



Advocacy

ADVISORY

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HOT TOPICS FOR ADVOCACY IN THIS ISSUE

THIS ISSUE of the Advocacy Advisory will focus on topics of current interest within the 110th Congress – including an examination of the outlook for health care issues.

The **State Children's Health Insurance Program (SCHIP)** might be the most important piece of legislation to be addressed this year. SCHIP requires re-authorization during this congressional session. Unless Congress changes the budget baseline rules for SCHIP, funding will remain frozen at FY2007 levels for the long term. President Bush included a freeze in his proposed budget. Many states that were looking at increasing their coverage to more children are putting their programs on hold until additional funding is assured. In addition to the funding issue, many of the children who are eligible for coverage under SCHIP in many states did not get enrolled.

Congress has returned from its Memorial Day recess and is expected to begin working in earnest on developing legislation to reauthorize SCHIP and to prevent a scheduled 10 percent reduction in Medicare payments to physicians. The primary concern with regard to physician payment issue involves the annual effect of the Sustainable Growth Rate (SGR), with many on Capital Hill believing this must be dealt with in a long term manner rather than addressing the 5-6% deficits required under the SGR each year. Congress will likely consider Medicare legislation this year that includes at least \$35 billion in offsets over five years (on the low end), but the expected House version could contain offsets of more than \$80 billion, and a realistic expectation for a final House-Senate product is between \$50-65 billion.

The CHRISTUS position is consistent that federal health care dollars must be preserved in programs such as Medicare and Medicaid, as both of these programs these serve a vital function as part of the health care safety net for the uninsured and underserved population. Also under scrutiny at the federal level at this time are funding for stem cell research and right-to-life issues.

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SENATE RESUMES IMMIGRATION DEBATE

A dispute over how heavily to weigh family ties in future immigration is re-emerging as the Senate resumes debate this week over legislation giving legal status to millions of unlawful immigrants. Lawmakers, back from a weeklong break where the measure was a hot topic among their constituents, are under intense pressure to resolve lingering rifts over key elements and complete the bill. The White House is pushing hard for passage of the measure, which President Bush has championed, through the kind of public relations and private lobbying efforts usually reserved for top priorities. First, though, senators must maneuver through a minefield of partisan and intra-party disagreements.

Democrats are pressing to give family connections higher priority in the measure, which for the first time evaluates future arrivals more on education, skills and job experience than on blood ties. Republicans say that could interfere with the "grand bargain" that allowed a conservative-to-liberal alliance to cut the deal. Commerce Secretary Carlos Gutierrez warned that senators seeking changes to the measure should first ask themselves, "Will this make the bipartisan coalition crumble?" Staff aides to the group negotiated through the congressional break with an eye toward avoiding such potentially fatal challenges.

The agreement melds conservatives' top objectives — tougher border security and an immigration system based more on economic needs than family connections — and that of liberals — the legalization of an estimated 12 million unlawful immigrants. Key to the deal is an end to the practice of giving extended family members of U.S. citizens automatic preference for green cards — a major gripe of Republicans instrumental to the agreement, particularly Sen. Jon Kyl of Arizona. Instead, those who applied after May 1, 2005, would have to qualify through a new point system that rewards education, job qualifications and English proficiency but gives relatively little credit for family ties. Preferences for parents of U.S. citizens would also be strictly limited.

Several Democrats, led by Sen. Robert Menendez of New Jersey, are proposing allowing the old, family based rules to apply to hundreds of thousands of people already waiting in line for green cards. His effort has attracted the backing of three of the party's presidential hopefuls — Sens. Hillary Rodham Clinton of New York, Christopher Dodd of Connecticut, and Barack Obama of Illinois — and maverick GOP Sen. Chuck Hagel of Nebraska. Menendez wants to allow an estimated 833,000 who had applied for permanent legal status by the beginning of the year to get green cards based purely on their family connections. That would place them in line ahead of illegal immigrants, who would be eligible for legal status as long as they had been in the U.S. by the beginning of the year.

Administration officials defend the family limitations, and say it's practical to essentially send those who applied for legal status after May 2005 to the back of the line. "You have to draw a line somewhere," Homeland Security Secretary Michael Chertoff told reporters last week. May 2005 was when Sens. Edward M. Kennedy (D-MA) and John McCain (R-AZ) introduced an immigration overhaul that made it through the Senate last year only to die in the more conservative House. "That was the point at which the world was put on notice that everything is going to change," he said. Chertoff said green card applicants had already been told in 2004 that processing was on hold "for the foreseeable future." Still, some Republicans are squeamish about defending the cutoff date, since it gives illegal immigrants an advantage over those who followed the law. One, Sen. John Cornyn, a Texas Republican, has already said he would back Menendez's proposal.

