GOVERNMENT AFFAIRS WEEKLY

AAFP — STRONG MEDICINE FOR AMERICA

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NEXT WEEK IN WASHINGTON…

* The House has begun a six-week recess until September 14. The Senate will begin its recess later next week.

1. AAFP URGES CONGRESS TO MONITOR HITECH IMPLEMENTATION CLOSELY

On Tuesday, July 27, AAFP President-elect Roland Goertz, MD testified before the Health Subcommittee of the House Energy and Commerce Committee at a hearing on the implementation of the HITECH Act. The *Health Information Technology for Economic and Clinical Health Act* (or the HITECH Act) is part of the *American Recovery and Reinvestment Act* (ARRA), the economic stimulus bill that became law on February 17, 2009 (PL 111-5).

According to Dr. Goetrz's testimony, the investments in the bill will spur the adoption and use of health information technology among small physician practices by giving them much-needed financial and technical support to implement these systems. Without this kind of assistance, many small physician practices will find it difficult to adopt health IT and electronic health records (EHR).

Dr. Goertz testified that 59 percent of AAFP members currently use electronic health records; 44 percent use e-prescribing; and nearly 25 percent use EHRs for patient registries and tracking their patients to ensure they are receiving the preventive care they need. He indicated that federal "meaningful use" rules must allow physicians in small- and medium-sized practices to qualify for the incentive payments without discouraging participation.

Among other witnesses who testified at the hearing was family physician Matthew Winkleman, MD of Harrisburg, Illinois. In his testimony, Dr. Winkleman agreed that one of the obstacles many physicians face when trying to decide whether to deploy an EHR is the upfront cost.

2. SENATE APPROPRIATIONS MORE THAN DOUBLES PRIMARY CARE TRAINING

The Senate Appropriations Committee, on July 29, by a party-line vote of 18 to 12, reported the fiscal year 2011 spending bill for the Departments of Labor, HHS and Education which increases Title VII primary care training funds. The draft bill includes an additional $170 million over the FY 2010 level to expand health training programs. Specifically, it provides:

- $90 million, an increase of $51 million, for primary care training activities;
- a total of $57.9 million, an increase of $20 million, for public health workforce training;
- $5.1 million for the Rural Physician Pipeline, a newly authorized program to create opportunities for primary care physicians to train in rural areas, and
- $3 million for the new National Healthcare Workforce Commission created by the *Affordable Care Act*.

By a vote of 2 to 28, the Committee rejected an amendment offered by Senator Arlen Specter (D-PA) to increase the funding level for the National Institutes of Health by $1 billion by imposing an across-the-board cut on other programs and agencies in the bill. The bill provides $32 billion, an increase of $1 billion, to fund biomedical research at the NIH as the President had requested. The 3.5 percent increase is equal to the rate of biomedical inflation.

The $397 million proposed in the bill for FY 2011 spending for the Agency for Healthcare Research and Quality (AHRQ) is well below the $611 million requested by the President and the $411 million included in the House Subcommittee's measure.

The Seante probably will not debate the FY 2011 HHS spending bill before November. The House Committee has not yet considered the draft FY 2011 bill which the Labor, HHS, and Education Appropriations Subcommittee approved on July 15.

3. SENATE MAY CONSIDER EXTENSION OF FEDERAL MEDICAID PAYMENT

Late on Thursday, July 29, Senate Majority Leader, Sen. Harry Reid (D-NV), added a provision to a bill (HR 1586) reauthorizing the Federal Aviation Administration that would extend until June 30, 2011, the additional federal Medicaid funding. The current expiration date for this extra federal assistance is December 31, 2010. The $16.1 billion to the states is paid for with reductions in other federal programs. The enhanced percentage of the federal share is phased down in 2011. The Senate is scheduled to vote on whether to cut off debate on the bill on Monday, August 2.

4. REGULATORY UPDATE

Today, the Department of Health and Human Services published rules outlining administrative and eligibility details on an interim **high-risk insurance pool** for uninsured persons with pre-existing conditions. Controversy arose this week when several legislators said that the high-risk pools will pay for abortion services, but Nancy-Ann DeParle, who heads the White House office overseeing the implementation of the health reform legislation, responded that the high risk pool plan "prohibits the use of federal funds for abortion services, except in cases of rape or incest, or where the life of the woman would be endangered."

