



November 17, 2005

CRD ASSOCIATES HEALTH POLICY UPDATE

Pardon our bluntness, but it has finally hit the fan! After twelve years of fending off a barrage of efforts to de-fund and/or weaken the Labor-HHS-Education appropriations bill, the Majority has succeeded in putting a significant dent in the funding levels for many key health-related programs that inure to the public's benefit.

As this edition of Health Policy Update is going to press, the entire Washington health care advocacy community is launching a major effort aimed at defeating the very legislation that in the past has been the life-blood of medical research, disease prevention and control, and health professions training. The reason for taking such drastic action: The funding levels proposed in the legislation will deal a devastating blow to the health and well-being of society, and cannot be allowed to go unchallenged.

Budget and Appropriations Update

Actually, health programs are threatened on two fronts. First, so-called budget reconciliation legislation now working its way through Congress carries reductions in safety-net entitlement programs like food stamps and Medicaid. On a parallel track, Congress is set to vote on the Labor-HHS-Education appropriations bill for fiscal year 2006, which proposes to take these programs *\$1.4 billion* below current funding levels.

On the Senate side, senators have approved a reconciliation bill that cuts \$35 billion from entitlement spending, in compliance with a spending blueprint Congress adopted in April. The House, however, has upped the stakes by attempting to cut nearly \$54 billion, primarily from programs intended for the poor. The higher cut in the House bill is the result of a push by House conservatives to offset the costs of disaster relief for the Gulf Coast. It is important to note, however, that moderate Republicans, particularly those in vulnerable congressional districts, have balked. In an effort to win over enough votes to pass the measure, the House leadership continues to "tweak" the bill by adding or dropping provisions aimed at securing the 218 votes needed to pass the measure. That point has not yet been reached.

On the discretionary side of the budget—that portion over which Congress has the most control—the budget resolution imposes a bottom-line spending freeze of \$404 billion on non-defense programs. Nowhere has that squeeze more apparent than in the House-

Senate compromise reached November 16 over the Labor-HHS-Education appropriations bill.

Overall, the legislation slashes \$780 million from No Child Left Behind education programs, \$249 million from CDC, \$22 million from maternal and child health programs, and includes virtually no funding for new community health centers. Among the issues of special interest to SGIM-

- The conference agreement devastates Title VII health professions training programs. Although it fared better than most, the Primary Care Medicine and Dentistry Training program is slashed by 68 percent, from \$89 million down to \$28 million. HETCs, geriatric, rural training, workforce information and analysis and the health administration programs are all *eliminated*. The Health Careers Opportunity Program is slashed from \$36 million to \$4 million, and Area Health Education Centers are cut from \$29 million down to \$2 million.
- The legislation would fund the National Institutes of Health at \$28.5 billion, an increase of \$253 million, or less than one percent over FY2005 funding, the smallest increase for that agency in three decades. With the rate of biomedical research inflation running at more than 3.5 percent, this represents a real reduction in the number of R-01s and other grant mechanisms that can be funded in FY06.
- The Agency for Healthcare Research and Quality (AHRQ) was held to \$318.7 million again this year, wiping out an increase of \$5.0 million over last year and over the President's request that had been included in the Senate bill.

Medicare Physician Payments; Pay for Performance

The chances of a physician payment fix are tenuous, at best. The budget reconciliation bill discussed earlier would be the logical vehicle for reversing the planned 4.4 percent payment cut scheduled to take effect January 1, 2006. But that legislation is still hung up in Congress. The House version of the budget bill makes no mention of physician payments, but the Senate bill would replace the planned cut with a one-year *increase* of one percent in 2006.

On the issue of pay-for-performance, the Senate-passed bill calls for a two-part phase-in. In 2006 and 2007 physicians would be asked to report on quality measures. Those who do not would be subject to a two percent penalty against payments. Beginning in 2008, the conversion factor would be cut by one percent in order to create a pool of funds that would be distributed to those physicians who meet the thresholds of quality performance, as determined by the Centers for Medicare and Medicaid Services (CMS), working in consultation with medical specialties.

In the meantime, CMS has begun to move on its own to craft a "demonstration project" that would create a voluntary P4P system using very simple and generic measures of quality supplied by specialties. The un-validated measures would serve as a yardstick for CMS to begin to encourage physicians to think in new terms. SGIM, working with ACP

and other organizations, is deeply involved in this topic to assure that any new standards that are developed do not work to the detriment of general internal medicine.

The Health Policy Committee is continuing to follow this issue, which could ultimately determine the means of physician reimbursement for the next 15-20 years and will keep the membership advised on important developments, including asking for members to contact their representatives in Congress at appropriate times. Please respond affirmatively and quickly when those requests are made.

