

March 19, 2010

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NEXT WEEK IN WASHINGTON...

* If the House finishes health reform, the Senate may take it up next week before the two-week recess begins on March 29.

* The Senate may also consider the House-passed bill extending the Medicare physician payment rate until April 30.

1. THE HOUSE MAY FINISH WORK ON HEALTH REFORM

The House is preparing for a weekend session to complete action on a companion bill that modifies a Senate-passed health care overhaul bill, the *Patient Protection and Affordable Care Act* (HR 3590). House Democratic leaders on Thursday, March 18, released details on the new reconciliation bill, the *Health Care & Education Affordability Reconciliation Act* (HR 4872). The Rules Committee is likely to meet on the floor voting procedures on Saturday, March 20. Final votes on the measure are expected Sunday afternoon. Republican legislators are preparing an all-out effort to oppose the measure.

Action on health care overhaul took place mostly behind closed doors all week as Democratic leaders redrafted the reconciliation measure to secure additional supporters and meet fiscal requirements. The House Budget Committee quickly approved a placeholder version of the bill in a perfunctory markup session on Monday, March 15. By mid-week, Democratic leaders were still short of the necessary 216 votes required for passage, but as the week went on, supporters of the measure picked up additional votes. While the final count is uncertain, House Majority Leader Steny Hoyer (D-MD) and House Majority Whip James Clyburn (D-SC) announced Friday that they are confident they will have the votes to pass health reform by Sunday.

The CBO's estimate of \$138 billion in deficit savings in the first 10 years meets the criteria required for a budgetary reconciliation bill. Many undecided lawmakers had been waiting to examine the fiscal ramifications of the proposal. However, Senate Budget Committee Chairman Kent Conrad (D-ND) added to Democratic anxiety by predicting that the Senate would make changes to the House reconciliation measure, when the Senate takes it up (assuming the House successfully passes it) probably on Tuesday, March 23.

2. ANOTHER SHORT-TERM SGR EXTENSION PASSES THE HOUSE

On Wednesday, March 17, the House passed the *Continuing Extension Act* (HR 4851) by voice vote. The bill contains an extension of the Medicare physician payment rate and the therapy caps extension through April 30, 2010. This continuing congressional stopgap action is necessary to delay a decrease in Medicare physician reimbursement rates scheduled for March 31. A separate extension bill (HR 4213) passed the Senate last week and awaits House action. The Senate bill would extend the SGR until October 1, but the bill includes several revenue-raising provisions and expenditure savings that were used in the larger health reform bill. The Senate will attempt to approve the shorter-term House bill by the end of the upcoming week after it concludes work on the Health Reform legislation.

3. HHS ANNOUNCES GRANTS SUPPORT COMMUNITY EFFORTS TO BE HEALTHIER

On Friday, March 19, HHS Secretary Kathleen Sebelius announced that \$370 million in grants will be awarded to 44 counties across the nation to decrease obesity and tobacco use. First Lady Michelle Obama was scheduled to speak but was unable to attend due to illness. Surgeon General Regina Benjamin, MD spoke at the announcement via video from Florida. Of the 44 grants, 23 communities will focus on obesity prevention, 14 will focus on tobacco prevention, and 7 will target both.

4. FDA ISSUES FINAL RULE RESTRICTING TOBACCO PRODUCTS TO YOUTH

On Thursday, March 18, the U.S. Food and Drug Administration issued a final rule containing a broad set of federal requirements designed to significantly curb access to and the appeal of cigarettes and smokeless tobacco products to children and adolescents in the United States. Published on March 19, the new rule becomes effective June 22.

Among other things, the rule prohibits the sale of cigarettes or smokeless tobacco to people younger than 18, prohibits the sale of cigarette packages with fewer than 20 cigarettes, prohibits the distribution of free samples of cigarettes, restricts distribution of free samples of smokeless tobacco, and prohibits tobacco brand name sponsorship of any athletic, musical or other social or cultural events. The entire rule can be found at www.fda.gov/protectingkidsfromtobacco.

