

October 30, 2009

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### NEXT WEEK IN WASHINGTON...

\* Wednesday, the House could begin floor debate on health care reform.

## 1. HOUSE HEALTH REFORM BILL UNVEILED

House Speaker Nancy Pelosi (D-CA) presented on Thursday, October 29 the House health reform bill called the *Affordable Health Care for America Act* (HR 3962) sponsored the most senior member of the House, Rep. John Dingell (D-MI). According the Congressional Budget Office, the legislation will bring health insurance coverage to 96 percent of all Americans and will generate a surplus for the federal government. The text of the bill can be found on the web at [http://docs.house.gov/rules/health/111\\_ahcaa.pdf](http://docs.house.gov/rules/health/111_ahcaa.pdf). The House is expected to bring health reform to the floor next week.

The bill makes some improvements in the provisions that affect primary care. The threshold for eligibility for the primary care bonus was reduced, so that if a family physician's Medicare bills are more than 50 percent E & M and prevention services, then the physician is eligible to receive a 5 percent bonus on all Medicare billing (except if the physician is in an underserved area, in which case the bonus is increased to 10 percent). The bill makes this bonus payment permanent.

In addition, the HR 3962 eliminates the requirement that participating beneficiaries in the community-based medical home demonstration be "high-need." This makes all of the practice's Medicare beneficiaries eligible.

HR 3962 retains the provision that raises Medicaid payments for primary care to at least the level of Medicare and requires coverage of preventive and primary care services.

The House stripped from the health reform measure the provisions to prevent Medicare physician payment cuts. These provisions were incorporated into a new bill in recognition of both pressure to keep the package under \$900 billion and the Senate bill which is silent on the

Medicare sustainable growth rate formula. However, the *Medicare Physician Payment Reform Act* (HR 3961) was introduced concurrently and is on the web at [http://docs.house.gov/rules/health/111\\_sgr1.pdf](http://docs.house.gov/rules/health/111_sgr1.pdf).

## **2. SENATE CONFIRMS BENJAMIN AS SURGEON GENERAL**

On Thursday, October 29, the Senate by unanimous consent confirmed Alabama family physician Regina Benjamin, MD as U.S. surgeon general. Dr. Benjamin was the first black woman to head a state medical society, received the Nelson Mandela Award for Health and Human Rights and last fall received a MacArthur Foundation "genius grant."

## **3. HOUSE PASSES FTC RED FLAG EXEMPTION FOR SMALL PRACTICES**

The House of Representatives unanimously passed a bill Tuesday, October 22, to exempt a medical practice with 20 or fewer employees from the Federal Trade Commission's identity theft Red Flag Rule requirement. Unless the Senate also passes the bill and the President signs it, the Red Flag Rule will require that practices – considered by FTC to be "creditors" – implement an identity theft prevention program starting November 1, 2009. **Rep. John Adler (D-NJ)** introduced HR 3763 to clarify that no small health care practice should be considered a creditor subject to the FTC identity theft prevention rule.

## **4. CBO PREDICTS LITTLE SAVINGS FROM ANTITRUST REPEAL**

On Friday, October 23, CBO released a cost estimate for the *Health Insurance Industry Antitrust Enforcement Act* (HR 3596) which found that repealing an antitrust exemption for private insurance companies would have little effect on lowering premiums or federal spending. CBO said that the bill passed by the House Judiciary Committee to repeal the exemption "could affect the costs of and premiums charged by private health insurance companies; whether premiums would increase or decrease as a result is difficult to determine, but in either case the magnitude of the effects is likely to be quite small." Both the House and Senate are expected to include a provision to repeal the insurance antitrust exemption in their health reform bills.

## **5. FEDERAL STOP-GAP SPENDING EXTENDED THROUGH DECEMBER 18**

The House passed (247 to 178) and the Senate cleared (72 to 28), a continuing resolution (CR) to fund the federal government through December 18 as part of the FY 2010 Interior spending bill (HR 2996). The stopgap CR will allow the government to continue operations while the House and Senate leadership decides how to wrap up the unfinished annual appropriations bills. The CR keeps the covered agencies and departments funded at FY 2009 levels.