One possibility, according to several officials close to the talks, is that Republicans would agree to loosen limits on family immigration if Democrats would agree to toughen a requirement that illegal immigrants seeking green cards go home before getting their chance at lawful status. The bill mandates that illegal immigrants pay fines and fees and pass background checks before gaining the right to live and work legally in the U.S., and that heads of households seeking permanent legal status return home and pay more money before doing so. Sen. Kay Bailey Hutchison (R-TX) wants to make all illegal immigrants return home before getting lawful status, regardless of whether they are seeking a green card. Democrats have considered requiring green card applicants to return home sooner, in exchange for the family related changes to the measure.

Source: The Associated Press, 6/4/07.

PRESIDENTIAL HOPEFULS OFFER MODEST REFORM PLANS

More Americans without insurance and higher costs have thrust the health care issue into the 2008 U.S. presidential campaign but candidates this time are far less ambitious with their plans than in the past. While analysts say the debate may increase the chance of modest reform, it likely will not address the deeper flaws that make the U.S. system more costly but less effective than those of most other industrial countries. The problems confronting the U.S. health care system have only worsened since the early 1990s, when President Bill Clinton and the Democratic-controlled Congress failed to pass a sweeping overhaul. Republicans then won control.

People who have health insurance have seen double-digit increases each year for much of the past decade. The average annual premium for an employer health plan for a family of four has risen to nearly \$11,500, according to the National Coalition on Health Care. In the meantime, the number of people without health insurance has grown to nearly 45 million, Census Bureau figures show. People without insurance spend roughly \$125 billion on health care annually, with about a third of that amount -- \$40 billion -- going unpaid, a debt largely covered by the government, according to a 2004 Kaiser Family Foundation study.

Two leading Democrats -- John Edwards and Barack Obama -- have offered health care reforms of varying degrees of detail. Both would leave current employer-based systems intact. They stress cutting costs, with measures including computerized medical records and preventive care. Both create buying pools to give purchasing power to people who must buy private insurance. Hillary Rodham Clinton, who as first lady led the failed health care reform effort more than a decade ago, has also proposed cost-saving measures but has not put out a comprehensive plan.

Health care seems to be a bigger issue for Democrats than Republicans. Although Republican Mitt Romney, the former governor of Massachusetts, authored broad health care reform in his state, he rarely goes into it on the campaign trail.

The Democrats' plans are basically compilations of fairly mainstream ideas, the analysts said. "None of them have the makings of a big government takeover that we saw coming out of the 1992 election," said David Kendall of the Progressive Policy Institute.

Democratic presidential candidates during the second debate of the campaign on Sunday June 3 took the opportunity to discuss health care, among other issues. The debate, which took place at St. Anselm College in New Hampshire, addressed a wide range of questions that also included the Iraq war, immigration and

terrorism. Although eight candidates participated, much of the focus was on the current frontrunners -- former Sen. John Edwards (N.C.) and Sens. Hillary Rodham Clinton (N.Y.) and Barack Obama (Ill.).

Source: Reuters News Service, the Associated Press, 6/3/07.

CMS UPDATE: PROPOSED MEDICARE RULE WOULD REDUCE SCHEDULED PAYMENT INCREASE

A Medicare rule proposed by CMS could potentially reduce a scheduled increase in hospital reimbursements. The rule -- which is under a comment period until June 12 and would go into effect in October if approved -- would increase the number of diagnosis-related groups from 538 to 745 to more accurately classify hospital care and provide higher reimbursements for treating sicker patients. Medicare reimbursements for hospitals are scheduled to increase an average of 3.3%, or \$3.28 billion, this year in accordance with the market-basket rate. However, the CMS rule includes a "behavioral offset" of 2.4%, which the agency says is necessary to compensate for anticipated higher average patient severity scores that will result from the updated DRG system. CMS in the proposed rule says, "More accurate and complete documentation and coding may occur because it will result in higher payments." Hospital associations say that the offset would reduce the average reimbursement increase from 3.3% to 0.9%. American Hospital Association Vice President for Policy Don May said the offset was "back-door budget slashing" and would cost hospitals \$2.4 billion.

