

December 11, 2009

## IN THIS REPORT...

1. Senate Continues Christmas Health Reform Sprint
2. Defense FY 2010 Spending Bill Likely to Include SGR Patch
3. House Passes FY 2010 Consolidated Omnibus Spending Bill
4. Connect For Reform Tapped For Practice Expense Issue and Specter Amendment
4. FamMedPAC Report
5. State Actions

### NEXT WEEK IN WASHINGTON...

\* The Senate will be in session this weekend to consider on the FY 2010 spending package.

\* Monday, the Senate will return to debate and amend the health reform bill.

## 1. SENATE CONTINUES CHRISTMAS HEALTH REFORM SPRINT

The Senate continued its race to find 60 votes in support of a health care reform bill by Christmas, working last weekend and through Thursday of this week. Deliberations ground to a halt, however, as Senators waited for the Congressional Budget Office to score the latest proposals. The all-important dollar estimate is due out next week. Majority Leader Harry Reid has said he will file for cloture next week so that a vote can be held before the holiday.

In a startling development, 10 liberal and moderate Senators worked behind closed doors this week to attempt to resolve the controversial public plan option issue. They emerged with a proposal combining an exchange run by the Office of Personnel Management that would offer plans from insurance companies, with the decade-old idea of allowing individuals 55 – 64 to buy into Medicare. Details have been sketchy, and while the proposal was designed to please both liberals and moderates, moderates such as Sens. Joe Lieberman (I-CT), Olympia Snowe (R-ME) and Susan Collins (R-ME) have been less than enthusiastic. On the House side, however, Speaker Nancy Pelosi (D-CA) expressed general support for the idea.

### Amendments of Note:

- Sunday, December 6, an amendment offered by Sen. John Ensign (R-NV) to limit attorneys' contingency fees in medical liability cases was defeated 32 to 66.
- On Tuesday, December 8, the Senate voted 54-45 to table an amendment offered by Sen. Ben Nelson (D-NE) that would have prohibited women who received federal subsidies from purchasing insurance plans that covered abortion services, even with their own money.

- Sen. Arlen Specter (D-PA) plans on offering an amendment that essentially would suspend for one year the CMS rule eliminating consultation codes from the Medicare physician payment schedule. The AAFP sent out a grassroots alert and provided talking points to the Pennsylvania Academy of Family Physicians, which had its members call, email and write the Senator in opposition to the amendment.
- Sen. Byron Dorgan's (D-ND) amendment to allow reimportation of prescription drugs has stalled. While supported by many Senators, it may conflict with President Obama's and Sen. Max Baucus' (D-MT) agreement with the pharmaceutical industry. In addition, the FDA has expressed safety concerns.
- Democratic Sens. Bill Nelson (FL), Chuck Schumer (NY), John Kerry (MA) Debbie Stabenow (MI) and Pat Leahy (VT) have submitted an amendment to increase the number and distribution of residency positions by 15,000 and is nearly identical to a proposal we opposed earlier this year. The amendment is supported by AAMC, the AMA, AHA, and the AOA. Majority Leader Harry Reid's name also is on the notice (SA 2909). Family medicine believes the amendment carries a 10-year cost of \$12-14 billion and is unaware of any offsets. The amendment would do the following:
  - A hospital must be at least 10 positions over the cap to be eligible for the new slots. However, most family medicine programs in community hospitals would not be 10 slots over, due to longstanding situations in which residents who trained in the community were not counted. Consequently, slots would be skewed away from primary care programs based in communities and toward tertiary care centers.
  - A third of the 15,000 positions currently are over the cap. However, we believe the amendment only should pay for positions currently over the cap that are for primary care and general surgery --not for all 5,000, regardless of specialty.
  - If a hospital is to gain new slots, it must maintain 25 percent of the primary care and general surgery slots that it had at the time of its application for the new positions. However, if a hospital currently has more than 25 percent in primary care slots, it actually could reduce primary care and general surgery slots to 25 percent and still be in compliance. We supporting maintaining all or 25 percent, whichever is greater.

GR staff is communicating the AAFP position to Senate offices and proposing modifications.