5. FamMedPAC MAKES THE CASE FOR FAMILY MEDICINE IN HEALTH REFORM

The PAC participated in these events this week:

- **Rep. Dave Camp (R-MI)** is the ranking member on the House Ways and Means Committee. Rep. Camp believes that health reform will pass the House this weekend or early next week. He views this legislation as a step toward the public option and a single payer system. In his district, the issue of health care does not rank as high as jobs and the economy.
- **Rep. Kurt Schrader (D-OR)** is a vulnerable freshman and a strong supporter of family medicine issues. FamMedPAC supported him in his first campaign. Rep. Schrader met with the President this week to discuss his concerns that the Senate health reform bill does not appropriately address value and overall system reform. He told AAFP that the country needs more primary care doctors and that the Medicare payment formula needs to be fixed.
- **Rep. Martin Heinrich (D-NM)** is another vulnerable freshman member supported by FamMedPAC in his initial campaign. Rep. Heinrich has worked closely with members of the New Mexico chapter and is a strong supporter of family medicine. He said he will vote for the health reform bill but that his office is receiving hundreds of calls against the legislation.

6. GRASSROOTS ADVOCATE FOR HEALTH REFORM

This week, the AAFP sent a targeted grassroots message to members living in districts of 80 U.S. Representatives undecided on how they would vote on health care reform legislation. The grassroots alert asked members to call their Representative and urge them to support the Senate health care reform bill. AAFP Connect for Reform also got involved in the grassroots

push. This week's message also asked members to call their Representative in support of health care reform.

7. STATE CHAPTERS ADVOCATE AGAINST MEDICAID AND CHIP CUTS

The **Georgia** Academy of Family Physicians is pushing for a \$1 tobacco tax increase in an effort to avoid a 10.25 percent reduction in Medicaid reimbursement rates.

In **Colorado**, the Department of Health Care Policy and Finance submitted a proposal for a one percent across the board provider rate reimbursement cut under Medicaid to capture \$9.3 million in savings to the state. The Colorado Academy of Family Physicians opposes the proposal, saying that many physician practices across the state would stop accepting new Medicaid patients if such cuts were adopted.

Arizona officially became the first state to eliminate its Children's Health Insurance Program as part of drastic reductions in the state budget. As a result, 47,000 children of low-income working parents will lose coverage. KidsCare, as the program was called in Arizona, covered children in families earning between 100-200 percent of the Federal Poverty Level (roughly \$22,000 - \$44,000 per year for a family of four).

8. STATE COURTS AND LEGISLATURE ADDRESS MEDICAL MALPRACTICE

- The Supreme Court of **Georgia** upheld a 2005 law that requires the plaintiff in a medical malpractice case to prove the emergency room doctor acted with "gross negligence." The lawsuit claimed a doctor was negligent in failing to order a test that would have detected a brain aneurysm. The court—which, in a separate ruling, upheld a provision requiring reimbursement of legal fees in some cases—will issue a third ruling this month on a lawsuit that challenges the state's \$350,000 malpractice cap on pain and suffering damages.
- **Utah's** Governor Gary Herbert (R), who supports medical malpractice reform, currently is several bills that do the following:
 - prohibiting "statements, expressions, or conduct that express apology, sympathy, commiseration, condolence, compassion, or general sense of benevolence" from being admissible against a health care provider.
 - limiting malpractice awards for pain and suffering to \$450,000—the state currently has a cap of \$480,000.
 - authorizing the Department of Health to establish a demonstration project to facilitate open and honest dialogue between a health care provider and a patient or the patient's representative regarding unexpected medical outcomes and to determine timely and cost effective resolutions.
- The **Texas** Supreme Court recently upheld a state law that limits the filing of medical malpractice claims to 10 years.

9. OTHER STATE HEALTH CARE ACTIONS

- The **Virginia** General Assembly approved a bill mandating all health insurers to fully cover the cost of healthcare services provided through telemedicine services. The General Assembly also reduced reimbursement rates for Medicaid providers 7 percent by 2012. Governor Bob McDonnell (R) is expected to approve both bills.
- The **Mississippi** legislature recently passed a bill, which recognizes the Joint Principles of the Patient-Centered Medical Home and instructs the State Board of Health to adopt guidelines applicable to physician practices in the state that incorporate PCMH principles.

- **Maine** adopted an emergency rule increasing the MaineCare—the state’s Medicaid program—reimbursement rate for non-hospital based physician services from 56.94 percent to 70 percent effective March 1, 2010.
- The **Washington** state legislature recently passed a bill prohibiting health questionnaires from being used as a condition of coverage under an individual health benefit plan for those whose employer discontinues group coverage due to the closure of the business.