

February 26, 2010

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NEXT WEEK IN WASHINGTON...

- * The Senate will return Tuesday and may consider another SGR extension.

1. SENATE FAILS TO POSTPONE MEDICARE CUT BEFORE MARCH 1 DEADLINE

The Senate repeatedly attempted to win unanimous consent on passage of the *Temporary Extension Act* (HR 4691), which the House approved on February 25 extending the current SGR payment rate for physicians through March 31. Each time that Senate leaders brought the bill up for passage, Sen. Bunning (R-KY) objected. Sen. Bunning, who is retiring from the Senate when his term ends this year, insisted that the bill contain provisions that would pay for the extensions with economic stimulus funds.

The Senate adjourned for the weekend without passing the SGR extension and will not reconvene for votes before noon Tuesday. CMS has announced that it will hold claims for up to 10 days with the expectation that there will be a statutory fix in that time. Physicians should submit claims as usual. The par/non-par decision deadline is March 17, but CMS may extend the deadline if Congress does not provide statutory relief within 10 days.

2. HEALTH SUMMIT FEATURES SHARP CONTRASTS, FEW GLIMMERS OF HOPE

In an effort to jump-start health reform, the White House held a February 25 bipartisan health summit moderated by the President. On Monday, February 22, President Obama released a summary of his health care bill drawn largely from the Senate-passed bill – the *Patient Protection and Affordable Care Act* (HR 3590) – but which includes several provisions from the House version, the *Affordable Health Care for America Act* (HR 3962). The Obama plan includes an individual mandate, but individuals and families will be eligible for a waiver from the requirement to purchase health insurance if premiums exceed 8 percent of income. Exceptions are also made for religious objectors, taxpayers with incomes below the tax-filing threshold (\$9,350 for a single or \$18,700 for a married couple in 2009), and Indian tribe members.

Under the President's proposal, Americans under the age of 30 and other Americans who are exempt from the requirement to purchase insurance are eligible for a low-cost catastrophic plan that covers serious illness and injury. Adult children living at home up to age 26 can be covered under a family policy. The Obama plan raises the threshold of the tax on high-end plans from

\$23,000 to \$27,500 in annual premiums and delays the effective date until 2018. It includes an increase in the subsidies for middle class families to purchase insurance and allows individuals to purchase insurance through state-based exchanges. The White House and Congressional Democrats seem prepared to use budget reconciliation as the method for achieving health reforms which will further increase partisan tensions.

As widely expected, the seven-hour long health care summit highlighted the partisan divide but failed to produce a consensus. Democrats defended the need for comprehensive reform; an approach criticized by Republicans who insisted that the President should scrap his proposal in favor of small-scale reforms. It remains to be seen whether the summit coverage will lead to final passage of health reform legislation.

3. HOUSE APPROVES LIFTING INSURANCE ANTITRUST EXEMPTION

On February 24, the House by a vote of 406 to 19 passed the *Health Insurance Industry Fair Competition Act* (HR 4626) to end a 65-year-old antitrust exemption for health insurance companies. The bill is one piece of the Democratic leadership's strategy to revive support for its health care reform efforts and has the support of President Obama. The House-passed bill seeks to amend the 1945 *McCarran-Ferguson Act*, which exempted insurers from federal antitrust law if they are regulated by the state. It now moves to the Senate for review.

4. FAMMEDPAC REPORT

FamMedPAC has received almost \$470,000 in donations from AAFP members this election cycle, putting the PAC half-way to its goal of \$1million by the next election. The PAC has made just under \$400,000 in campaign contributions this cycle, including:

- **Rep. Frank Pallone (D-NJ)**, Chair of the Health Subcommittee of the House Energy and Commerce Committee. The discussion focused on the President's health care summit and the outlook for passage of health reform. Rep. Pallone is a strong supporter of the House legislation and applauded the President's efforts. He knows the House leadership is committed to passing a bill soon and feels that reconciliation will have to be used to pass anything in the Senate. He is not sure there are enough votes in the House to pass the Senate bill and the reconciliation package, but knows that leadership is working to gather enough support for passage. On SGR, he is angry that this issue was allowed to wait until the last minute again. He wants the Senate to just pass the House "fix," but knows that is unlikely.

5. ADMINISTRATION DETAILS HEALTHY FOOD FINANCING INITIATIVE

The Obama Administration announced on February 19 an over \$400 million Healthy Food Financing Initiative, which will bring grocery stores and other healthy food retailers to underserved urban and rural communities across America. The initiative was announced today in Philadelphia by Treasury Secretary Tim Geithner and Agriculture Secretary Tom Vilsack. The two cabinet members appeared with First Lady Michelle Obama, who recently launched the Let's Move! campaign to solve the epidemic of childhood obesity within a generation. The initiative is a partnership between the Departments of Treasury, Agriculture, and HHS.

6. STATE LEGISLATURES PASS VARIETY OF HEALTH CARE BILLS

The **New Mexico** legislature, which adjourned its 2010 legislative session and plans to return for a special session in early March to address the state budget, passed several health care proposals:

- HB 12 requires health insurers to reimburse for direct services at a rate not less than 85 percent of premiums. Governor Bill Richardson (D) intends to sign the bill.
- HB 26 amends current state statutes to add licensed osteopathic physicians and osteopathic physician's assistants to the definition of "primary care provider" for the purpose of allowing them—in addition to medical doctors, physician's assistants, and

- SB 148 prohibits use of gender as a health insurance rating factor.

Convened for an emergency special session, the **Oregon** legislature recently passed the following legislation:

- HB 3639 creates the Primary Care Services Program to provide loan repayments on behalf of physicians and other health care providers who agree to practice at a rural hospital or rural health clinic.
- HB 3642 allows supervising physician organizations to collectively supervise a physician assistant.
- SB 1046 allows the Oregon Medical Board to issue a certificate of prescriptive authority to certain licensed psychologists. The measure is effective July 2011, allowing a task force time to determine the level of training required and the drugs covered.

In **Iowa**, Governor Chet Culver (D) signed SF 2117, which allows therapeutically certified optometrists to supply pharmaceutical-delivering contact lenses.

The **South Dakota** legislature recently passed HB 1044, which reimburses two family physicians in the state for their medical education tuition.

The **Kansas** House on Thursday, February 25 by a 68-54 vote approved HB 2221, to prohibit smoking in bars, restaurants, workplaces, 80 percent of hotel rooms and taxi cabs. Casino floors, tobacco shops, private clubs and designated smoking rooms in hotels would be exempt. Following the expected signing of the bill by Governor Mark Parkinson (D), the Sunflower State will become the 28th to pass a clean indoor air act. The bill's passage marks a major victory for the Kansas Academy of Family Physicians, following several years of dedicated advocacy.

Colorado Governor Bill Ritter (D) signed HB 1191, which will tax candy and soda 2.9 percent. The new tax—a means to balancing the state's budget—goes into effect May 1, 2010.

Wisconsin Legislator Introduces “I’m Sorry” Bill Under consideration by the Wisconsin Legislature is AB 710, also known as the “I’m Sorry Legislation.” The bill adds “a statement, a gesture, or conduct of a health care provider that expresses apology, condolence, compassion, benevolence, or sympathy” to the types of evidence that are inadmissible in legal proceedings. While the legislation would clarify that expressions of sympathy are not an admission of wrongdoing, it does not provide immunity in instances of malpractice. Under the bill, any admission of guilt or error is still admissible in court. To date, 29 other states have enacted similar legislation, which can contribute to strengthening the doctor-patient relationship. In 2006, the state's legislature passed similar legislation, which did not become law due to Governor Jim Doyle's (D) veto.