

December 10, 2010

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NEXT WEEK IN WASHINGTON...

* The House and Senate will be in session and plan to adjourn by Saturday, December 18.

1. CONGRESS GIVES FINAL APPROVAL TO YEAR-LONG EXTENSION OF SGR

On Thursday, December 9, by a vote of 409 to 2, the House gave final approval to an amended *Taxpayer Assistance Act* (HR 4994) that would block, through December 2011, a looming 25-percent cut in the Medicare physician payment rate that is scheduled to begin on January 1, 2011. By unanimous consent, on Wednesday, December 8, the Senate passed the measure that had been negotiated by the Senate Finance Committee Chair, Sen. Max Baucus (D-MT) and the senior Republican on the committee, Senator Chuck Grassley (R-IA). The cost of the measure, estimated at \$19.2 billion over 10 years, would be offset by several provisions, including one that would recoup more money from consumers who receive excessive health care subsidies under the health care reform law. The measure also would extend other expiring Medicare programs, like the increase in payments for Medicare mental health services and the Medicare work geographic adjustment floor.

2. BILL TO EXEMPT DOCTORS FROM RED FLAG RULE TO BECOME LAW

Physicians will not be required to comply with the paperwork burden of the Federal Trade Commission's Red Flag Rule under a bill which has passed the House and Senate with the strong support of the AAFP. The President is expected to sign the Red Flag Program Clarification Act of 2010 (S. 3987).

Last month, the AAFP and a coalition of medical, dental and business groups urged the bill's sponsors, Senators John Thune (R-SD) and Mark Begich (D-AK,) to work for passage of S 3987 before January 1 to prevent that regulation from going into effect. On November 30, the Senate removed certain businesses, including medical practices, from the rule, which requires financial

institutions and creditors to develop a written plan to prevent and detect identity theft. The AAFP then called on House Speaker Nancy Pelosi (D-CA) and Minority Leader John Boehner (R-OH) to bring the Senate-passed bill to the House under an expedited process. On December 7, the House agreed and passed the measure.

3. HOUSE PASSES YEAR-LONG STOP-GAP SPENDING BILL

On December 8, the House of Representatives by a 212 to 206 vote passed a \$1.2 trillion stop-gap bill which would set the levels for federal spending through the remainder of the 2011 fiscal year. Most agencies and programs would continue to receive fiscal year 2010 funding levels under the House-passed "continuing resolution" (CR) putting the total \$45.9 billion below the President's FY 2011 budget request. The CR calls for the Prevention and Public Health Trust Fund to provide additional resources for key AAFP budget priorities including immunization programs, public health workforce development and chronic disease prevention.

A summary of the bill prepared by the House Appropriations Committee highlights Title VII programs and points out that the bill "adjusts funding for the Department of Health and Human Services (HHS) to decrease shortages of primary care practitioners and other providers through the health professions training programs."

Next week, the Senate is expected to finish work on its version before the final session of the 111th Congress ends on December 18.

4. AAFP SENDS COMMENTS TO CMS ON ACO REGULATION

In anticipation of eventually issuing formal regulations, in mid November the Centers for Medicare & Medicaid Services (CMS) solicited public feedback on seven general questions pertaining to the Accountable Care Organizations (ACOs) and the Medicare Shared Savings Model. In a December 3 letter, the AAFP offered our perspective to these questions and highlighted the recently published Joint Principles for Accountable Care Organizations collaboratively created by AAFP, the American College of Physicians, the American Academy of Pediatrics and the American Osteopathic Association.

5. SENATE TAX CUT BILL TO EXTEND STUDENT DEBT RELIEF

On December 10, Senate Majority Leader Harry Reid (D-NV) released a summary of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act based on the tax cut agreement between President Obama and Congressional Republicans. The bill seeks to extend the authorization for the individual tax cuts set to expire at the end of 2010 authorized by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA); and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA). However, it would also temporarily extend for two years, through 2012, the expanded exclusion for employer-provided educational assistance and the expanded student loan interest deduction.

Under the expiring tax law, an employee may exclude from gross income up to \$5,250 for income and employment tax purposes per year of employer-provided education assistance. Prior to 2001, this incentive was temporary and only applied to undergraduate courses. The EGTRRA expanded this provision to graduate education and extended the provision for undergraduate and graduate education to the end of 2010.

The expiring law also allowed certain individuals who have paid interest on qualified education loans to claim an above-the-line deduction for such interest expenses up to \$2,500. Prior to 2001, this benefit was only allowed for 60 months and phased-out for taxpayers with income between \$40,000 and \$55,000 (\$60,000 and \$75,000 for joint filers). The EGTRRA eliminated the 60 month rule and increased the income phase-out to \$55,000 to \$70,000 (\$110,000 and \$140,000 for joint filers).