## **6. AHRQ HOLDS MEETING ON PATIENT SAFETY, MEDICAL LIABILITY REFORM**

The Agency for Healthcare Research and Quality held a meeting of the Patient Safety and Medical Liability Reform Subcommittee of the National Advisory Council on October 26. The meeting brought together stakeholders to advise AHRQ on review criteria for two Funding Opportunity Announcements (FOAs): Medical Liability Reform and Patient Safety Demonstration Projects (R18) and Medical Liability Reform and Patient Safety Planning Grants (R21). The R18 grants offer funding to States and health systems of up to \$3 million for three-year projects to develop, implement and evaluate medical liability models focused on patient safety. The R 21 awards are \$300,000 one-year planning grants to plan approaches to medical liability reform focusing on patient safety. The one-month application period opens on December 27.

## **7. FamMedPAC REPORT**

- **Rep. Jim McDermott (D-WA)** a psychiatrist who serves on the Ways and Means Committee. He believes health insurance reform will pass this year and thinks it will be a significant start toward establishing the foundation for universal coverage and he will support it even though it does not embrace the single-payer system that he favors.

- **Rep. Erik Paulsen (R-MN)** who serves on the Financial Services Committee. Although not on a committee that focuses on health care, Rep. Paulsen is reaching out to the physician community. He is a member of the Tuesday Group, made up of moderate House Republicans, and helped draft their health care reform proposals. He believes the Republicans will make a push for some liability reform amendments, but is not confident they will be accepted. The neurologists, who sponsored the event, revealed that they will be pushing an amendment in the Rules Committee to include Neurology in the definition of primary care providers. Rep. Paulsen did not commit to supporting this effort, but asked for more information. Several of the groups talked about the legislative efforts underway by the Cardiologists (who were not present) to prevent the proposed increases in primary care reimbursement rates from taking effect on January 1. Several made the case that valid studies were used to shape the proposed rule and that it should not be delayed or changed. Rep. Paulsen expressed tentative agreement with this.
- **Rep. John Tanner (D-TN)**, Chair of the Blue Dogs and a member of the Ways and Means Committee. He is still leaning "no" on the House health care reform bill, but the negotiated rates version of the public option helps "some."
- **Curt Schroeder**, who is running in the Republican primary for the 6<sup>th</sup> district of Pennsylvania to succeed Rep. Jim Gerlach (R), is running for governor. Mr. Schroeder serves in the Pennsylvania state legislature and was awarded the Pennsylvania Academy of Family Physicians "Legislator of the Year" award in 2004. The Pennsylvania chapter requested that FamMedPAC meet with Rep. Schroeder and urged the PAC Board to approve a contribution to this campaign. Rep. Schroeder led the efforts in Pennsylvania on medical liability reform, including pushing for an amendment to the Pennsylvania Constitution to allow caps on damages. He is a strong advocate for HIT grants to family physicians. He is considered the front runner in the Republican field. The district is a swing district, and the general election will be very competitive.

## **8. MINNESOTA GOVERNOR PROPOSES HEALTH CARE REFORM**

Governor Tim Pawlenty (R) issued a press release outlining his health care reform initiatives that will be considered during the 2010 legislative session. The proposals include establishing an Interstate Health Insurance Compact to allow Minnesotans to purchase health insurance from other states and requiring MinnesotaCare and Medical Assistance to price health care services based on quality and cost. The interstate compact would be modeled after the Interstate Insurance Product Regulation Compact, of which 33 states are currently members. All state-subsidized health care programs would be required to use a tiered provider system based on quality and efficiency, and enrollees—all of whom would be required to choose a primary care clinic—would be rewarded for choosing higher quality, lower cost clinics.

## **9. NEW YORK'S NEW SYSTEM FOR OUT-OF-NETWORK RATES**

Attorney General Andrew Cuomo (D) announced the details of a new national database designed to assist health insurance companies determine reimbursement rates for services provided by out-of-network physicians, hospitals, and other health providers. Developed by a new nonprofit organization, FAIR Health, Inc., in conjunction with Syracuse University, the database will be accompanied by a website where consumers can find what insurers will pay for out-of-network visits. The Attorney General also worked with the state's Department of Insurance to establish a new insurance regulation requiring insurers to use an independent source for establishing usual and customary rates for services provided out-of-network.