HHS also has prepared a request for comments on the process of establishing **state insurance exchanges**, a prominent feature of the new health insurance overhaul law.

Earlier this week, HHS issued a rule clarification that allows insurers to accept **children with pre-existing conditions** during specific enrollment periods.

The FDA issued proposed regulations on **nutrition labeling for restaurant chain menus**. Chain restaurants with more than 20 locations face a new requirement under the health care

law: They will have to post calorie counts for nearly every item on their menus. The mandate also applies to places not currently used to advertising the calorie counts in their offerings, such as chain movie theaters, delis, buffets, bakeries and ice cream parlors. Vending machines, too, will have to display the caloric content of the chips, sodas and pastries they distribute, in a location outside the machines. The FDA must publish its final regulations by March 23, 2011.

5. HEALTH RELATED BILLS PASS HOUSE COMMITTEE

On Wednesday, July 28, the House Energy and Commerce Committee approved a number of public health bills, including:

- The *Family Health Care Accessibility Act* (HR 1745), introduced by Reps. Tim Murphy (R-PA) and Gene Green (D-TX), which would extend the protection of the *Federal Tort Claims Act* to those health professionals who volunteer their services at community health centers.
- The *Nationally Enhancing the Wellbeing of Babies Through Outreach and Research Now (NEWBORN) Act* (HR 3470) to authorize funding for infant mortality pilot programs.
- The *National All Schedules Prescription Electronic Reporting Reauthorization Act* (HR 5710), to reauthorize NASPER, a controlled substance monitoring program.
- The *Training and Research for Autism Improvement Nationwide (TRAIN) Act* (HR 5756), which would provide grants and technical assistance to improve services for those with autism, as well as their families.
- The *Safe Drug Disposal Act*, (HR 5809), which would provide for the take-back disposal of controlled substances in certain instances.

6. FamMedPAC WRAPS UP BUSY JULY

FamMedPAC sent out its July report to all donors this week, and will begin phone calls next week to the non-donors who received the PAC's solicitation e-mail last week. Congressional legislators held several fundraising events in Washington prior to the recess. The PAC participated in the following events this week:

- **Rep. Charles Boustany (R-LA)** is a surgeon and serves on the House Ways and Means Committee. He also is a member of the Republican Health Care Task Force. Rep. Boustany talked about the SGR and how the Republicans, when they recapture a majority of the House of Representatives, will fix it permanently. He said the Republican physicians in Congress are meeting now to determine the best way to deal with the SGR. He asked all the physician groups to give him suggestions, including how to pay for it. He spoke about the health reform legislation and how "repeal and replace" is the Republican talking point, but, realistically, they are only going to be able to address parts of the legislation and attempt to correct the most glaring errors. He is particularly focused on the IPAB and the employer mandate.
- **Rep**. **John Fleming (R-LA)** is a family physician in his first term in Congress and FamMedPAC supported him in his first election. Rep. Fleming stated his opposition to the health reform bill because it was not based on free market principles. He predicted that the Republicans have the majority in the House in the fall and would dismantle the legislation, piece by piece. He thought that their first legislative proposal would be a bill that would prohibit reducing Medicare expenditures. He believed then they would challenge the individual mandate and use the appropriations process to prohibit expenditures for provisions that they opposed. He acknowledged that the health reform legislation favors primary care and he understood why primary care supported it. He agreed that the disparity in income between primary care and specialty care needs to be reduced and he favors the use of new payment models as a way to pay for the particular service family physicians offer in the coordination of care and in providing comprehensive care to patients with undiagnosed conditions.

- **Rep Barbara Lee (D-CA)** serves on the Labor-HHS Subcommittee of the House Appropriations Committee and Chairs the Congressional Black Caucus. Rep. Lee supports increased funding for health professions training. She was pleased that family physicians support health coverage for all, but she believes that we will see a public option before too long.
- **Rep Lucille Roybal-Allard (D-CA)** serves on the Labor-HHS Subcommittee of the House Appropriations Committee. She supported a significant increase for health professions training for primary care medicine which the subcommittee approved.