## **2. DEFENSE FY10 SPENDING BILL LIKELY TO INCLUDE SGR PATCH**

Congressional leadership is expected to use the FY 2010 Defense appropriations bill (HR 3326) as a vehicle for enacting a number of legislative priorities, including a provision to postpone the Medicare physician payment cut scheduled to take affect on January 1, 2010.

Other priorities include increasing the national debt limit, as well as extending unemployment benefits and expiring tax credits. Raising the debt limit is expected to be controversial, but the Treasury Department has said it could hit the current \$12.104 trillion statutory limit on public borrowing by mid- or late December.

### 3. HOUSE PASSES FISCAL YEAR 2010 CONSOLIDATED OMNIBUS SPENDING BILL

On Thursday, December 10, the House passed the conference report on the \$446.8 billion omnibus appropriations bill (HR 3293), which includes the Labor-HHS-Education measure and five other unfinished FY 2010 spending bills. All of the Republicans and 28 Democrats opposed the bill, which passed 221 to 202. The current spending bill expires on December 18. The Senate will consider the package over the weekend.

The programs normally included in the annual Labor-HHS-Education appropriations bill would be funded at \$163.5 billion for FY 2010, an \$8.5 billion increase over FY 2009, excluding stimulus funds.

Health Professions programs would receive \$498 million, \$105 million above FY 2009 but \$30 million below the President's budget request. Section 747, grants for training in primary care medicine and dentistry, would get a 12.4 percent increase of \$8 million to the Senate-proposed appropriation of \$54.4 million rather than the \$56.4 million level requested by the President and included in the House-passed Labor-HHS-Education appropriations bill.

The Conference Report for the first time in years includes funds for workforce information and analysis, and directs HRSA and the DOL to jointly establish a strategic plan to address emerging needs in the health care sector through a DOL-HRSA interagency task force.

Following is a chart detailing the funding levels for AAFP priority programs:

(\$ Amounts in thousands)	FY 2009 Omnibus	FY 2010 Request	FY 2010 House	FY 2010 Senate	FY 2010 Report
Health Professions - Training for Diversity:					
Centers of excellence	20,602	24,602	24,602	24,602	24,602
Health careers opportunity program	19,133	22,133	22,133	22,133	22,133
Faculty loan repayment	1,266	1,266	1,266	1,266	1,266
Scholarships for disadvantaged students	45,842	52,842	52,842	45,842	49,342
<i>Subtotal, Training for Diversity</i>	<i>86,843</i>	<i>100,843</i>	<i>100,843</i>	<i>93,843</i>	<i>97,343</i>
Training in Primary Care Medicine & Dentistry	48,425	56,425	56,425	54,425	54,425
Interdisciplinary Community Linkages:					
Area health education centers	32,540	32,540	34,150	32,540	33,345
Allied health and other disciplines	13,890	23,890	23,890	15,890	22,390
Geriatric programs	30,997	41,997	41,997	30,997	33,747
<i>Subtotal, Interdisciplinary Community Linkages</i>	<i>77,427</i>	<i>98,427</i>	<i>100,037</i>	<i>79,427</i>	<i>89,482</i>
Workforce Information & Analysis				5,663	2,832
Public Health Workforce Development	9,000	9,000	9,000	10,000	10,000
<b>TITLE VII TOTAL</b>	<b>221,695</b>	<b>264,695</b>	<b>266,305</b>	<b>243,358</b>	<b>254,082</b>
Rural Health Programs	169,000	124,703	130,152	167,703	183,926
National Health Service Corps	135,000	169,000	141,850	142,000	141,952
Agency for Healthcare Research & Quality	372,053	314,053	309,053	314,053	335,553
CDC Chronic Disease & Health Promotion	882,000	896,000	910,812	946,348	931,292

#### **4. CONNECT FOR REFORM MEMBERS TAPPED FOR PRACTICE EXPENSE ISSUE AND SPECTER AMENDMENT**

This week, Connect for Reform members contacted their Representatives about CMS' practice expense provision. The AAFP issued the alert on Wednesday to combat cardiologists' claims that the new payment rules would unfairly cut their reimbursement. So far, 368 Connect for Reform members have contacted their Representatives on the issue.

