



GOVERNMENT AFFAIRS WEEKLY

AAFP Division of Government Relations — 2021 Massachusetts Avenue, NW — Washington, DC 20036

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1. DEBATE BEGINS ON CHILDREN'S HEALTH AND PHYSICIAN PAYMENT ISSUES

On Thursday, July 26, two committees in the House of Representatives began debate on the *Children's Health and Medicare Protection (CHAMP) Act* (HR 3162) that would reduce payments to Medicare Advantage plans and increase the federal cigarette tax by 45 cents per pack to fund the federal health insurance program for children in low-income families. The legislation would reauthorize the States' Children's Health Insurance Program (SCHIP) and increase funding for it by \$50 billion over five years. Under the bill, a scheduled 9.9 percent cut in Medicare payments to physicians would be reversed and physicians would receive a 0.5 percent increase in fees for each of the next two years. In addition, the bill would make revisions to the system that sets spending targets for Medicare outlays for physicians' care.

Ways and Means Committee

In a session that continued until the early hours of Friday, July 27, by a vote of 24-17, the Ways and Means Committee approved the *CHAMP Act*. The late night session was delayed numerous times by procedural objections, motions to postpone consideration and by the minority party requiring full reading of the 465-page bill. Innumerable amendments were offered in the Ways and Means debate, most of which were defeated. Roll call votes were demanded on nearly every motion.

Select Amendments and Discussions

- Mr. Porter (R-NV) offered and then withdrew an amendment to increase the number of GME slots.
- Rep Kind (D-WI) offered an amendment that would create 5 rather than 6 categories for expenditure targets. The amendment would assign imaging codes throughout the other categories according to the physician ordering the test. Rep. Stark responded that the categories are a temporary solution designed to meet budget requirements. He fully intends to work with the committee to revise the formula before it becomes effective in 2010.

- Rep. Jim McCrery (R-LA) offered an amendment striking the tax which funds comparative drug effectiveness research, stating he believes “it generates too much money; more than necessary” (\$2.9 billion). Rep. Stark replied that CBO says it will save money. The amendment failed.
- Rep. Dave Camp (R-MI) objected to the fee on all insurance premiums. “This is clearly a tax and not a user fee.” The chairman replied that it was not a tax on premiums. Insurers interested in this data would pay for it. Rep. McCrery agreed with Rep. Camp, saying, “It appears we are doing something in the tax code and we don’t have any statement from Joint Tax Committee. There is no clear explanation. “ Rep. McCrery then pressed for a vote on his amendment, which failed.
- Rep. Philip English (R-PA) offered amendment striking the flat update for Skilled Nursing Facilities, which also failed.

The Ways and Means Committee concluded its business at 1:51 a.m., passing HR 3162

Energy and Commerce Committee

The Energy and Commerce Committee began in the morning of Thursday, July 26 and recessed around 11:00 p.m. The committee reconvened at 10:00 a.m. on Friday and continued with the reading of the bill until the House recessed late in the afternoon. While the Energy and Commerce Committee did not complete work on its version of the bill, it will be combined with the Ways and Means bill before going to the full House later next week. It is Speaker Pelosi’s wish that the CHAMP bill should pass the House before the summer recess begins August 3.

2. FAMILY PHYSICIANS SEND THEIR MESSAGE

As of July 27, AAFP members sent over 2,300 messages urging Congressional legislators to support a 2-year positive payment update and over 600 messages urging Representatives to pass the *Children’s Health and Medicare Protection (CHAMP) Act* (HR 3162) Visit <http://capitol.aafp.org/> to view current AAFP action items.

As of July 27, we have at least one AAFP Key Contact for 407 of the 536 federal legislators. That is, 75 percent of the U.S. Senators and Representatives have a family physician serving as a Key Contact.

House	311/436 (86%)
House Committees & Leadership	137/174 (78%)
Senate	96/100 (96%)
Senate Committees & Leadership	62/66 (93%)

3. TAMPER-PROOF PRESCRIPTION PADS WILL BE REQUIRED

Texas, Iowa, Oregon, Georgia and West Virginia have made direct inquiries concerning the impact of the regulatory change in Medicaid requiring all written prescriptions for Medicaid patients to be on a tamper resistant pad beginning October 1, 2007. Staff continues to follow this issue and is waiting for CMS to issue the guidance document to State Medicaid directors. The guidance document is pending approval.

4. OF INTEREST TO FAMILY PHYSICIANS...

- On Tuesday, July 24, by voice vote, the Senate approved HR 2429, which would allow physicians to arrange for replacement physicians to take care of their patients while on active duty in the National Guard or military reserves. The substitute physicians would

be allowed to bill Medicare for their services ("reciprocal billing") without the current 60-day time limit.

- The House Energy and Commerce Committee approved the *Melanie Blocker-Stokes Postpartum Depression Research and Care Act* (HR 20), which directs NIH to expand and intensify research and related activities on postpartum depression and postpartum psychosis.
- The Senate Health, Education, Labor and Pensions Committee considered, but adjourned without completing action on the *Family Smoking Prevention and Tobacco Control Act* (S. 625), which provides the Food and Drug Administration (FDA) with authority to regulate tobacco products, including through disclosure, annual registration, inspection, recordkeeping, and user fee requirements. FDA will be able to restrict the sale or distribution of tobacco products, including advertising and promotion. However, the bill prohibits such regulations from: (1) limiting product sales or distribution to authorization of a practitioner licensed to prescribe medical products; (2) prohibiting product sales in face-to-face transactions by a specific category of retail outlets; or (3) establishing a minimum age greater than 18 years of age for product purchases. The bill requires FDA to establish tobacco product standards to protect the public health, but reserves to Congress the power to ban any tobacco products or reduce the nicotine level to zero. FDA is required to establish a Tobacco Products Scientific Advisory Committee. The committee has scheduled its final debate on the bill on Wednesday, August 1.
- Georgia Republican Paul Broun (pronounced "Brown") was sworn in on Wednesday to succeed Rep. Charlie Norwood who died last February. He is a family physician who graduated from the Medical College of Georgia.
- On June 18, a Senate committee of the Massachusetts General Assembly debated the *Care Medical Home Demonstration Act*. Hugh Taylor, MD, presented testimony on behalf of the Massachusetts AFP. The legislation would fund medical home demonstration programs for the purpose of redesigning the health care delivery system. The legislation notes the attributes of a medical home as, "...accessible, continuous, and coordinated, family-centered care..." The focus will be on high need populations including those with multiple chronic illnesses. Case management fees would be paid to personal physicians and incentive payments would be paid to physicians participating in practices that provide these "medical home" services.
- A court case decided by the Oklahoma Supreme Court in December 2006 will have a far reaching impact on certificate/affidavit of merit law according to the June 15 issue of *Medical Economics*. Requiring such an opinion from a medical expert to support a negligence claim was ruled unconstitutional for two reasons. First, that the "merit" requirement applied to a particular class of plaintiffs and second that it restricted equal access to the courts. The state's tort reform law was passed in 2003. The impact of this ruling will likely encourage the trial bar to test this decision in other states. Earlier this year, the Arkansas Supreme Court issued a similar ruling citing the Oklahoma decision as did an appellate court in North Carolina.