implants has been settled. Kaiser will pay \$3,000,000 to a settlement fund to reimburse class members for uncovered expenses for hearing aids and associated services incurred from October 30, 2014, through December 31, 2023. The original plaintiffs alleged that Kaiser violated the Affordable Care Act's anti-discrimination statute, 42 U.S.C. § 18116, and Washington's health carrier anti-discrimination statute, RCW 48.43.0128 by excluding coverage of medically necessary hearing aids and associated treatment.

[View the settlement.](#)

GAO Issues Report on Consumer Access to OTC Hearing Aids

The Government Accountability Office (GAO) recently issued a report on consumer access to hearing loss treatment following the market availability of over-the-counter (OTC) hearing aids in October 2022. GAO reviewed literature and agency documents and interviewed Food and Drug Administration (FDA) and Federal Trade Commission (FTC) officials, and a selection of eight stakeholder groups representing consumers, audiologists, hearing professionals, and the hearing aid industry.

[View the report.](#)

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