

July 10, 2008

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1. SENATE PASSES PHYSICIAN FEE BILL BY VETO-PROOF MAJORITY

On Wednesday, July 9, the U.S. Senate approved the House-passed *Medicare Improvements for Patients and Providers Act* (H.R. 6331). The final vote was 69-30, which is a margin greater than what is needed to override a veto. On Thursday, the President announced that he would veto the bill because it would reduce payments to private insurers who participate in Medicare Advantage private fee-for-service. However, since it has passed both chambers with margins in excess of what is needed to override the veto, the measure is likely to become law.

A major reason for the success was the sustained efforts of family physicians and others in the physician community to make it clear how disruptive and unsustainable the pending 10.6 percent (and additional 5.4 percent in 2009) reductions in payment rates would be. While we cannot measure the number of phone calls that were made, the AAFP grassroots network alone counted over 6700 e-mails in three weeks and nearly 400 letters to the editor were submitted to local newspapers – and many were printed. Senate staff told AAFP staff that their telephones and e-mail boxes were overwhelmed.

Features of the Bill

HR 6331 blocks the reduction in physician payment for 18 months. In 2009, it would provide physicians with a 1.1-percent payment increase. The bill also would prevent cuts to Tricare, the U.S. military health care program, which uses the same payment rates as Medicare.

Other provisions in the 103-page bill include:

- extension of the Physician Quality Reporting Initiative (PQRI), with a boost of the bonus payment from 1.5 percent to 2.0 percent in 2010
- incentives for use of electronic prescribing (with bonus payments of 2 percent in 2009, and 2010, 1 percent in 2011 and 2012 and phasing out to 0.5 percent in 2013) and penalties for non using electronic prescribing beginning in 2012 (with a 1.0 percent penalty, growing to 1.5 percent in 2013 and 2 percent in 2014 and thereafter)
- requirement that for fee schedules established for 2009 and thereafter, the budget neutrality adjustment will apply to the overall conversion factor, rather than the more limited work adjustment calculation
- an additional \$100 million for the Medical Home Demonstration project and authority for CMS to expand the duration and scope of the project if early results show improved health care quality without an increase in costs or reduced spending without a decrease in the quality of patient care
- extension of the floor on Medicare work geographic physician cost index (GPCI) adjustment

- increase payment of 5 percent for mental health services
- extension of the eligibility period for the Welcome to Medicare office visit from the initial 6 months of enrollment to the first year and the elimination of co-payment for additional preventive services

Offsets

The cost of the measure is offset by a reduction in payment to Medicare Advantage plans of \$14 billion over five years. Insurance companies and some Republicans said that if the measure becomes law, it will lead to benefit reductions to beneficiaries who are enrolled in these private fee-for-service Medicare Advantage plans. However, these plans are paid on average 12 to 17 percent more than traditional Medicare. In addition, the bill reduces payments to Medicare Advantage plans for Indirect Medical Education (IME) that duplicate payments made to hospitals for the same purposes.

A Dramatic Vote

In the week between the original Senate vote and yesterday, there were several senators who were becoming uncertain about how they would vote. Apparently, despite the concerns of so many of their constituents, none of the 39 Republican Senators who voted against the bill two weeks ago wanted to be the 60th vote that would send the bill to the White House. That's why the Senate GOP leadership was confident going into the vote that it would not pass.

Then, to a prolonged ovation, Senator Kennedy (D-MA), recovering from treatment for brain cancer, showed up to vote for the first time since his condition was diagnosed in May. It was clear then that the measure had 60 votes for passage if none of the other Republicans changed.

Now, several of the GOP senators had a real choice to make: either stay with their original vote and face the continued opposition of the physicians and Medicare beneficiaries in their state or vote the way they wanted to. Party loyalty became unenforceable when the bill was going to pass anyway.

