THE CRD ASSOCIATES'

HEALTH POLICY REPORT

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"Deal or No Deal?"

Congress's work on the 12 annual appropriations bills ground to a halt in July, when House lawmakers became embroiled in a contentious battle over the confederate flag.

The controversy erupted during House debate over the Interior Department appropriations bill. In response to the deadly shootings at a historically black church in Charleston, South Carolina, lawmakers voted to bar the display of the

confederate flag in federal cemeteries. Following those votes, an amendment was offered by Interior appropriations subcommittee chairman Ken Calvert (R-CA) which Democrats believed nullified the earlier amendments.

Rather than risk a series of politically embarrassing votes on the subject, House Speaker Boehner halted debate on the Interior spending bill, and said there would be no further action on appropriations bills…at least for now.

With Congress departing for a month-long summer recess, that leaves lawmakers with only a few legislative workdays in September—not enough time to vote on the 12 spending bills necessary to keep the government operating. Instead, Congress will have to pass a continuing resolution, or CR, providing the stopgap funding necessary to avoid a government shutdown.

That sets the stage later this year for Washington's version of "Deal or No Deal," as congressional lawmakers and the president try again to come up with a sweeping budget agreement.

In recent months, lawmakers on both sides of the aisle have voiced frustration with tight spending caps that are taking their toll on both defense and social programs. And as it happens, year's end is also when Congress will have to vote on raising the government's nearly exhausted borrowing ceiling, a highway funding measure and a tax break extension—just as the primary election season and presidential campaigns are heating up.

21st Century Cures Advances in the House; Boosts NIH Funding

In early July, the House overwhelmingly passed the 21st Century Cures Act (HR 6) by a vote of 344-77. The bipartisan legislation, aimed at streamlining the way drugs and medical devices are approved and regulated, would authorize the Appropriations committees to increase NIH funding by as much as $1.5 billion a year for each of the next three fiscal years. In addition, the bill would establish a so-called "Innovation Fund" that provides an automatic appropriation to NIH of $1.75 billion annually for each of the next 5 years, for a total of $8.75 billion.

During the House debate, the bill's sponsors managed to shoot down amendments that would have made the funding hikes for NIH and FDA discretionary (rather than mandatory) and would have stripped language that

subjects the funding to appropriations policy riders. But lawmakers passed five other measures, including amendments expressing a sense of Congress that unique device identifiers should be recorded in electronic health records; language directing the Centers for Disease Control and Prevention to conduct a study on how the bill's added Medicare payments for antimicrobials affects the development of drug resistance; and a provision giving NIH authority to incentivize health innovation by offering competitors the chance to win a prize for creating breakthrough research and technology.

Other provisions contained in the bill call for the standardization of criteria for clinical trials and encourage the use of master protocols to speed drug development.

House lawmakers, led by Energy and Commerce Committee Chairman Fred Upton (R-MI) are urging their Senate counterparts to debate and pass the 21st Century Cures bill this fall. But Senate HELP Committee Chairman Lamar Alexander (R-TN) and senior Democrat Parry Murray (D-WA) are not expected to release their version of the measure until September or later. Both say they are focused for the time being on completing work on an update of elementary and secondary education legislation, followed by a college student aid bill.

Alexander said he expects the HELP Committee to finish its work on the health innovation measure between Thanksgiving and the end of the year, with the bill likely going to the Senate floor at the beginning of 2016.

NIH Funding: The Goldilocks Dilemma

Goldilocks had a porridge problem: it was either too hot or too cold, while she searched for one that was “just right.” Similarly, NIH has a funding problem. In the House Appropriations Committee, there is an effort to increase funding by $1.1 billion. In the Senate, their comparable committee would add $2.0 billion. But, without a budget deal, there is likely to be no increase if NIH is funded by a continuing resolution.

In the House Energy and Commerce Committee, the 21st Century Cures Initiative would create a 5 year, $8.75 billion Innovation Fund for NIH and it would be mandatory funding. In the Senate Health, Education, Labor and Pensions

Committee, which has not yet written a comparable bill, the Chairman has indicated that he is not a big fan of this provision and that he is not inclined to include increases for NIH in his bill.

So, in one bill, the House is hot but the Senate is hotter. In the other bill, the House is hot and the Senate is ice cold. The dilemma for the fall is how do we get to "just right" in this era of mistrust and distrust not only between the parties but *within* the parties as well.

A serious negotiation among the President, and the congressional leadership of both parties is needed – and needed soon. Without it, research funding is likely to end up to cold to make serious progress.

AHRQ: The Funding Fight Continues

SGIM remains in the thick of the fight over funding for AHRQ. Later this week, the leadership of the Society is scheduled to talk with Dr. Karen DeSalvo, who is the Assistant Secretary for Health at the Department of Health and Human Services – and an SGIM member.

As we reported last month, the House has eliminated funding for AHRQ and the Senate has cut the appropriated amount by 35 percent and the total budget by about 25 percent. (AHRQ also receives statutory funding transfers from the PCOR Trust Fund.)

The goal of the discussion will be to determine the depth of support for AHRQ in the department and assure that our messages are not at cross purposes with regard to the critical importance of this agency in improving the health system in the future.

SGIM has a long history of fighting for increases in AHRQ funding and for advocating for more attention to investigator-initiated research being supported by AHRQ. In this case, however, we need to win the former before we can even begin to think about the latter.

CMS Proposed Physician Fee Schedule Rule Addresses E&M Coding

SGIM's efforts to have CMS address E&M coding are paying off. In the proposed CY 2016 Physician Fee Schedule proposed rule, the agency proposes the creation of add-on codes that would be billed in conjunction with existing E&M codes to reimburse physicians for work that is currently uncompensated. CMS is seeking feedback on the proposal and is planning to implement changes in 2017.

Besides the creation of add-on codes, the proposal includes other provision beneficial to the practice of primary care. CMS is exploring the establishment of a separate payment for collaborative care and has requested feedback on the conditions under which it would be appropriate to make separate payments for these services. The agency is also interested in developing collaborative care models for beneficiaries with behavioral health conditions. Also, CMS has requested feedback on how to improve the chronic care management (CCM) and transitional care management (TCM) services. CMS has proposed paying for advance care planning services and has solicited feedback on when it is appropriate to pay for these services.

SGIM will be submitting comments to CMS on these issues as well as other provisions of the proposed rule. These comments are due in early September.

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