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NEXT WEEK IN WASHINGTON...

* Senate HHS Subcommittee is scheduled to debate its annual appropriations bill on Tuesday, July 27 and full Committee has scheduled its final action on Thursday, July 29.

1. DR. GOERTZ TESTIFYING ON HIT BEFORE HOUSE HEALTH SUBCOMMITTEE

On Tuesday, July 27, Dr. Goertz will testify on HIT and “meaningful use” before the House Energy and Commerce Health Subcommittee. He will be part of a panel of stakeholders and follow David Blumenthal, MD, the National Coordinator of HIT, and Tony Trenkle from CMS. His testimony, in particular, addresses the importance of health information technology with a focus on small and medium-sized providers and federally qualified health centers.

2. REGULATORY UPDATE

Federal agencies continued to unveil early rulemaking proposals on provisions of the health care overhaul law. On Tuesday, July 20, HHS issued a request for input on a new comparative effectiveness research online database. Then, on Thursday, July 22, the Department of Health and Human Services released new rules on an appeals process to challenge insurance company payment decisions. Finally, on Friday, July 23, HHS published guidelines for voluntary compliance by small restaurants with nutrition disclosure requirements mandated by the health care law. Disclosure requirements for larger restaurant chains are pending. The Treasury Department finalized rules this week on increased tobacco taxes used to partially pay for last year’s children’s health insurance coverage adjustment.

3. ENERGY AND COMMERCE HEALTH SUBCOMMITTEE APPROVES LIABILITY BILL

The House Energy and Commerce Health Subcommittee approved by voice vote the *Family Health Care Accessibility Act* (HR 1745), which would provide liability protections for volunteer practitioners at health centers. The bill, introduced by Rep. Tim Murphy (R-PA), amends the Public Health Service Act to deem volunteer practitioners at health centers as employees of the Public Health Service for purposes of any civil action that may arise due to providing services to patients at such health centers. The bill defines “volunteer practitioner” as a licensed physician or licensed clinical psychologist who: (1) provides services to patients of a public or nonprofit entity receiving federal funds for serving medically underserved areas, at the request of the

entity; (2) provides such service at a site at which the entity operates or at a site designated by the entity; and (3) does not receive any compensation for the provision of services. The bill now moves to the full committee.

4. PRESIDENT RESUBMITS BERWICK NOMINATION

On July 19, the White House announced that the President again sent the nomination of Donald M. Berwick, MD to be Administrator of the Centers for Medicare and Medicaid Services. Dr. Berwick was appointed to head CMS during the Independence Day recess of the Senate until the end of 2011.

5. BROWN TAKES BYRD SEAT ON SENATE APPROPRIATIONS

Senate Majority Leader Reid has named Sen. Sherrod Brown (D-OH) to the coveted seat on the Appropriations Committee opened by the death of Sen. Robert Byrd (D-WV).

6. FamMedPAC FUNDRAISING CAMPAIGN STARTS

FamMedPAC kicked off its summer fundraising campaign this week, with e-mails from Dr. Jim King, Director of the PAC Board, going out to 5,000 AAFP members who have not made a contribution to the PAC before. Phone calls will begin next week. Half of this group will also receive a follow up letter prior to receiving a call. The PAC is testing the response rate of those who only receive e-mails and will not send letters in the future if the response rate from the e-mail-only group is satisfactory.

Thus far in this election cycle, the PAC has received \$588,341 in donations and made \$586,000 in campaign contributions.

The PAC supported the following campaigns this week:

- **Rep. Anna Eshoo (D-CA)** is a member of the Energy and Commerce Health Subcommittee. She is a strong supporter of primary care, including increased funding for Title VII programs. The Congresswoman said that she is "embarrassed" that Congress has not held to its commitment to increase Medicare physician payments and that the whole thing should be scrapped and fixed permanently.
- **Rep. Paul Tonko (D-NY)**, who sits on the Education and Labor Committee, is serving his first term in Congress. Dr. Jun David, a Director of the FamMedPAC Board, and NYAFP Chapter Exec Vito Grasso will deliver the PAC check to Rep. Tonko next month back in the district. Rep. Tonko voted for the health reform bill and said he was proud to be part of that historic vote. He noted that there were provisions designed to increase support for primary care physicians and said he wanted to do more to ensure there were enough primary care physicians for the newly insured. He said he was hearing from family doctors in his district about shortages. He also talked about the SGR issue and said he was upset that the Senate could not pass the House version of the Medicare payment fix. He knows it will be dealt with after the elections, and he would support something beyond just a temporary patch. He supports increased funding for Title VII and any other proposals that would help increase the supply of primary care physicians.
- **Rep. Phil Gingrey (R-GA)** is a physician and a member of the House Energy and Commerce Health Subcommittee. He spoke about the SGR situation and was sympathetic, but did not comment on what would happen in the lame duck session. He is the lead sponsor of a bill designed to reform the broken medical liability system, which the AAFP Commission on Governmental Advocacy is in the process of reviewing.
- **Rep. Jim Clyburn (D-SC)** is the Majority Whip in the House, the third highest ranking member of the House Democratic leadership. He spoke at length about the importance of the health reform bill for his district, which has a large number of uninsured and has one of the highest incidences of stroke, diabetes and obesity. He said that he was

