

December 3, 2010

IN THIS REPORT...

1. One-month “Doc Fix” Becomes Law; Senators Debate Year-Long Extension
2. Senate Passes Bill to Exempt Doctors From Red Flag Rule
3. Food Safety Overhaul Passed by Senate
4. Congress Extends Stopgap Spending for the Government
5. AAFP Comments on Medicare Physician Compare Website
6. Child Nutrition Bill Passes House, Sent to President
7. HHS Releases Healthy People 2020: Health Promotion Agenda
8. Deficit Reduction Commission Plan Released
9. State Issues; Special Sessions

NEXT WEEK IN WASHINGTON...

* The House and Senate will be in session.

1. ONE-MONTH “DOC FIX” BECOMES LAW; YEAR-LONG EXTENSION DEBATED

On November 29, the House passed legislation delaying a Medicare physician payment cut by one month. The bill, which previously had been passed by the Senate, was signed into law by President Obama and marked the fifth time this year legislators had approved a short-term extension. The brief reprieve will be paid for by reducing Medicare payments for multiple therapy services that are performed in one day.

Attention has moved primarily to the Senate, where Finance Committee Chair Max Baucus (D-MT) and Ranking Member Chuck Grassley (R-IA) are deliberating over a possible one-year extension of Medicare payments to physicians. Like previous action on the SGR, the outstanding question is which offsets to use to pay for the measure. The AAFP strongly supports a one-year solution so there is some stability for physicians and patients while Congress considers longer-term solutions. In addition, a 12-month extension may prevent Medicare payments from becoming embroiled in efforts next year to defund the *Accountable Care Act*.

2. SENATE PASSES BILL TO EXEMPT DOCTORS FROM RED FLAG RULE

On November 30, the Senate acted to remove certain businesses, including medical practices, from the Federal Trade Commission’s Red Flag Rule, which requires financial institutions and creditors to develop a written plan to prevent and detect identity theft. On November 18, AAFP and a coalition of 28 medical, dental and business groups urged Senators John Thune (R-SD) and Mark Begich (D-AK) to pass the *Red Flag*

Program Clarification Act of 2010 (S 3987) before January 1 to prevent that regulation from going into effect. In the House, Representatives Mike Simpson, DDS (R-ID), John Adler (D-NJ) and Paul Broun, MD (R-GA) have introduced similar legislation (HR 6420) and hope to bring it to the full House under the expedited process known as the suspension calendar.

3. FOOD SAFETY OVERHAUL PASSED BY SENATE

On Tuesday, November 30, the Senate passed, by a vote of 73-25, the *FDA Food Safety Modernization Act* (S 510) to overhaul food safety regulation. The legislation would empower the Food and Drug Administration to order mandatory food recalls, impose civil fines for violations and require more-frequent inspections of food facilities. The FDA also would gain access to records of domestic food facilities in emergencies and would be empowered to bar the importation of high-risk foods if the products lacked proper certification, or if US inspectors were denied access to processing facilities.

4. CONGRESS EXTENDS STOPGAP SPENDING FOR THE GOVERNMENT

The House, on a vote of 239 to 178, passed another stopgap spending measure (HJ Res. 101) to keep the federal government operating through December 18, clearing it for action by the White House and the Senate. Although the federal fiscal year began on October 1, Congress has yet to enact any of the 12 annual appropriations bills for fiscal year 2011. The FY 2011 bill to fund the agencies and programs within the Department of HHS has not been considered on the floor of either chamber.

The new “Continuing Resolution,” or CR, would fund government only through December 18. Legislators hope that the added two weeks will allow them to work out whether to proceed with another CR, or to press for a final fiscal 2011 omnibus spending bill. Senate Republican Leader Mitch McConnell (R-KY) has said that he opposes an omnibus spending measure and House Republican leaders have vowed to roll back spending to FY 2008 levels when they take control next year. As a result, many Republicans favor another short-term CR that would extend into early next year, providing an opportunity to scale back spending for the rest of 2011.

5. AAFP COMMENTS ON MEDICARE PHYSICIAN COMPARE WEBSITE

AAFP submitted comments to CMS on November 30 regarding the agency’s implementation of a “Physician Compare” website by 2011, as stipulated in the *Affordable Care Act*. This website will contain information on Medicare physicians and other eligible professionals who participate in the Physician Quality Reporting System (PQRS). As a longstanding advocate of quality improvement efforts, AAFP acknowledges the value and overall trend toward public performance reporting, though in the letter AAFP outlines several concerns with the current Medicare physician directory and PQRS program. Since CMS largely will utilize information garnered through the Provider Enrollment, Chain, and Ownership System (PECOS), the AAFP regulatory comment letter also emphasized the need for the agency to promptly improve the currently troubled Medicare physician enrollment process.