The AAFP also worked with the PAFP to alert Pennsylvania family physicians to contact Sen. Specter (D-PA) regarding his amendment to suspend for one year CMS's implementation of the rule that eliminates consultation codes.

#### **5. FAMMEDPAC**

GR staff attended a health care PAC event for **Rep. Mike Rogers (R-MI)**, a member of the Energy and Commerce Health Subcommittee. The event was attended by 12 other medical specialty societies. Rep. Rogers is opposed to the House health reform legislation as a "costly government takeover of the health care system" and feels that "bad" items in the bill outweigh any benefits physicians could receive. Rogers believes that the federal government would dictate to physicians the type of medicine they could practice and where they could do so. He thinks the "Medicare buy-in" proposal currently discussed in the Senate would not work because it only would make Medicare's financial problems worse. He voted against the SGR legislation because it was a "political game." Rogers would like to see liability reform be part of the discussion around health care.

#### **6. STATE ACTIONS**

##### West Virginia Report Estimates State Savings through Individual and Employer Mandates Coupled with Medicaid Expansion

Actuaries presented to the West Virginia Legislature this week a state-ordered study of various health reform options. The report found that the state could save \$2.2 billion a year beginning in 2014 through an "aggressive" expansion of Medicaid and the patient-centered medical home, coupled with individual and employer mandates. The savings figure is predicated on an expansion of Medicaid to all adults up to 100 percent of the Federal Poverty Level (about \$22,000 for a family of four / \$10,000 for a single adult) and mandates for both individual purchase and employer offering of insurance.

The House health reform bill and Senate health reform bill both expand Medicaid, to 150 percent FPL and 133 percent FPL, respectively, far beyond the level used in the study. Costs of the expansion would be born solely by the Federal government for two years, with costs to West Virginia estimated to be \$40 - \$50 million per year beginning in 2016. The report did not take into account implementation costs, but does estimate that health costs in the Mountain State will increase by 96 percent over the next decade absent reform.

##### New Jersey AG Recommends Regulating Physicians / Pharmaceutical Relationships

New Jersey Attorney General Anne Milgram (D) recently released a [report](#) recommending new regulations to curtail the potential for conflicts of interest between doctors, pharmaceutical companies and medical device manufacturers. The proposed regulations would ban physicians from accepting any fees, travel expense reimbursement, or gifts—including free food in office settings or at promotional dinners—from any pharmaceutical or medical device manufacturers. If adopted, the regulations also would require doctors who serve as consultants to pharmaceutical companies to publicly disclose every two years the acceptance of more than \$200 in consulting fees, honoraria, or funding for research or education.

The state's Board of Medical Examiners, Board of Pharmacy, Department of Health and Senior Services and academic medical centers will now consider adopting these policy

recommendations. Several states, including Vermont, Maine, Massachusetts, Minnesota and West Virginia, have adopted laws imposing disclosure obligations on the pharmaceutical industry. The New Jersey report recommends adopting specific requirements directed at the state's 33,000 physicians licensed by the state Board of Medical Examiners.

#### Washington State Budget Would Eliminate Coverage for Thousands

Governor Chris Gregoire (D) proposed a 2010 supplemental state budget, addressing the FY 2009-2011 \$2.5 billion budget gap through service eliminations, reductions and suspensions. Among the programs targeted for elimination are the state Basic Health Plan, which provides health care coverage to nearly 65,000 individuals, and the General Assistance Unemployable program, which provides cash grants for 23,000 adults and medical services to nearly 17,000 adults. Eligibility for the Apple Health program, which provides health care coverage to low-income children, would be reduced from 300 percent of the federal poverty level to less than 205 percent, eliminating coverage for 16,000 children. The state also would suspend the Medicare Part-D co-payment reimbursement program, which provides prescription drug assistance for more than 85,000 Medicaid-eligible elderly individuals.

#### Michigan Legislature Passes Smoking Ban Legislation

On December 10, the Michigan Legislature passed a bill establishing a statewide smoking ban in all bars, restaurants and workplaces, excluding cigar bars, tobacco specialty stores, home offices, motor vehicles and three Detroit casinos. Governor Jennifer Granholm (D) has indicated that she will sign the legislation, which will take effect in May 2010.