7. HHS APPOINTS COMMITTEE ON UNDERSERVED AND HPSA DESIGNATIONS
AAFP Graham Center director Bob Phillips, MD was appointed to serve on a new federal committee to review and update the criteria for defining medically underserved areas and health professional shortage areas. The formation of this committee was provided for in the *Affordable Care Act*. The committee includes 28 members who are key stakeholders representing programs that are most affected by these designations. The target date for a final draft proposal is July 2011.

The Health Professional Shortage Area (HPSA) designation is required for an area to be eligible for the placement of National Health Service Corps providers and the Medically Underserved Population designation is used as a basis for awarding grants to Community Health Centers. There is also a bonus payment to physicians under Medicare for services provided in HPSAs. A variety of other federal and state programs also use these designations to target resources to areas of need.

8. SENATE REPUBLICANS INTRODUCE BILL TO ELIMINATE COST-CUTTING PANEL
A group of high-ranking Senate Republicans this week introduced a bill (S 3653) that would eliminate the Independent Payment Advisory Board (IPAB), which was established under the health reform law to rein in Medicare spending growth.

IPAB would consist of 15 members appointed by the White House and confirmed by the Senate. The panel is required to make recommendations to Congress on ways to cut the Medicare spending growth rate once it exceeds certain levels. If Congress rejects the panel's recommendations, they would have to offer their own solutions that would generate equivalent savings.

The sponsors of the bill – Sen John Cornyn (R-TX), Senate Minority Whip Jon Kyl (R-AZ), Sen. Tom Coburn (R-OK), Sen. Orrin Hatch (R-UT) and Sen. Pat Roberts (R-KS) – said that "unelected, unaccountable bureaucrats" should not be authorized to wield such significant power over Medicare. The health reform law prohibits the panel from suggesting changes that would affect certain parts of Medicare, such as subsidies under the prescription drug benefit or adjusting tax rates. In response, White House Office of Management and Budget Director Peter Orszag said that IPAB would play an important role in sustaining Medicare, which is projected to become insolvent within a decade without reductions in costs or increases in revenue.

9. ILLINOIS CHAPTER ASSISTING INSURANCE DEPT IN REVIEWING RESCISSIONS
Illinois Governor Pat Quinn (D) recently announced a new partnership between the state Department of Insurance and the Illinois Academy of Family Physicians. The partnership will allow the Department to better understand medical and health care issues faced by Illinois consumers, more effectively advocate for consumers who experience claim denials or policy rescissions, and expand the Department's expertise as it implements health insurance reforms. Family physicians, most of whom are current or retired board members for the Academy, will assist officials to investigate complaints more thoroughly. State Insurance Director Michael

McRaith explained that physicians will not be making any specific recommendations, but rather offering knowledge that might help insurance department employees evaluate cases.

10. STATE ADVANCES IN HEALTH CARE:

- **Ohio Regulation Provides Continuous Coverage for Children**
  The Ohio Department of Jobs and Family Services recently adopted a provision allowing for 12 months of continuous coverage for children under the state Medicaid program. A child's coverage can be terminated only in the case of: (1) a direct request from the child or parent; (2) change of residence out-of-state; (3) death; (4) unpaid premiums; and (5) the child reaching age 19. The new law prohibits patient liability or premiums from increasing during any period of the continuous coverage. To qualify for eligibility, children must be U.S. citizens or legal immigrants and have a gross family income of no more than 200 percent of the federal poverty level.

- **California County Medical Home Reduces Unnecessary ER Visits**
  The August issue of the journal *Medical Care Research and Review* includes a study of the Medical Services Initiative program—a safety net-based system of care in Orange County, California—which assigned uninsured, low-income residents to a patient-centered medical home. The medical home provided case management, a team-based approach for treating disease, and increased access to primary and specialty care among other elements of a patient-centered medical home. Providers received an enhanced fee and pay-for-performance incentives to ensure delivery of comprehensive treatment. The study found that enrollees who were assigned to a medical home for longer time periods were less likely to have any emergency room visits or multiple ER visits and that changing medical homes three or more times was associated with enrollees being more likely to have any ER visits or multiple ER visits. The findings provide evidence that successful implementation of the patient-centered medical home model in a county-based safety net system is possible and can reduce unnecessary ER use.