

June 11, 2010

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NEXT WEEK IN WASHINGTON...

* The Senate will convene on Monday, June 14 to resume consideration of bill that includes extension of Medicare physician payment formula.

1. SENATE STALLS ON BILL THAT INCLUDES PHYSICIAN PAYMENT

This week, the Senate returned from a 10-day recess for the Memorial Day Holiday to begin work on the *American Jobs and Closing Tax Loopholes Act* (HR 4213). The House had approved its version of the bill just prior to the holiday. The measure, called the “tax extenders bill,” includes a 19-month extension of the Medicare physician payment formula, with a 2.2 percent update for the rest of 2010 (retroactive to June 1) and an additional 1 percent for 2011. The Senate sponsors restored a provision that the House stripped out for budget reasons that would extend an enhanced federal payment to the states Medicaid program. However, despite several days of debate and a brief consideration of a few amendments, the Senate did not complete action on the bill.

The Sustainable Growth Rate (SGR) component of the Medicare payment formula has created a sustained crisis for physicians because it requires Congress either to collect the “extra” funds that Congress has directed to be paid to physicians every year since 2002, assign the extra payments to the federal debt, or find comparable revenue increases and program reductions elsewhere in the federal budget. The Congressional Budget Office estimates that paying off this accumulated debt would require about \$300 billion in taxes and budget cuts over the next 10 years. The provision in the tax extenders bill would add about \$20 billion to that total. If the total debt could be recaptured in one year, as the law requires, it would now mean a 21.3 percent reduction in physician payments. Congress has overridden that requirement several times since 2003, but the last override expired on May 31.

Primary Care’s Proposed New Payment Framework

At the request of the three primary care physician organizations that have Medicare patients (AAFP, the American College of Physicians, and the American Osteopathic Association), the Senate leadership is considering offering an amendment to the legislation that would increase the physician payment rate for the rest of this year by 1.3 percent and next year by another 1

percent, and then change the formula for 2012 and 2013 to allow primary care's update to grow by GDP plus 2 percent, while holding the rest of medical services at GDP plus 1 percent.

Senator Debbie Stabenow (D-MI) reportedly is interested in sponsoring such an amendment. However, her office has heard that the AMA, which is committed to a permanent fix to the SGR, will not support the amendment. Her office is reluctant to proceed without strong support from the physician community.

A Potential Resolution

Meanwhile, the Senate has recessed for the weekend without taking a final vote on the legislation. Senate Republicans have offered an alternative version that the Senate may consider early next week. The Majority Leader's office may well require that, if there is a vote on the Republican alternative, the Republicans will not filibuster a final vote on the bill. If that occurs, the Senate could finish up quickly next week. If there is no agreement to limit debate, the Senate is unlikely to be able to finish before the end of next week.

The timeframe is important because technically the reduced payment rate went into effect on June 1. CMS has directed the Medicare carriers to hold off on processing claims at the reduced rate until Monday, June 14, after which it is required to pay claims submitted by June 1. If Congress does not act by Tuesday, physicians will likely see the 21.3 percent reduction in their Medicare payments.

Grassroots Alert Issued to Michigan Members

Earlier today, AAFP issued an action alert to members in Michigan. Members were asked to weigh in with Senator Stabenow (D-MI) regarding her interest in offering the amendment to the *American Jobs and Closing Tax Loopholes Act* (HR 4213) that primary care physician organizations would strongly support.

2. REPUBLICAN SENATORS OUTLINE ALTERNATIVE TAX BILL

Senate Republicans on Thursday, June 3, introduced a comprehensive alternative to the Democratic tax extender bill that would renew tax breaks for businesses and families, extend unemployment insurance through November and prevent Medicare physician payment cuts through 2012 – a year longer than the current version of the bill. The measure includes medical malpractice reforms.

The alternative, introduced by Senator John Thune (R-SD), is projected to cut the deficit by \$55 billion over a decade, according to the Congressional Budget Office, by reducing spending by \$113 billion. Cuts include \$37.5 billion in unobligated stimulus funds and a series of proposals introduced by Sen. Tom Coburn (R-OK), which includes the sale of \$15 billion in unused government property, a salary freeze for government workers and a \$100 million nick to congressional office expenses.

The GOP bill drops provisions in the current proposal such as \$24 billion for state Medicaid funds, \$2.5 billion for state Temporary Assistance for Needy Families; agriculture disaster assistance; and settlement funds for Native American and black farmers. The proposal retains \$1 billion to fund a summer youth employment program.

It also would redirect \$8 billion for Medicaid reimbursements to primary care physicians in 2013 and 2014 to a grant program allowing states to increase primary care reimbursements permanently. The amendment would drop an expanded prescription drug-discount program from the current version of tax extender bill.

3. HOUSE SUBCOMMITTEE EXPLORES ANTIBIOTIC RESISTANCE

On Wednesday, June 9, the House Energy and Commerce Subcommittee on Health held the first two of its planned three hearings on antibiotic resistance. The subcommittee looked at “Promoting the Development of Antibiotics and Ensuring Judicious Use in Humans.” Witnesses included representatives of the FDA, Biomedical Advanced Research and Development Authority, the Infectious Diseases Society of America, American Academy of Pediatrics, American Medical Association, Trust for America’s Health and Cubist Pharmaceuticals.

