

January 21, 2011

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NEXT WEEK IN WASHINGTON...

- * The House will consider a resolution reducing non-security spending to FY 2008 levels or less.
- * On January 25, the President will address a Joint Session of Congress.
- * The House Budget Committee will examine the fiscal impact of the new health care law during a hearing on January 26, the same day the Ways and Means Committee plans to look at its impact on jobs.

1. HOUSE VOTES TO REPEAL HEALTH REFORM, WORK BEGINS ON REPLACEMENT

By a vote of 245-189, the House on Wednesday, January 19 passed the *Repealing the Job-Killing Health Care Law Act* (HR 2), a bill to repeal the health reform law. Three Democratic Representatives — Dan Boren (OK), Mike McIntyre (NC) and Mike Ross (AR) — joined all of the House Republican Representatives in supporting the measure.

On Thursday, the House adopted, 253-175, a resolution (H Res 9) that would direct House committees to produce legislation to replace the 2010 health care overhaul law. The resolution would direct committees to report legislation that changes the medical liability system, fosters economic growth, reduces insurance premiums, increases the number of insured Americans and prohibits federal funding for abortions. Before passing the resolution, the House adopted an amendment offered by Rep. Jim Matheson (D-UT) requiring the committees to include a permanent fix to the Medicare physician payment formula. Rep. John Conyers (D-MI) was the sole dissenting vote.

2. HOUSE BEGINS THE PROCESS OF MEDICAL LIABILITY REFORM

The House Judiciary Committee held an oversight hearing on "Medical Liability Reform – Cutting Costs, Spurring Investment, and Creating Jobs" on Thursday, January 20. Judiciary Committee Chairman Lamar Smith (R-TX) opened the hearing with a commitment to report a medical liability reform bill modeled on the successful California law known as MICRA.

On January 18, the AAFP joined nearly 20 other medical groups in a letter to Rep. Phil Gingrey, MD (R-GA) who will introduce the *Help, Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act* of 2011 (HR 5) based on California's MICRA reforms. The *HEALTH Act* of 2011 will have the same name and number as the medical liability reform bill considered by previous Republican-controlled Congresses and supported by the AAFP. Although the House repeatedly has passed the *HEALTH Act*, it always has died in the Senate.

The Committee heard from a panel of three witnesses. AMA Board Chair Dr. Artis Hoven testified in support of reforming an irrational system that is an inefficient mechanism to award compensation to patients. Joanne Doroshow, founder and executive director of the Center for Justice & Democracy and co-founder of Americans for Insurance Reform (AIR), disagreed with the notion that tort reform would lead to lower costs and said that there had been no decline in medical errors in the ten years since the IOM report. Dr. Stuart Weinstein, an orthopedic surgeon from Iowa, spoke on behalf of the Health Coalition on Liability & Access, a national advocacy coalition that represents physicians. Dr. Weinstein told the Committee that students are discouraged from entering OB/GYN and other specialties because of the risk of lawsuits, although most claims are without merit.

3. AAFP MEMBERS TO HELP EDUCATE CONGRESS

The AAFP is working to educate the new Congress about family medicine. This week, we asked our grassroots (Key Contacts and members of Connect for Family Medicine) to reach out to their newly elected officials, start building relationships and inform them of family medicine's key priorities.

4. INSTITUTE OF MEDICINE (IOM) HEARS FROM AAFP PRESIDENT

On Thursday, January 20, AAFP president Dr. Roland Goertz testified before the IOM Committee to Study Geographic Adjustment Factors. He was joined on the panel by Jan Towers of the American Academy of Nurse Practitioners, Jim Potter from the American Academy of Physicians' Assistants, Elena Rios from the National Hispanic Medical Association and Byron Sogie-Thomas from the National Medical Association.

The *Affordable Care Act* directed the Institute of Medicine to study the accuracy and value of the factors that comprise the geographic physician cost index (GPCI), which is used to determine payments in different geographic settings, usually in rural and underserved areas. Dr. Goetz testified that there should be no differential payment simply for geography, but rather a significant differential payment for primary care physicians and providers, since this was the care most needed in all population settings.

Mr. Potter and Mr. Sogie-Thomas echoed the AAFP recommendations. Ms. Towers made the expected scope of practice arguments and suggested full reimbursement. Mr. Potter suggested reviewing the 85 percent reimbursement policy since it was based on 40 year old practice patterns and data. Mr. Potter also stressed the COGME report that recommends reducing the income gap between primary care and subspecialists.