6. CHILD NUTRITION BILL PASSES HOUSE, SENT TO PRESIDENT

On December 2 the House passed child nutrition legislation previously passed by the Senate and sent the measure to the president. The bill ([S 3307](#)) would boost spending

on child nutrition programs by \$4.5 billion over 10 years and would be offset, in part, by reductions in food stamp benefits. The legislation would authorize the first increase in meal reimbursements to schools since 1973 and, for the first time, give the federal government the authority to regulate food sold at schools nationwide, including in vending machines. It also would reauthorize several programs through fiscal 2015, including the National School Lunch Program and the Special Supplemental Nutrition Program for Women, Infants and Children and require schools to provide meals that meet new nutrition standards. The Obama administration threw its support behind the Senate version – even though its \$4.5 billion in new spending is roughly half of the \$10 billion the White House requested.

7. HHS RELEASES “HEALTHY PEOPLE 2020” HEALTH PROMOTION AGENDA

The Department of Health and Human Services on Thursday, December 2 unveiled Healthy People 2020, the nation’s new 10-year goals and objectives for health promotion and disease prevention. This new 335-page list of 10-year goals was set after HHS considered more than 8,000 comments and input from public health and prevention experts, federal, state and local officials, organizations and members of the public. HHS calls the targets “ambitious but achievable.” Four health measures will show progress toward the goals — general health status, health-related quality of life and well-being, determinants of health and disparities. One objective includes an increase in the proportion of people with a regular primary care provider to 83.9 percent, compared with 76.3 percent in 2007. Learn more at www.healthypeople.gov

8. DEFICIT REDUCTION COMMISSION PLAN RELEASED

This week, the Administration’s National Commission on Fiscal Responsibility and Reform, released a long-awaited and comprehensive plan to cut the deficit entitled, *The Moment of Truth*. While the members of the commission did not meet the 14 vote threshold needed to support the plan, it is illustrative of the keen public and policymaker belief that the US deficit and debt are too high. The proposal recommends changes to all portions of the government, but suggestions to change health programs include limiting health care spending to GDP plus 1 percent; restructuring Medicare cost sharing; including all providers in the Independent Payment Advisory Board (IPAB); freezing physician Medicare payments through 2013; reducing GME; and enacting medical liability reform.

9. STATE ISSUES

Wyoming Governor Signs Plan Creating Program for the Uninsured

Wyoming Governor Dave Freudenthal (D) recently signed into law “Healthy Frontiers,” a state pilot project to provide basic health care to low-income participants while containing costs. To qualify for the program, state residents must work at least 20 hours a week, be uninsured and have an income at or below 200 percent the federal poverty level. Blue Cross/Blue Shield will administer the program. Healthy Frontiers is not designed to serve as full-coverage insurance, but rather as an effort to help move people away from public assistance by providing quality care and requiring some level of cost-sharing by participants.

New Jersey Enacts Bill To Include Free Medical Services

On November 30, New Jersey Governor Chris Christie (R) signed [SB 515](#), allowing physicians to earn continuing medical education credit by providing free medical services. Under the legislation, the State Board of Medical Examiners will offset up to 10 percent of the required CME credits, biennially providing a half credit for each hour of volunteer medical service provided.

State Legislators Returning Before 2011 Legislative Session

Despite all 50 states convening for session in 2011, 39 of them returning in January, at least four states returned or plan to return for a special session in 2010.

New York Governor David Paterson (D) called for a session beginning November 29 to discuss a budget deficit of \$315 million before the end of the calendar year. Although legislators have yet to make much progress in reaching a budget solution, they passed a measure to eliminate certain cost-sharing requirements for tier IV prescription drugs considered to be too cost prohibitive for those with serious and often life-threatening conditions.

Declaring a fiscal emergency in the state, **California** Governor Arnold Schwarzenegger (R) called a special session to begin December 6th for legislators to begin chipping away at the state's \$6 billion budget deficit—which the [Los Angeles Times](#) reported may grow to as much as \$25.4 billion over the next year and a half. Governor-Elect Jerry Brown (D) has until January 10 to propose his budget for the state legislature to consider during the regular 2011 legislative session.

Governor Chris Gregoire (D) is pushing for a December special session for **Washington** State legislators to enact a series of drastic spending cuts balancing the state's budget through July. Although the Governor made across-the-board cuts to many programs earlier this year, the deficit grew by about \$385 million due to slow growth in tax collections. According to incoming House Majority Leader Pat Sullivan (D), Democrats prefer a full supplemental budget over Governor Gregoire's suggested cuts, which include eliminating the Basic Health Program, a program providing subsidized medical insurance to low-income individuals and families.

Alabama Governor Bob Riley (R) also will require legislators to return to the Capitol on December 8 to pass anti-corruption legislation. Among the [reforms](#) under consideration are full disclosure of spending by lobbyists on all public officials and public employees; an end to unlimited gift-giving to public officials; and a ban on pass-through pork spending.