Source: Kaiser Daily Health Policy Report, 6/4/07.

CONGRESSIONAL HEARINGS EXPECTED ON PRESCRIPTION DRUG SAFETY ISSUES

A House hearing on June 6 to examine the FDA's regulation of prescription drugs in the wake of recent safety concerns may highlight the growing internal dissension between officials who approve drugs and those who track the safety of approved drugs. Tension between the drug approval office and drug safety office has long been common, but in recent months it has erupted into sniping, particularly during an advisory committee hearing last month on Merck's arthritis drug Arcoxia. Meanwhile, behind the scenes, agency officials were battling over Avandia, which has been shown to significantly increase the risk of heart attack. Safety groups several months ago recommended that Avandia, manufactured by GlaxoSmithKline, receive a black-box label warning, but officials in FDA's drug review division opposed the label changes. Sen. Chuck Grassley (R-IA) and other lawmakers have noted the rift between the approval office and safety office and have recommended that the offices split and that the safety office hold greater sway. Grassley this month introduced an amendment that would implement such a split, but it failed by one vote. However, House staff members have said that the Avandia case breathed new life into Mr. Grassley's proposal because the House will soon debate changing the drug agency.

FDA Commissioner Andrew von Eschenbach in a briefing last Wednesday said the agency must work more closely with drug manufacturers, adding, "The point is that we need to look at the role of the FDA in being a bridge to the future, not a barrier to the future." Von Eschenbach said the agency also is working with others, including government agencies and independent scientists. In addition, he defended the agency's decision on Avandia, saying that FDA intended to warn people of the risks associated with drugs when such information becomes available but that the agency must ensure people do not overreact to uncertain safety concerns.

Source: The New York Times, 6/1/07.

HHS ALLOCATES GRANT FUNDS TO GULF COAST

Health and Human Services Secretary Mike Leavitt said last week the department will allocate \$195 million in a one-time round of grants to Gulf Coast health services. About \$100 million of the grant money will go to clinics that provide primary care to low-income and uninsured residents in an effort to reduce dependency on emergency departments and ensure residents receive basic care. Louisiana also will receive \$35 million to recruit medical staff including physicians, nurses, dentists and pharmacists, and \$26 million will go toward helping mental health centers and hospitals offset the rising cost of wages. In addition, Alabama and Mississippi will receive a combined \$34 million. Providers must apply -- mainly through the Partnership for Access to Healthcare, which has helped many neighborhood clinics secure grants after Hurricane Katrina struck -- to receive any of the funds. The New Orleans Health Department was the only agency that was specifically designated to receive \$4 million to expand primary care services to underserved areas. Leavitt emphasized that grants should be considered "as emergency funding," adding, "This needs to be used as a bridge to a permanent solution." Leavitt has said he supports a plan that would redirect funds used for Louisiana's Charity Hospital system to provide residents with annual incomes less than 200% of the federal poverty level with an insurance voucher. Residents would be able to use the voucher to receive care from the provider of their choice.

Source: Kaiser Daily Health Policy Report, 5/31/07.

Of Physician Interest

NEW AMA SURVEY FINDS MEDICARE CUTS WILL HURT SENIORS

Medicare patients' ability to get in and see the doctor will be severely hampered next year by a steep Medicare cut to physicians, according to a new survey released today by the American Medical Association (AMA). The survey, which jumpstarts a national campaign to stop next year's 10 percent cut, was completed by nearly 9,000 physicians, and their responses paint a bleak picture for the future of Medicare. "The AMA is deeply concerned by the alarming news that 60 percent of America's physicians will be forced to limit the number of new Medicare patients they will be able to care for next year when Medicare cuts physician payments," said AMA Board Chair Cecil B. Wilson, MD.

Congress' own advisory committee on Medicare, MedPAC, has recommended that Congress stop next year's 10 percent cut and update payments 1.7 percent, in line with practice cost increases. The AMA urges Congress to enact legislation now that will replace the looming cuts with Medicare payment updates based on practice costs. "Congressional action is the only remedy that will help assure seniors' access to doctors," said Dr. Wilson. "We ask America's seniors, and their loved ones, to join us in calling for legislation to help avert an access to care crisis for Medicare patients."