5. SURGEON GENERAL ANNOUNCES POLICIES TO SUPPORT BREASTFEEDING

On Thursday, January 20, Surgeon General Regina M. Benjamin issued a "Call to Action to Support Breastfeeding," outlining steps that can be taken to remove some of the obstacles faced by women who want to breastfeed their babies. According to the report, breastfeeding protects babies from infections and illnesses that include diarrhea, ear infections, and pneumonia. Breastfed babies also are less likely to develop asthma, and those who are breastfed for six months are less likely to become obese. Mothers who breastfeed have a decreased risk of breast and ovarian cancers. A study published last year in the journal *Pediatrics* estimated that the nation would save \$13 billion per year in health care and other costs if 90 percent of U.S. babies were exclusively breastfed for six months. Dr. Benjamin added that, by providing accommodations for nursing mothers, employers can reduce their company's health care costs and lower their absenteeism and turnover rates.

6. MEDICAID PROVIDER PAYMENTS SUBJECT OF SUPREME COURT CASE

The U.S. Supreme Court announced on Tuesday, January 18 that it will decide whether to give California and other cash-strapped states more freedom to cut the amounts they pay doctors, hospitals and other providers of medical care for the poor. Federal courts previously blocked about \$1 billion in cutbacks in California's Medicaid program, called Medi-Cal. Newly elected Governor Jerry Brown (D) has announced a budget plan that would reduce the amounts the state pays healthcare providers by 10 percent, which would lower the cost of the program by \$719 million. Many other states have indicated an interest in making similar cutbacks. Twenty-two states joined California in its appeal to the Supreme Court.

Currently, 57 percent of California doctors accept new Medi-Cal patients, according to a study published last year by the California HealthCare Foundation. About seven million Californians get their health coverage through Medi-Cal.

7. COALITION LETTER SENT ON MEDICAID RECOVERY AUDIT CONTRACTORS

As required by the *Affordable Care Act*, states must enter into contracts with Recovery Audit Contractors (RACs) in 2011 to identify improper payments made through the Medicaid program and recoup overpayments. AAFP sent a [letter](#) to the Centers for Medicare & Medicaid Services (CMS) on December 16, 2010 that strongly emphasized that the RACs must not review the level of service billed for Evaluation and Management Services and that CMS must emphasize the discovery of underpayments as much as the discovery of overpayments.

The AAFP also participated with 80 state and national medical organizations in a January 10, 2011 comment [letter](#) to CMS. In addition to other recommendations, the coalition letter urges CMS to apply favorable modifications made to the Medicare RAC program to the Medicaid RAC program.

8. PHYSICIAN QUALITY REPORTING SYSTEM IMPROVEMENTS OFFERED

In early February, the CMS will conduct a Physician Quality Reporting System (PQRS) Town Hall [meeting](#) that focuses on the 2012 PQRS reporting period. In anticipation of this meeting, the AAFP sent CMS a [letter](#) on Wednesday, January 19 offering suggestions to evolve this problematic quality improvement effort. The AAFP reiterated a commitment to assisting family physicians achieve successful PQRS participation, which is important since the *Affordable Care Act* permits the agency to impose a payment penalty beginning in 2015 for physicians that do not satisfactorily submit data on PQRS quality measures. The AAFP urged CMS to improve access to the PQRS feedback reports, to phase out the claims-based reporting option, to offer EHR-based reporting options for both full and half year reporting periods and to increase alignment between the PQRS and the Electronic Health Record Incentive Program.

9. HEALTH EXCHANGE GRANTS FOR STATES ARE ANNOUNCED

On Thursday, January 20, HHS announced a new funding opportunity for grants to help states continue their work to implement health insurance exchanges. These grants recognize that states are making progress toward establishing Exchanges but at different paces. States that are moving at a faster rate can apply for multi-year funding. States that are making progress in establishing their Exchange through a step-by-step approach can apply for funding for each project year. Moving forward, states will have multiple opportunities to apply for funding as they develop an Exchange. [The Exchange establishment funding announcement can be found at www.Grants.gov by searching for CFDA number 93.525.]

10. AAFP COMMENTS ON PEDIATRIC QUALITY MEASURES PROGRAM

The AAFP sent the Agency for Healthcare Research and Quality (AHRQ) a [letter](#) on January 12 regarding the agency's priority setting for the Children's Health Insurance Program Reauthorization Act (CHIPRA) Pediatric Quality Measures Program (PQMP). In the letter, AAFP urges AHRQ to consider the core set of pediatric quality measures as an interim set along the way to a more focused set of patient-oriented outcome measures that are specifically developed with an overall quality improvement strategy for children's care.

