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 will debate the *Tax Extenders Act* (HR 4213) on Tuesday, May 24 and the Senate may consider it as soon as Wednesday.

* On Thursday, May 27, the House Ways and Means Committee's Subcommittee on Oversight will hold a hearing on a government report on tobacco smuggling in the United States.

1. CONGRESS MAY CONSIDER MULTI-YEAR PHYSICIAN PAYMENT

The U.S. House of Representatives plans to vote on a "tax extenders bill" that will likely include a new proposal to avert the 21-percent cut in Medicare physician payments that is scheduled to take effect on June 1. Elements of the proposal are:

- 1.3 percent Medicare payment update for the remainder of 2010
- 1.0 percent payment update in 2011
- Updates for 2012-13 established under two expenditure targets
- SGR formula resumes in 2014 to reflect current law

The two expenditure targets are patterned after those proposed in the *Medicare Physician Payment Reform Act* (H.R. 3961), which passed the House last year. An expenditure target for primary care and preventive health services will be set at GDP plus two percent; a separate expenditure target for all other physician services will be set at GDP plus one percent. During the two-year period when the twin targets are in place, an update floor will be set at zero to prevent any conversion factor cuts in 2012-13.

Family Medicine's Views

While the AAFP expressed dismay that Congress was not addressing the underlying problem of the payment formula, the Academy noted the postponement of reductions for at least 3 and a half years and the precedent of providing for additional growth in the payment for primary care.

In 2014, the current SGR formula will resume, with a conversion factor that is expected to be considerably lower than it is today if Congress does not act to prevent those cuts. AAFP will

continue to work with the physician organizations to replace the SGR with a more appropriate payment formula.

The AAFP sent a letter to every member of the House of Representatives urging support for the legislation that includes the physician payment provision and will do so with the Senate when the House approves the final version. When and if the Senate does begin its consideration of the bill, AAFP will ask members to weigh in with their state's Senators to add urgency to the AAFP's request for support.

The Week Ahead
The SGR proposal is being incorporated into, The *American Jobs and Closing Tax Loopholes Act* (H.R. 4213) which the House will debate early next week. The Senate is expected to take up the bill shortly after it is passed by the House. Leaders are pushing to have Congress finish with the bill before the Memorial Day recess, which starts on Friday, May 28. It remains unclear whether Senate Democrats will be able to muster the 60 votes they will need.

The CBO's preliminary estimate is that the total costs of the measure would be about $190 billion. The measure also would extend special Medicaid assistance to states through June 30, 2011, at a cost of $24 billion over 10 years, and extend an emergency fund for low-income families.

The legislation could still encounter trouble over the amount and content of its revenue-raising offsets, particularly among moderate House Democrats and Senate Republicans. Only about $60 billion of the measure will be offset. The safety-net spending is treated as emergency spending, and the physician-payment change is exempt from the pay-as-you-go law.

2. BERWICK CONFIRMATION HEARING MAY BE HELD IN JUNE
The Senate Finance Committee's chairman said this week that he hopes to have a confirmation hearing on the nomination of Donald Berwick, MD to become administrator of the Centers for Medicare and Medicaid Services before the Fourth of July recess.

Some Senate Republicans have strongly criticized Dr. Berwick as one who favors rationing of health care. Senators Pat Roberts (R-KS) and John Barrasso (R-WY) in particular portray Berwick as a big admirer of the national health care system in Great Britain, which they link to long delays in medically necessary care and in access to state-of-the-art medical technology. But Democrats appear to be confident they can effectively rebut the GOP criticisms of Berwick, who is much admired in the health care industry for his work on improving the quality of health care and on improving patient safety. Past Republican administrators of the Medicare and Medicaid programs also have spoken favorably of Berwick.