Next year's 10 percent cut is just the tip of the iceberg. Over nine years the cuts total about 40 percent, while the government estimates that the cost of caring for patients will increase 20 percent. Over the life of the cuts, 77 percent of physicians say they will be forced to limit the number of new Medicare patients they treat. "As physicians brace for nine years of steep payment cuts, it will be extremely difficult for them to continue accepting new Medicare patients into their practices," cautioned Dr. Wilson. "The baby boomers begin entering the program in 2010, and the Medicare cuts increase the likelihood that there may not be enough doctors to care for the huge influx of new Medicare patients." The AMA is helping Americans share their concerns about the Medicare cuts with a Web site www.patientsactionnetwork.org and phone number (888) 434-6200 that puts patients in touch with their senators and congressional representative.

This week, as Congress returns from its recess, the AMA is publishing a full-page ad in Capitol Hill papers to remind lawmakers of the urgent need for action. The AMA ad features a Medicare patient with high

blood pressure, cholesterol and blood sugar levels with the headline, "This patient thinks she's healthy. A doctor would tell her she's not. Too bad she may not have a doctor." Also this week, the AMA's "House Call" program hits the road, with physicians on the AMA Board of Trustees visiting local communities to raise awareness of the problem.

The impact of the cuts will reverberate beyond seniors who rely on Medicare. America's military families will also be hurt, as the military health insurance program, TRICARE, faces the same physician payment cuts as Medicare. In fact, all patients should be concerned about the Medicare cuts, as more than two-thirds of physicians tell the AMA they will defer purchases of information technology next year. Over the life of the cuts, about eight in 10 physicians report they will have to forgo this important purchase used to improve health care quality. Also troubling, more than half of physicians say they will reduce their practice staff, and 14 percent will completely get out of patient care when Medicare cuts hit next year.

"Physicians are working hard to improve quality of care for patients, but this short-sighted government payment policy makes it difficult to purchase new technologies used to help improve care," said Dr. Wilson. "Congress needs to take a long, hard look at how Medicare cuts affect seniors who rely on the program for health care, and all patients who rightfully expect high quality care."

Source: American Medical Association, 6/4/07.

Of Regional Interest

LOUISIANA

Session at Halfway Point. At the halfway mark in the Louisiana Legislature's session that ends June 28, there are only five pieces of legislation that have made it through the process. Yet, there is still much going on behind the scenes. While at first glance it might appear that half the time has gone with very little to show for it, many political observers believe that this follows the usual pattern – the Louisiana Legislature historically seems to build momentum slowly. Indeed, there are hundreds of bills that are evolving. Below is a general overview of some of the main issues lawmakers are addressing at this point:

- **BUDGET:** The House approved the \$29.2 billion state budget (\$29.6 billion if \$400 million in federal matching funds materializes) and sent it on to the Senate. The budget includes more than \$8 billion in federal hurricane relief funds. The budget, covering state general spending for the fiscal year that begins July 1, is some \$875 million more than the current year's. Still undesignated is an expected \$500 million in income that cannot be spent because of the restriction that ties the annual growth in state spending to the growth in the private economy. The budget includes annual raises of \$2,400 minimum for teachers, \$1,500 for state employees, \$750 for school support workers, and the equivalent of 5 percent for college faculty.
- **CAPITAL OUTLAY:** The House approved the capital outlay budget, but Republicans were able to block passage of the bonded debt authorization act that funds most of it. It's generally believed to be a political move to force Gov. Kathleen Blanco and the Democratic majority to the bargaining table on the budget. Republicans wanted to cut spending to make room for \$250 million more in tax cuts that the governor's proposed \$150 million.
- **COASTAL PLAN:** One measure that has made it completely through the process is the Legislature's approval of the Coastal Protection and Restoration Authority's outline for coastal restoration and hurricane protection.
- **INSURANCE:** The House is currently considering two competing bills eliminating the Insurance Rating Commission. The Senate-passed version eliminates the commission and is up before the House Insurance Committee. The committee has already approved and sent to the full House another version that creates a consumer advocate position for insurance issues. The House has sent to the Senate a bill that grants cash incentives for companies to write new policies in the state. The Citizens Property Insurance Corp., the state's insurer of last resort who can't get private insurance, would go private itself, under a Senate-passed

bill before the House. The House has approved a bill "bundling" good and bad risk policies held by Citizens and offering them to private companies.

