



Cavarocchi-Ruscio-Dennis Associates

Health Policy Report

November 30, 2010

- **CONGRESS LIMPS INTO THE “LAME DUCK” POST-ELECTION SESSION**
- **FUNDING AND TAX ISSUES TO DOMINATE**
 - **THE 112TH CONGRESS PREPARES TO CONVENE WITH A VERY DIFFERENT LOOK**

Overview

Congress returned to Washington DC on November 15 after an election that saw control of the House of Representatives switching to the Republicans; the Democrats retaining control in the Senate, albeit by a smaller margin; and the President facing a very different landscape in the next two years than he has in the last two.

While the new Congress will not be sworn in until early January, its impact is already being felt. Earlier this week, the President announced a two-year pay freeze for all federal employees in an effort to “one-up” the Republicans. This will play into the final resolution of the FY11 spending bills.

Currently, the Senate Appropriations Chair, Daniel Inouye of Hawaii, is seeking to craft an omnibus bill that will include all 12 appropriations bills in a single piece of legislation. If he can get that passed in the Senate, the House will take it up, likely pass it, and the President would likely sign it.

If he cannot get the votes for the bill, we expect to see Congress continue funding the government at FY10 levels, either until February (as the

Republicans would like) or through the entire fiscal year (as the Democrats and the White House prefer).

The fundamental difference between the two positions is that the budget increases we were able to achieve in the FY11 appropriations process will be lost if the result of the process is a year-long Continuing Resolution.

Coming back to the election, with the results almost final, we now know that the House will have 242 Republicans and 192 Democrats (one district is still undecided with the Democrat currently ahead by 15 votes out of about 200,000!). The Senate will have 53 Democrats and 47 Republicans, down from 59 Democrats before the election.

Education Subcommittee Issues

While SGIM awaits action on the FY2011 spending bills, the Education Subcommittee continues to closely monitor implementation of the new health reform law, the Affordable Care Act (ACA).

On November 30, 2010, the Health Resources and Services Administration announced the availability of \$230 million to implement a new Teaching Health Center Graduate Medical Education program.

The funding, made available by the Affordable Care Act, will support community-based training in ambulatory primary care settings, including health centers. According to HRSA, payments will be made for direct and indirect expenses to qualified teaching health centers that are listed as sponsoring institutions by the relevant accrediting body for expansion of existing, or establishing of new approved, graduate medical residency training programs.

Applications for funding are due December 30.

If you have an interest in health professions education and training issues, please contact Dr. Angela Jackson, whose contact information is at the end of this report.

Research Subcommittee Issues

The Research Subcommittee continues to work hard on funding and the advancement of research issues at the National Institutes of Health (NIH), the Department of Veterans Affairs (DVA), and the Agency for Healthcare

Research and Quality (AHRQ), and others. A quick review of the status of programs within the subcommittee's jurisdiction is in order.

Starting with the National Institutes of Health, both the House and Senate are recommending \$32.3 billion for FY11, the same level as recommended by the President in his budget submission to Congress. This 3.2 percent increase will cover the rate of biomedical inflation, but allow for no growth in NIH.

Within the NIH budget, the Senate included a \$50 million line item for the Cures Acceleration Network (CAN), which was authorized in the Affordable Care Act. The summary of the House bill says that it is making available "up to \$50 million" but they have yet to release the precise language of their bill, continuing to make it difficult to ascertain if the provisions are identical. This bill remains "stuck" in the appropriations morass described in the beginning section of this Report.

Both the House bill (which has passed) and the Senate bill (which is out of committee) recommends \$590 million for VA medical research, a \$10 million increase over the current year and equal to the President's recommended level of funding. The Research Subcommittee is continuing its work to identify the specific amount of this money that is being allocated to health services research.

Both the House and Senate subcommittees took significant cuts in the President's recommended levels for AHRQ. You may recall from earlier updates that the President recommended bringing AHRQ's funding level from \$397 million in the current year to \$611 million, with a significant increase for CER. Based on the subsequent passage of the Affordable Care Act and the creation of PCORI, the House cut \$200 million from the recommended level and the Senate cut \$214 million.

As you can see, there is no shortage of issues before the subcommittee and there is a constant need for additional assistance.

If you have an interest in research issues, please contact Dr. Ira Wilson, whose contact information is at the end of this report.

Clinical Practice Subcommittee Issues

The Center for Medicare and Medicaid Services (CMS) released its final CY 2011 Physician Fee Schedule Rule. SGIM had submitted comments to the proposed rule in August, and CMS made changes to the primary care bonus payment supported by SGIM. To qualify, primary care providers as defined

by the ACA must provide 60 percent of their physician fee schedule charges from a list of E&M codes; this was changed from CMS' original proposal to determine if the 60 percent threshold was met by looking at a provider's Part B charges. The two-year look back period for new providers to qualify for the bonus was also shortened. The final rule also implemented the new Annual Wellness Visit and the requirement to look at misvalued codes, both ACA provisions.

CMS officially launched the Center for Medicare and Medicaid Innovation (CMMI), which was authorized in the ACA. With \$10 billion in funding over 10 years, the Center, to be head by Dr. Richard Gilfillan, will identify, support and evaluate models of care to improve quality and lower costs. The first projects on its agenda will be testing the "health home" and "medical home" concepts.

Congress passed a 30 day sustainable growth rate (SGR) fix in advance of the 23 percent cut scheduled for December 1. Physicians will now receive a 2.2 percent update for the remainder of the year. Before the lame duck session ends, Congress is aiming to pass a full year fix to prevent further payment instability in 2011. A 12 month fix is estimated to cost \$16 billion, and negotiations are ongoing on how to offset this cost.

If you have an interest in clinical practice issues, please contact Dr. Scott Joy, whose contact information is at the end of this report.

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