11. COMMENTS SENT ON HEALTH INFORMATION TECHNOLOGY REPORT

In a [letter](#) sent Tuesday, January 18 to the Office of the National Coordinator for Health Information Technology (ONCHIT), AAFP commented on the report by the President's Council of Advisors on Science and Technology entitled *Realizing the Full Potential of Health Information Technology To Improve Healthcare for Americans: The Path Forward*. The AAFP urged ONCHIT to consider the ASTM Continuity of Care Record Standard as the basis for improving the universal healthcare data exchange language. The AAFP also urged ONCHIT to focus more on clinical and data needs instead of technology.

12. MEDICAL LOSS RATIO REGULATION COMMENTS SUBMITTED

The AAFP sent the Department of Health & Human Services' Office of Consumer Information & Insurance Oversight a [letter](#) on Wednesday, January 19 regarding medical loss ratio requirements under the Affordable Care Act. In it, the AAFP [reiterated](#) the point that expenses that provide physician practices with actionable clinical data, with the goal of improving the quality of care, must be taken into consideration when calculating a health plans' medical loss ratio.

13. TRICARE YOUNG ADULT PROGRAM ANNOUNCED

TRICARE, the civilian health benefits program for military personnel, military retirees, and their dependents, [announced](#) on Friday, January 14, that premium-based TRICARE benefits are now available for military dependents up to age 26. The TRICARE Young Adult program is expected to be in place in later this spring.

14. FAMILY PHYSICIANS SHAPE STATE HEALTH POLICY

• OHIO FAMILY PHYSICIAN TO SERVE AS STATE'S HEALTH DIRECTOR

Newly elected Governor John Kasich (R) named a member of the **Ohio Academy of Family Physicians**, Theodore Wymyslo, MD, as Director of the state Department of Health. Dr. Wymyslo is director of Family Medicine Dayton and serves as chair of Ohio's Patient-Centered Medical Home Education Advisory Group. Dr. Wymyslo also was the recipient of OAFP's 2009 Torchlight Leadership Award for his commitment to transforming community practice and medical education to the PCMH model of care delivery. In his new position, Dr. Wymyslo will work with other departments, including the state's new Office of Health Transformation, to overhaul the state's \$15.4 billion Medicaid program — a key part of addressing Ohio's \$8 billion budget deficit.

- ALABAMA GOVERNOR APPOINTS FAMILY PHYSICIAN TO HEAD MEDICAID**
 Bob Mullins Jr., MD will serve as director of the Alabama Medicaid Agency in the administration of another newly elected Governor, Robert Bentley (R). In addition to being a member of the **Alabama Academy of Family Physicians**, Dr. Mullins was chairman of the rural and indigent care committee of the Medical Association of the State of Alabama (MASA) and president of MASA from 2004 to 2005. As Medicaid Director, Dr. Mullins aims to lighten the administrative load on health care providers, expand the number of people who are eligible for Medicaid and increase the program's emphasis on preventive medicine.
- TEXAS FAMILY PHYSICIANS REAPPOINTED TO P & T COMMITTEE**
 Just elected to a third term, Texas Governor Rick Perry (R) reappointed Mario R. Anzaldúa, MD and Guadalupe Zamora, MD—both of whom are members of the **Texas Academy of Family Physicians**—to the state's Pharmaceutical and Therapeutics Committee. The P&T Committee, created by 2003 legislation, develops recommendations for preferred drugs lists adopted by the Health and Human Services Commission, while considering the clinical efficacy, safety, cost-effectiveness and any program benefit associated with a drug product. The committee consists of six physicians and five pharmacists actively participating in the Medicaid program.

15. ARIZONA SEEKS WAIVER TO LIMIT MEDICAID ELIGIBILITY, BALANCE BUDGET

Arizona legislative committees endorsed Governor Jan Brewer's (R) plan to seek federal clearance to suspend Medicaid health care coverage for 280,000 low-income individuals to help balance the state budget. The committees voted along party lines after the opening of a special session called by the governor to consider her plan to seek a waiver. The committees' votes clear the way for the full House and Senate. The waiver concerns the *Affordable Care Act's* "maintenance of effort" requirement, which prohibits states from reducing Medicaid eligibility below early 2010 levels, and applies until the overhaul expands Medicaid coverage in 2014.