NIH Reauthorization

As Congress winds up its work for the year, it appears that any efforts to restructure and reauthorize NIH will have to wait until 2006.

Jurisdiction over NIH rests with the House Energy and Commerce Committee and the Senate Health, Education, Labor and Pensions Committee. Thus far, the Senate has shown no interest in reauthorizing NIH, but the former has been aggressively pursuing the development of legislation. In late August, House staff released a second draft of the measure, one that shifts even more power to the NIH director.

For example, the NIH Director currently is authorized to transfer up to one percent of appropriated funds to meet unanticipated research needs. The draft legislation suggests that the statutory limit will be increased, perhaps as high as three percent. The draft also proposes establishing a so-called "common fund" to support trans-NIH research activities. The fund would be financed at the beginning of each fiscal year by setting aside a pre-determined (but as yet undetermined) percentage of overall NIH funding.

Given that Congress is likely to have its hands full responding to demands for social services and rebuilding efforts in the Gulf Coast region, it is difficult to envision Congress taking time to debate an NIH reauthorization bill anytime soon. Nevertheless, there may be some opportunities to increase the volume of health services research funded by NIH through this legislation and SGIM is closely following the activities related to the bill to attempt to create benefits for its members from those opportunities.

The information concerning the other issues that has been included in past reports is reproduced below and remains current, as of the time of this writing.

NIH Public Access Policy

NIH's much-lauded and much-criticized public access policy went into effect May 2, as pointed questions about its voluntary nature and long-term effects on the peer review system remain difficult to address. The agency announced its final public access policy Feb. 2 amid a flurry of criticisms that the rule is unenforceable and may violate copyright laws.

The House Labor-HHS-Education appropriations bill contained a paragraph of report language endorsing public access to NIH research results, but suggesting that the adopted policy may fall short. It requests a report from NIH by next year containing information to show the impact of the policy. It also directs NIH to create an education program to inform researchers about the new policy.

The comparable Senate bill has a less warm paragraph discussing the policy. It also calls for a report from the NIH to the Committee and includes in the report information on the cost of implementing the policy, something the House pointedly does not ask for.

Title VII Reauthorization Update

While we remain focused on obtaining funding for the Title VII health professions programs, there is a separate and equally important process occurring to reauthorize the underlying statute that governs these programs. Responsibility for reauthorization rests with the Senate Health, Education, Labor and Pensions (HELP) Committee and the House Energy and Commerce Committee.

Both committees seem poised to advance reauthorization bills this year, however the press of other legislative business could stall that process. Nevertheless, we recommend that SGIM play a more active role to ensure that relevant health professions programs are extended in a meaningful way. In line with that, we suggest that Title VII reauthorization be featured prominently during SGIM's Capitol Hill Day visits.

Genetic Nondiscrimination Legislation Update

Legislation to outlaw genetic discrimination in health insurance and employment passed the Senate on February 17, 2005, by a vote of 98 – 0. The measure, which was sponsored by Senator Olympia Snowe (R-ME), is identical to legislation that passed last year, but died when Congress adjourned.

A companion measure, H.R. 1227, has been introduced in the House by Representative Judy Biggert (R-IL). However, because the legislation has been referred to three different committees—Education and the Workforce, Energy and Commerce, and Ways and Means—action is not likely to occur anytime soon. The House, in fact, has shown decidedly less enthusiasm for the bill than the Senate, with the GOP leadership essentially following the insurance industry's mantra that they do not discriminate, will never discriminate and do not want to be told that they can not discriminate.

The Bush administration has issued a Statement of Administration Policy (SAP) endorsing the bill. However, it has not taken any overt steps to pressure the House to move the bill.

CMS Five-Year Review

Medicare statute requires that the Centers for Medicare and Medicaid Services (CMS) review the values it assigns to Current Procedural Terminology (CPT) codes on the

physician fee schedule at least every five years. To do this, CMS works closely with the AMA's Specialty Society Relative Value Update Committee (RUC) and specialty societies to revalue codes. The RUC is comprised of 28 members, including 23 representatives of major specialty societies. The remaining members represent the AMA, the American Osteopathic Association, a representative from the non-physician Health Care Professionals Advisory Committee, and the CPT Editorial Panel. The work of the RUC is supported by the RUC Advisory Committee, which is made up of representatives of 65 specialty societies in the AMA's House of Delegates.

The timeline for this, the third five-year review process is as follows:

May 2005	Begin completing online surveys
July 2005	Due date for completing surveys
August 2005	Specialties present work RU recommendations to the RUC
October 2005	RUC sends recommendations to CMS
November 2005	CMS publishes final rule on five-year review
January 1, 2007	New work RVUs go into effect