Some 18 Congressional committee members attended the hearing, which focused on the need for incentives for the development of drug and diagnostics. The subcommittee is considering ways to strengthen the *Strategies to Address Antimicrobial Resistance (STAAR) Act*, which AAFP supports, including how to assist in strengthening the collection of data on antibiotic use and resistance and in supporting appropriate stewardship practices and programs.

4. FamMedPAC FOCUSES ON SUPPORTERS OF HEALTH REFORM

FamMedPAC supported several legislators this week:

- **Sen. Kirsten Gillibrand (D-NY)**: New York AFP Chapter Exec Vito Grasso attended an event in New York for Senator Kirsten Gillibrand. The Senator spoke of her support for a permanent fix to the SGR formula and her commitment to securing the increase in the federal share of the cost of Medicaid in the Senate tax extenders legislation.
- **Rep. John Hall (D-NY)**, who serves on the Transportation and Veterans Affairs’ Committees. He supported both the health reform bill and the SGR “fix.” He favors a permanent solution.
- **Rep. Ann Kirkpatrick (D-AZ)**, who serves on the Small Business and Veterans’ Affairs Committees in the House. She supported both the health reform bill and the SGR “fix.”
- **Rep. Scott Murphy (D-NY)**, also targeted for PAC support because of his vote in favor of health reform legislation, serves on the House Agriculture and Armed Services Committees. He also supported the House SGR “fix” legislation. He mentioned that he met with our members when they were in town for the FMCC and he would like to meet with AAFP members in his district to talk about primary care.
- **Rep. John Salazar (D-CO)**, who serves on the House Appropriations Committee. Rep. Salazar voted for health reform legislation. He favors a permanent fix to the SGR and is looking for ways to pay for it.
- **Rep. John Sullivan (R-OK)**, who serves on the Health Subcommittee of the House Energy and Commerce Committee. Rep. Sullivan recently introduced the *Healthcare Truth and Transparency Act* (H.R. 5295). This legislation, which AAFP supports, requires all healthcare providers to make their credentials and license known to their patients. Rep. Sullivan also talked about the difficulties of addressing the SGR formula and said that he was interested in a temporary solution through at least February of 2011, so Congress could come up with a permanent fix
- **Rep. Betty Sutton (D-OH)**, who serves on the Health Subcommittee of the House Energy and Commerce Committee. A strong supporter of primary care, Rep. Sutton voted for both the health reform bill and the House SGR “fix.” She is facing criticism for her support for health reform and is interested in having AAFP members attend her town halls to express support for the law.

5. STATES ADDRESS WORKFORCE AND MEDICAL EDUCATION ASSISTANCE

Several states recently passed legislation assessing physician workforce resources and funding assistance for medical education students or recent graduates.

- Colorado -- [HB 1138](#) (enacted April 20, effective July 1): replaces the state healthcare professional loan repayment program with the Colorado Health Service Corps and repeals the \$35,000 per year limit for education loan repayment.

- Florida -- [HB 5311](#) (enacted May 28, effective July 1): eliminates the Program for Graduate Medical Education Innovations and Graduate Medical Education Committee and creates a Physician Workforce Advisory Council.
- Georgia -- [HB 866](#) (enacted May 20, effective July 1): allows the state to provide grants to hospitals and other health care entities, local governments, and civic organizations that agree to provide matching funds to bring physicians to underserved rural areas.
- Ohio -- [HB 198](#) (enacted June 8, effective June 8): authorizes implementation of a primary care component of the Choose Ohio First Scholarship Program and establishes the Patient Centered Medical Home Education Pilot Project.
- Oklahoma -- [HB 1043](#) (enacted June 5, effective November 1): creates the Oklahoma Medical Loan Repayment Program, providing education loan repayment of \$25,000 per year for five years to 6 practicing primary care physicians in underserved areas.
- Wisconsin [AB 770](#) (enacted April 27, effective July 1): provides additional funds to an existing medical education loan program and increases the amount repaid from \$50,000 to \$100,000 for physicians who practice for three years in rural areas of the state. The bill also directs the Department of Family Medicine in the University of Wisconsin School of Medicine and Public Health to establish and support certain physician residency positions at hospitals and clinics in rural areas.

6. VERMONT ENACTS OMNIBUS HEALTH CARE LEGISLATION

Governor Jim Douglas (R) allowed [SB 88](#) to become law without his signature, stating he supports cost-containing provisions but does not approve of the bill because the state cannot pursue certain plans until 2017 as required by the new federal health care law. The new Vermont law will create a health reform commission, which has until February 1 to propose as many as three design options for creating a single system of health care in the state, one of which must be a government-administered and publicly financed single-payer benefits system.

The law also bolsters the state's medical home model by requiring insurance carriers to participate in the statewide expansion of the program, the Vermont Blueprint for Health. Hospitals will be required to establish and maintain interoperable connectivity to the state health information exchange network to support the Blueprint's clinical data repository, in an effort to make laboratory, hospital discharge and other data more readily available to physicians. The measure requires pharmaceutical companies to publicly release information on expenses related to free drug samples, and charges the Department of Vermont Health Access with completing a report on the primary care workforce study by November 15.