GOVERNMENT AFFAIRS WEEKLY

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

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IN THIS REPORT…

NEXT WEEK IN WASHINGTON…
* The House and Senate convene on Tuesday, Jan. 19 after the MLK holiday.

1. OBAMA & DEMOCRATIC LEADERS NEGOTIATE FINAL HEALTH REFORM BILL

President Obama and top Congressional Democrats met for hours this week to thrash out agreements on a final health care bill. The unusual White House-led discussions are serving as a substitute for what would be a difficult, partisan conference committee to iron out the differences between the House and Senate bills.

The White House, congressional negotiators and organized labor are reported to have reached a deal with organized labor on the proposed excise tax on high-cost insurance plans. Under the deal, union members would get a reprieve until 2018 from a tax on their "Cadillac" insurance.

The negotiators are anxious to finalize the agreement this week so that the Congressional Budget Office will have next week to produce a cost estimate for the final package of health reforms. Speaker Nancy Pelosi (D-CA) and House Majority Leader Steny Hoyer (D-MD) have announced that they will have the final health insurance reform legislation online for 72 hours before the House votes, for all Members and the American people to review. The full House could vote on a final health reform bill before the President's State of Union Address which has not yet been scheduled.

The Senate will have a more difficult time scheduling floor time to complete action on health reform. Democrats and Republicans agreed before they ended the first session to start debate January 20 on a measure (H J Res 45) to raise the federal debt ceiling, with debate on a series of amendments allowed. But they didn't set a time limit for consideration of the measure. Both Chambers expect to be out the third week of February for the President's Day recess.

2. PHYSICIAN PAYMENT REFORM COULD BE INCLUDED IN DEBT CEILING MEASURE

The short-term patch which prevented the January 1 implementation of a 21 percent cut in Medicare physician payments is set to expire on March 1. Congressional leaders have pledged to replace the flawed Medicare sustainable growth rate formula (SGR). They might do so by adding HR 3961 the *Medicare Physician Payment Reform Act* and *Statutory Pay-As-You-Go Act* to the must-pass measure to raise the federal debt ceiling (H J Res 45). Although SGR repeal is not a partisan issue, this will likely be a difficult, partisan vote. The cost estimate on SGR reform sets the price tag over $200 billion, and the underlying measure increases the federal debt limit by up to $1.8 trillion.

When the Senate voted on October 21 on a stand-alone measure to end the SGR (S 1776), the vote was 47 to 53. All of the Republicans and 13 Democrats, including Sen. Joe Lieberman (ID-CT), voted against consideration of the bill.

3. CONNECT FOR REFORM RALLIES FOR SGR FIX

This week, the AAFP rallied members of AAFP Connect for Reform to contact their Senators and Representatives to tell them that family physicians should no longer have to operate with a payment system based on the flawed sustainable growth rate (SGR) formula.

4. MEDPAC RECOMMENDS 1 PERCENT HIKE IN 2011 MPFS CONVERSION FACTOR

The Medicare Payment Advisory Commission, at its January 14 meeting, adopted a recommendation of a 1 percent increase to the conversion factor for 2011. The recommendation will appear in the March report of the commission that will be forwarded to Congress and made public.

The highlights of the discussion included:

- Medicare beneficiaries report better physician access than privately insured individuals.
- Most people are not looking for a new physician, but of those who are, finding a new PCP was more difficult than finding a new specialist.
- Most physicians are accepting Medicare, and while wait times for an appointment have increased slightly, patients are not complaining.
- Among physicians and other practitioners billing Medicare, 95% accept assignment.
- Compared with overall private rates, Medicare fees are lower, but the gap (close to 20%) has been generally steady over the last decade.
- Volume of physician services per beneficiary continues to grow, but E & M codes (along with major procedures) are growing at the lowest rate.
- Medicare updates have grown at half (17%) of the MEI (34%) over the past decade, but spending per FFS beneficiary has increased 90% as a result of increased volume.
- Most quality indicators were stable or improved from 2006 to 2008.
- Since access and quality have remained stable, and volume has increased, the commission believes a 1 percent increase in 2011 is justified.

The commission also intends to reaffirm previous recommendation that primary care reimbursement needs to be enhanced, and that it should be done in a budget neutral fashion.

5. SURGEON GENERAL SWORN IN

Family physician Regina Benjamin, MD, MBA, was sworn-in as the 18th US Surgeon General on Jan. 11 by Secretary of Health and Human Services Kathleen Sebelius. Dr. Benjamin, founder and CEO of the Bayou La Batre Rural Health Clinic in Bayou La Batre, AL, is the immediate past-chair of the Federation of State Medical Boards of the US, and previously served as associate dean for Rural Health at the University of South Alabama College of Medicine. In 2002, she became president of the Medical Association of the State of Alabama,

making her the first African American woman to be president of a state medical society. She holds a BS in Chemistry from Xavier University, New Orleans. She was in the 2nd class at Morehouse School of Medicine and received her MD from the University of Alabama, Birmingham, and MBA from Tulane University. She completed her residency in family medicine at the Medical Center of Central Georgia.