6. HOUSE COMMITTEE LEADERSHIP FOR 112TH CONGRESS NAMED

House Republicans named several new committee leaders for the 112th Congress this week. The House Republican Steering Committee tapped Rep. Fred Upton of Michigan to lead the House Energy and Commerce Committee and selected Rep. Dave Camp, also of Michigan, to serve as the Ways and Means Committee Chairman. Rep. Harold Rogers of Kentucky was chosen to lead House Appropriations. The slate of new committee chiefs must be approved by the full GOP conference. Although committee memberships and most subcommittee chiefs have not yet been finalized but Rep. Upton announced plans to appoint Rep. Joe Pitts (R-PA) to chair the Energy and Commerce Committee's Health Subcommittee. Reps. Upton and Pitts released a joint statement saying their first priority in the 112th Congress will be to "reveal, repeal, and replace" the *Patient Protection and Affordable Care Act*.

The House Democratic Caucus announced that Rep. Henry Waxman (D-CA) will be the Ranking Member on the House Energy and Commerce Committee; Rep. Norm Dicks (D-WA) will serve as the Ranking Member on the House Appropriations Committee and Rep. Sander Levin (D-MI) will be the Ways and Means Committee's Ranking Member.

7. AAFP RALLIES GRASSROOTS

This week the AAFP rallied its members in support of a one-year extension of the current Medicare physician payment rate. AAFP grassroots staff sent alerts to key contacts, Connect for Family Medicine, and the AAFP membership on Tuesday, December 7. As a result, 590 AAFP members sent a total of 1,892 messages to Congress.

8. PENNSYLVANIA REQUIRES PROVIDERS TO WEAR ID

On November 23, Governor Ed Rendell (D) signed legislation (HB 1482) directing the Pennsylvania Department of Health to develop regulations requiring health care employees to wear photo identification tags. The law requires individuals who provide direct care to consumers and are employees of a health care facility, health care provider or work in a physician's private practice to wear a photo I.D. tag listing the employee's name, title and employer. The Scope of Practice Partnership, of which AAFP is a member, supported passage of the new law.

9. ILLINOIS FAMILY PHYSICIAN AUTHORS STATE WORKFORCE REPORT

According to a recently published study spearheaded by the Illinois Hospital Association, nearly half of all new physicians in Illinois residency and fellowship programs plan to leave the state after graduation. The Illinois Academy of Family Physicians served on a workgroup planning a workforce summit that preceded the published study. Family physician Russell Robertson, MD—who serves as Chair of both the Department of Family and Community Medicine at Northwestern University Feinberg School of Medicine and the Council on Graduate Medical Education—was a lead author of the report. Of those leaving the state, 67.6 percent reported high liability insurance costs as a major concern—liability premiums in nearby states are a third to a half of those in Illinois. The study also recommended the state create an institute to collect and analyze physician workforce data. Although the state General Assembly passed legislation in March to create such an entity, the initiative remains unfunded.

10. GEORGIA AFP HOSTS PRESS CONFERENCE ON MEDICARE CONCERNS

On December 2, the Georgia Academy of Family Physicians co-hosted a press conference with the Medical Association of Georgia, the state chapter of the American College of Physicians, and the Georgia ObGyn Society. Doctors and patients gathered at Piedmont Hospital in Atlanta urging Congress to provide a long-term solution to Medicare payment issues. "As the president of the Georgia Academy of Family Physicians and a physician who specializes in geriatric care, I worry about my patients' future and the ability of my colleagues to continue to keep their office doors open," said Harry S. Strothers III, MD, FAFAP. He explained that, "These cuts would be a

death sentence for many primary care practices; many doctors would retire or have to fire needed staff. Also, this would discourage most medical students from choosing primary care specialties, which already have the lowest incomes among physicians.”

11. TEXAS EXAMINES MEDICAID PROGRAM, PRIMARY CARE WORKFORCE

The Texas Department of Insurance and Health and Human Services Commission released a study finding that as many as 2.6 million residents—mostly pregnant women and babies—would become uninsured if the state withdraws from the Medicaid program, even if subsidies to purchase health insurance within a state exchange become available. The state also would lose \$15 billion a year in federal assistance, or about 60 percent of the state’s Medicaid funding. Maintaining the program as-is, however, also is not a viable option, according to the study. Governor Rick Perry (R) and legislative leaders plan to work with federal officials to give states more flexibility in the design of their Medicaid programs. The report recommends funding Texas Medicaid through a block grant and recalculating the match rate formula to reflect the state’s high rates of low-income and uninsured residents.

On a separate note, Robert Youens, MD, chair of the Texas Primary Care Coalition and member of the Texas Academy of Family Physicians, authored a December 7 op-ed in the Dallas News on taming the Texas primary care shortage. He explains that granting nurse practitioners the ability to practice medicine independent from physician supervision will perpetuate an already fragmented health care system and further strain our nursing supply, which by 2020 will be approximately 1 million nurses short nationwide, in addition to a shortage of at least 39,000 family physicians. Texas is one of 35 states that require NPs to practice in collaboration with physicians. Texas began to address its workforce issue in 2008 by creating the Physician Education Loan Repayment Program, which has the potential to place 225 primary care physicians in health professional shortage areas each year. Dr. Youens concludes that lowering the minimum standard of education and training required to practice medicine is not the answer—producing more primary care physicians and supporting integrated, team-based medical care is.