When Sen. Kennedy voted, Senator Kay Bailey Hutchison (R-TX) was one of the first to switch her vote, and Sen. John Cornyn (R-TX), who had written letters to physicians denouncing the process by which the bill was considered and who was so publicly rebuked by the Texas Medical Association's PAC, voted yes. Then, Sen. Martinez (R-FL), the Senators from Georgia, Sen. Specter (R-PA), Sen. Warner of Virginia, and finally both Senators from Tennessee voted in favor.

It helped that Sen. Baucus (D-MT) included the provision that prohibited CMS's regulations on competitive bidding for durable medical equipment. However, that was a necessary but not sufficient condition for passage. The fact that the bill included assistance for low-income beneficiaries and changes to the drug benefit meant that AARP and other patient and beneficiary groups helped in lobbying Congress for approval.

The AMA's ads were helpful in focusing the media's attention on the issue in key states. But what made the difference was the overwhelming response from physicians and others to the legislation.

2. FamMedPAC CONTINUES TO PROMOTE AAFP'S AGENDA

From January 2007, FamMedPAC has collected \$646,571 in donations from 2174 AAFP members. In 2008, donations to the PAC total \$307,627. For the election cycle, the average donation is \$297.

The direct marketing program for FamMedPAC maintains a brisk pace. Over 14,000 members have been contacted, with over 2,000 AAFP members making a pledge. The average pledge is \$175, with just over \$349,000 pledged to the PAC since the program began in January of this year.

FamMedPAC contributions to candidates total \$562,000 thus far in the 2007-2008 election cycle. The PAC contributed \$343,500 to Democratic candidates and committees, and \$218,500 to Republican candidates and committees.

Following the initial failure of the Medicare bill in the Senate before the July 4th recess, healthcare PACs met to discuss how to respond. Several events that had been scheduled were canceled when the Congressional legislators for whom the events were to benefit voted against the bill. The physician groups also agreed to plan events for those Republican Senators who voted for the bill the first time it was on the floor. No discussions have been held since the second vote to determine if there is support for holding events for the additional Republican Senators who switched their votes when the bill was on the floor this week.

Government Relations staff attended a healthcare event this week for **Rep. Bart Gordon (D-TN)**. Rep. Gordon is Chairman of the House Science and Technology Committee and also serves on the Health Subcommittee of the House Energy and Commerce Committee. The event took place just before the Medicare vote in the Senate and Rep. Gordon urged the attendees to continue to call the two Tennessee Senators to put pressure on them to support the bill. Rep. Gordon is very interested in health information technology (HIT) and asked for comments on specific provisions of the HIT bill passed by the Health Subcommittee just before the July 4 break. He would like to see the bill considered by the full Committee, but also may attempt to insert some provisions of the bill into other legislation.

Government Relations staff attended a medical specialty PAC breakfast July 10 for **Sen. Pat Roberts (R-KS)**. Sen. Roberts is a member of both the Finance and HELP committees. He was a supporter of HR 6331 having voted twice to invoke cloture. He described yesterday's dramatic process culminating in a 69-30 vote. He said he was actively working 5-6 senators who he encouraged to vote "aye." He knew one would vote that way so was confident there would be 60 votes. That was sealed when he saw Sen. Kennedy walk into the chamber. Once Sen. Murkowski voted "aye", the other six, plus three more, followed suit. He was obviously thrilled at the outcome.

He said he believes Medicare Advantage is a good program and ought to remain intact but it is not very big in Kansas. However, he recognized early on that the bill contained many things he has been working on for several years. He said he would call the White House today and urge the president to sign the bill.

Once things settle down, he said our groups need to begin working very hard on coming together to embrace a long-term solution to the SGR problem.

3. \$36.8 MILLION IN BONDS APPROVED FOR ECU FAMILY MEDICINE CENTER

The North Carolina General Assembly on July 8 approved the issuance of \$36.8 million in bonds to fund construction of a new Family Medicine Residency Center at East Carolina University as part of the state budget bill. Funding the new Center had been the NCAFP's highest priority for the 2008 session of the General Assembly. "This was a real victory for family medicine in North Carolina," stated Greg Griggs, NCAFP executive director.