6. FamMedPAC

With the end of 2009, the PAC is focusing on contributions to candidates in 2010 and on fundraising. In 2009, the PAC received $355,184 in contributions from 1783 AAFP members. In 2007 (another non-election year), the PAC received $338,944 in contributions from 1832 members. (In the 2008 election year, the PAC received $483,977 in contributions from 2860 members.) The PAC direct marketing program, targeting non-donors with letters, e-mail messages, and phone calls will run through May. The PAC is also continuing to target prior donors who have not made their contribution in this election cycle.

The new Chair of the FamMedPAC Board of Directors, Dr. Jim King, is focusing on beefing up the Chapter Champion program, adding new members and encouraging all Champions to promote the PAC at Chapter meetings. AAFP Chapters have been very supportive of FamMedPAC in this election cycle. Chapters made the PAC a key topic of discussion at their meetings, promoting the PAC to their members and helping raise awareness of our efforts. The PAC conducted joint fundraising mailings with the state chapter PAC's of the Georgia Chapter and New York Chapter. The PAC keeps track of the contributions received from Chapter members and challenges each Chapter to have at least 10% of its members contribute to the PAC. The current Chapter contribution totals and percentages are below.

09-10 Total Donations Ranking:

(1) Texas: $26,011.00
(2) Tennessee: $22,789.00
(3) North Carolina: $16,479.00
(4) Ohio: $15,755.00
(5) California: $14,431.00
(6) Massachusetts: $13,687.00
(7) Washington: $13,521.00
(8) Illinois: $13,108.00
(9) Kansas: $12,135.00
(10) Georgia: $10,975.00

09 – 10 Chapter Percentage Ranking:

(1) Rhode Island: 6.28%
(2) Nebraska: 5.70%
(3) South Dakota: 5.70%
(4) Alaska: 5.44%
(5) Montana: 4.65%
(6) Massachusetts: 4.14%
(7) Kansas: 3.60%
(8) Delaware: 3.58%
(9) North Carolina: 3.55%
(10) Tennessee: 3.47

Government relations staff attended a health care lunch this week for **Rep. Michael Burgess (R-TX)**, a physician who serves on the Health Subcommittee of the Energy and Commerce Committee. Dr. Burgess, an Ob-Gyn, is the only Republican who voted for the SGR "fix" bill, HR 3961, which passed the House in November. Although he voted for the

bill, Dr. Burgess said he did not favor the approach taken by the legislation, but felt it was the only realistic chance to address the SGR in the current Congress. He stated that he does not favor separating out primary care from the payment formula, but does support increasing pay for primary care services. He does believe that the Republicans will address Medicare payment if they take over the House.

7. STATE ISSUES

- **Maryland Appeals Court Affirms Malpractice Caps**
  The Maryland Court of Appeals affirmed the state's caps on malpractice awards in a ruling, overturning a decision by a Montgomery County Circuit Court judge. The case involved a Silver Spring dermatologist, who was sued for malpractice in 2008 by the family of a Rockville man who died of skin cancer. The jury awarded the family $5.8 million, a figure that according to the caps should have been only $3.5 million. Circuit Court Judge John W. Debelius III ruled the caps applied only to cases that have first gone through arbitration, which did not happen in this case. The appeals court ruled the caps applied to all malpractice cases. The state's General Assembly adopted the caps during a 2004 special session convened to address increasing medical malpractice costs.

- **Tennessee Medicaid Program Considering Severe Budget Cuts**
  Tennessee's Medicaid program, TennCare, could undergo devastating changes, although most would not affect pregnant women and children. These include a $10,000 annual cap on inpatient hospital and psychiatric hospital services; elimination of physical therapy and hospice care; and an annual limit of eight doctor's office and non-emergency hospital visits. The TennCare Bureau is seeking approval from the U.S. Centers for Medicare and Medicaid Services for the cuts, which would save the state $117 million in the upcoming fiscal year beginning. Federal economic stimulus money allowed TennCare to delay the bulk of a mandated 15 percent cut in the current fiscal year, including a 7 percent decrease in TennCare reimbursements to doctors. That payment cut is now scheduled to go into effect July 1, 2010.

- **California Governor's Budget Seeks Increase in Federal Funds**
  California Governor Arnold Schwarzenegger (R) released his FY 2010-11 budget proposal, attempting to confront a $19.9 billion state deficit. The Governor also sent a letter urging California's congressional delegation to help the state secure $6.9 billion in new federal funding. The request for federal aid is part of his proposal for a balanced budget. In the letter, Governor Schwarzenegger explains how federal funding for the state's Medicaid program is insufficient, saying that 38 states receive a higher reimbursement rate for Medicaid than California does. The Governor will meet with members of Congress next week in Washington to discuss possible funding opportunities.

- **Illinois Allows Review of Denied Health Insurance Claims**
  Illinois Governor Pat Quinn (D) signed a bill into law that will provide greater consumer protection to Illinois residents with health insurance. The new law will allow Illinois residents to submit health insurance claims for external review after being denied by an insurance carrier. The external review will be conducted by a qualified, independent doctor, who is selected by a nationally-accredited and Illinois Department of Insurance-approved Independent Review Organization. Effective July 1, the external review process is available to all Illinois residents with health insurance coverage. Under current state law, only Illinois health consumers enrolled in an HMO have the right to such a review when claims are denied.