- **Rep. Suzanne Kosmas (D-FL)** is in her first term in Congress and is one of the legislators supported by the PAC Board for to her vote in favor of the health reform bill. She talked about how the nation needed more family physicians and about the importance of the medical home. She said that Central Florida University had just given 41 scholarships to medical students and that she urged them all to become primary care physicians since that is what the nation needed. Rep. Kosmas did say that health care had been the most contentious vote she had taken since arriving in Congress.
- **Rep. Jerry Moran (R-KS)** is running for the Senate. The PAC Board decided to support him in the primary. The Congressman is currently leading in the polls and feels good about his chances. He talked about the need to encourage more medical students to enter into primary care and how many rural areas of Kansas had no primary care physicians at all. Although health care is a key issue in the race, the focus now seems to be more on jobs and the economy.
- **Rep. Xavier Becerra (D-CA)** serves on the Ways and Means Health Subcommittee and is a member of the House Democratic leadership. He addressed the Family Medicine Congressional Conference in 2009. There was a discussion of FMAP, which the Congressman said may be addressed in the lame duck session if the GOP governors ask for it. He feels that the appropriations process will be mostly shunted off to the lame duck session as well and he had no predictions. He believes the House leadership will encourage Democrats to emphasize employment issues during their August meetings with constituents, rather than focusing on health care.
- **Rep. Sue Myrick (R-NC)** is a member of the Energy and Commerce Health Subcommittee. Groups at the fundraiser said they were monitoring the implementation of the health care law and the SGR situation. Rep. Myrick said she had voted against the health reform legislation because she didn't like the way it had been structured. Rep. Myrick talked extensively about how unhappy she is with the partisan nature of the House. She believes that leadership on both sides of the aisle is too partisan and that she has joined an as yet unknown group of moderate R's and D's that is trying to figure out how to work together again.
- **Rep. Steny Hoyer (D-MD)** is House Majority Leader. In his presentation, he cited the SGR, physician workforce, HIT and the Independent Payment Advisory Board as issues of importance to him. He stressed the role of the House in approving several times a fix to the SGR, decried this short-term patch process, and promised continual efforts to get the problem resolved. He noted that it would be likely that the lame duck session will not tackle a long-term solution, but rather revert to the usual practice of an extension of the SGR, with perhaps a small increase in the update. But then, he hoped to use the PAYGO exemption to build a multi-year extension that would allow for serious work on a permanent solution that everyone could accept. One of the major reasons he thinks this could be accomplished is that the White House is likely going to be more engaged in finding a resolution this time.

In mentioning the need to find more investments in physician workforce, he singled out primary care physicians as needing particular attention. He noted that the Congress is very interested in how the investments in HIT are working out and he thought that the IPAB would be an effective way to bring pressure on Congress to reduce health care costs. In discussing how the SGR was going to be addressed in the lame duck, he

noted that CMS had to request \$95 million to reprocess the claims that had been paid under the lower payment rate.

7. STATE HEALTH CARE ISSUES

- *Wisconsin Supreme Court Rules in Favor of Physicians*
On July 20, Wisconsin Supreme Court ruled that the state must repay \$200 million to the medical malpractice fund. The court, in a 5-2 decision, agreed with the Wisconsin Medical Society that taking money from the fund—which pays for claims that cost more than a provider's primary malpractice insurance covers—to help balance the budget in 2007 was unconstitutional. Prior to the ruling, the fund was projected to be \$109 million short of the amount needed to pay all projected liabilities as of June 30. Some are concerned, however, that if repayment comes directly out of the Medicaid budget, provider reimbursement rates will be cut to make up for the needed funds.
- *Maine Requests Exemption to Medical Loss Ratio Requirement*
Following the passage of federal health reform, Maine is the first state to request exemption from U.S. Department of Health and Human Services (HHS) officials for the medical loss ratio (MLR) requirements to take effect January 1. MLR requirements set a minimum percentage of premiums that health insurers must pay in actual medical costs—under the new law will be 85 percent for large-group plans and 80 percent for small groups and individual plans. The state's insurance commissioner Mila Kofman, a strong proponent of the *Patient Protection and Affordable Care Act* and appointee of a Democratic governor, made the request due to concerns that Maine already has tight regulations and further requirements could make the state's market less competitive. Because insurance markets vary from state to state, Kofman encouraged HHS to develop a waiver, in which other states may also participate.
- *New Mexico Begins Implementing Health Reform Plan*
Governor Bill Richardson (D) recently announced that New Mexico is moving forward on several initial recommendations from the state's plan issued by the state's Health Care Reform Leadership Team (HCRLT) to implement the federal *Affordable Care Act* as required by an executive order from earlier this year. The plan includes establishing a state health insurance exchange and creating an Office of Health Care Reform under the state's Human Services Department to utilize existing staff resources. HCRLT will expand to incorporate other state agencies, including Higher Education and Finance and Administration, and will continue to convene to ensure coordination across state agencies, determine state statutes requiring amendment to be in compliance with federal law, and report directly to the Office of the Governor.
- *Missouri Health Care Bills Become Law*
Governor Jay Nixon (D) recently signed several bills, including [HB 1375](#), which allows physicians to use expedited partner therapy to treat chlamydia and gonorrhea, and [HB 1898](#), which establishes the Women's Heart Health Program to provide heart disease risk screenings to uninsured and underinsured women. [SB 583](#) requires health insurers to cover adopted children on the same basis as other dependents and was also signed into law.