3. FamMedPAC REACHING OUT TO HEALTH REFORM SUPPORTERS
FamMedPAC participated in two events this week.

- **Rep. Nita Lowey (D-NY)** serves on the Labor, HHS, and Education Subcommittee of the House Appropriations Committee. She focused her remarks on health care and spoke of her support for imposing antitrust restrictions on health insurance companies. She professed frustration at the growing number of physicians in Westchester County, NY going to concierge medicine practices and acknowledged that the Medicare SGR was a serious problem. She is proud that she played a key role in enacting legislation on nutritional labeling and in supporting biomedical research. She recognizes that there is much left to do to in order to implement health reform, such as financing the new Workforce Center and Title VII, but does not know if they will be able to enact the HHS spending bill this year.

- **Rep. Jerry McNerney (D-CA)** is one of the 16 Democratic House Members who supported the health reform legislation that the PAC Board has targeted for PAC support. Rep. NcNerney is facing a difficult reelection as a result of his vote. We have offered to help find AAFP members in his district to write op-eds or letters to the editor in support of his vote, or to attend town hall meetings. We also spoke about the pending physician payment legislation and our support of a long-term solution. He understands the issue and will support what family medicine is looking for. He strongly supported the Medicare payment provision in the original House bill.

4. STATES CONTINUE TO PLAN FOR IMPLEMENTATION OF HEALTH REFORM

Virginia established the state's Health Care Reform Initiative. Funded from existing resources, this statewide initiative will serve as the liaison between the Governor's office, agencies and entities affected by health care reform, lead development of the required Health Insurance Exchange and identify and coordinate grants to fund health care reform. The new program will make recommendations addressing Medicaid reform, insurance reform and health care delivery reform by September 30, 2010 and annually by January 10 until 2014.

New York also laid the groundwork to begin implementation. Governor David Paterson (D) created the Governor's Health Care Reform Cabinet, which will make recommendations to the Governor on all aspects of federal health care reform. The Director of State Operations will chair the Cabinet with the Deputy Secretary for Health, Medicaid and Oversight and the Deputy Secretary for Labor and Financial Regulation serving as vice-chairs. Included in its responsibilities are identifying deadlines established under federal law; determining with which provisions the state must comply and those that are optional; and assessing the state's capacity to carry out those provisions. AAFP chapters already are exploring opportunities for family physicians to play an active role in state implementation.

5. FOUR STATES TO RECEIVE ELECTRONIC HEALTH RECORDS FUNDING

The Centers for Medicare & Medicaid Services announced that four state Medicaid programs will receive federal matching funds for planning activities necessary to implement the electronic health record incentive program. The program, established by the *American Recovery and Reinvestment Act*, provides a 90-percent federal match for states to administer incentive payments to Medicaid providers and promote interoperability and meaningful use of EHR technology statewide. Louisiana will receive $1.85 million, Maryland $1.37 million, Minnesota $1.04 million, and New Jersey $4.93 million. Conducting a comprehensive analysis to determine the current status of HIT activities in the state, gathering information on existing barriers to using EHRs, determining provider eligibility for incentive payments, and creating a State Medicaid HIT Plan will be included in the states' activities.

6. NEW STATE LAWS EXTEND HEALTH COVERAGE FOR UNEMPLOYED

On May 15, Illinois Governor Patrick Quinn (D) signed a bill amending the state Insurance Code and the Health Maintenance Organization Act to extend the duration of the insurance premium subsidy from 12 to 15 months for workers laid off from companies with 19 or fewer employees. The new law also extends the eligibility period for the insurance premium subsidy from December 31, 2009 to May 31, 2010.

Connecticut Governor M. Jodi Rell (R) signed similar "Mini-COBRA" legislation, extending health insurance coverage from 18 to 30 months for group policyholders with fewer than 20 employees. To qualify for the continued coverage, individuals must have experienced a layoff, reduced hours, leave of absence, or termination of employment not related to gross misconduct. The Governor also signed legislation to establish a state health insurance exchange and allow small employers to receive health insurance premium quotes for employees working at least 20 hours per week.