- **I-49 FUNDING:** Two House-passed bills clarifying how state money from the unclaimed property fund can be used to finance I-49 north and south are awaiting Senate action.
- **BUILDING CODE:** The House has approved a revision in the new building code to ease the inspection requirements for rural areas. The Senate is expected to revise the bill.
- **SALES TAX HOLIDAY:** Both the House and Senate have passed versions of the bill to eliminate state sales taxes for back-to-school purchases during the first week in August. Gov. Kathleen Blanco supports the House version by Rep. Taylor Townsend, D-Natchitoches, that would declare the holiday for the first Thursday through Monday of August, up to a cap of \$2,500. The Senate version authorized the holiday for the first week in August. Legislators want to add a Christmas shopping tax holiday.
- **TAX CUTS:** The House and Senate have rival plans for cutting income taxes to those who itemize, only about 20 percent of tax filers who tend to be middle- and upper-income. The House version gives one in five taxpayers a total of about \$70 million, while senators voted to give these taxpayers back \$157 million. In the meantime, a proposal by Sen. Lydia Jackson, D-Shreveport, to be considered Monday would give 100 percent of refunds to those taxpayers who are below the official poverty line, which varies by the size of the family. The House and Senate also have rival versions of Gov. Kathleen Blanco's proposed \$100-a-child extra tax credit for those tax filers with minor children as well as proposals to cut business utility taxes.
- **ETHICS:** The House has passed the "glass pockets" bill that requires legislators to reveal sources of their income, and that of their spouses. Opponents tacked on amendments making it applicable to all local elected officials, too. The bills are headed for a Senate committee that is normally a graveyard for such reform legislation.
- **ABORTION:** A bill banning late-term abortions, called "partial birth abortions" has cleared the House and is awaiting Senate action. It tracks the recent 5-4 U.S. Supreme Court holding such laws constitutional.

TEXAS

Regular Legislative Session Comes to a Close. Some of the highlights and notable issues of the 2007 Texas legislature included:

- a proposed constitutional amendment allowing the state to borrow up to \$3 billion to fund cancer research;
- a measure that blocked state officials from enforcing Gov. Rick Perry's order requiring the administration of the HPV vaccine to Texas schoolgirls;
- the Texas budget which set out \$153 billion in a two year spending plan, including funding for SCHIP – with changes in the enrollment rules for the program to allow more children to be added;
- More resources and funds directed to border security with Mexico;

It was a session that saw much political maneuvering and high intensity hearings with the session beginning with a stare-down between the governor and legislators who sought to block the mandatory HPV vaccine. The session focused intensely on the Children's Health Insurance Program and in the end, lawmakers approved \$90 million to add more than 120,000 children to SCHIP and also set aside more than \$700 million to improve access to health care for Medicaid patients.

Source: Associated Press, 5/31/07.

OKLAHOMA

Governor to Sign "All Kids Bill." The Oklahoma legislature voted to augment Medicaid funding to increase health coverage for children. Gov. Henry has praised lawmakers for approving the measure, which the Governor pushed for in his State of the State address earlier this year. "For too many Oklahoma families without health insurance, their only recourse for a healthcare plan is to hope and pray that their children don't get sick," the Governor said. "We have a moral responsibility to our youngest, most vulnerable citizens to give them the opportunities provided by adequate and accessible healthcare." By increasing Medicaid eligibility for children from 185 percent of the poverty level to 300 percent -- the maximum allowed by federal restrictions -- the state's Medicaid program would be able to provide coverage for as many as 42,000 additional children.

Source: The Associated Press, 6/4/07.

Oklahoma Facing Nursing Shortage. State health officials say Oklahoma is facing a chronic healthcare crisis, a shortage of registered nurses, and while the state is offering help paying for nursing education, there's a problem there too. The state says it has a shortage of people to teach. In response to the shortage of nursing faculty, the Oklahoma State Regents for Higher Education has designated \$200,000 annually to provide scholarships to Masters of Science Nursing students who indicate that they wish to teach Nursing in an Oklahoma postsecondary institution. Priority has been given to students who currently work at Oklahoma colleges, but who have yet to complete their MSN. In addition, the OU School of Nursing is the only "state-funded" school that provides a Master of Science degree (which is required to teach nursing students) and it is provided online. In addition to the earmarked funding from the state Regents last year, OU School of Nursing received a very large grant this year from an anonymous donor specifically for MSN development in order to grow more nursing faculty in the state.

Source: Associated Press, 5/30/07.

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