AAFP
STRONG MEDICINE FOR AMERICA

GOVERNMENT AFFAIRS WEEKLY

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1. HOUSE COMMITTEES ACT ON HEALTH INFORMATION TECHNOLOGY

Congressional activity on health information technology moved along at a rapid clip this week as the House Energy and Commerce Committee passed the *Protecting Records, Optimizing Treatment, and Easing Communication through Healthcare Technology PRO(TECH)T Act* (HR 6357), by voice vote, and the House Ways and Means Subcommittee on Health held a hearing on the issue prior to introduction of legislation next week.

Energy and Commerce Committee

HR 6357 would encourage providers to adopt health information technology. It would provide grants and loans to health care providers if they included a strategic plan with their application for the grant or loan and describe how they would match $1 for each $3 of federal funds. The bill includes a preference for small health care providers and those who are located in rural and frontier areas. In a nod to small and solo practices, committee staff has said the required strategic plan will be minimal. As in the initial hearing and subsequent markup in subcommittee, most of the attention was focused on privacy issues for patients and the final legislation made changes to these sections.

Ways and Means Committee

In the Ways and Means Subcommittee on Health hearing, Chairman Pete Stark (D-CA) indicated that his panel would change the Energy and Commerce Committee's bill prior to consideration by the House of Representatives. While Rep. Stark supports the incentives given to providers, he also recommended penalties for those who do not adopt HIT. He wondered whether the $560 million included in HR 6357 was a sufficient incentive for providers.

The hearing's primary witness, Peter Orszag, Director of the Congressional Budget Office, repeated his comment that HIT adoption will not be successful without penalties and stated that HIT is "necessary but not sufficient" for increased quality and efficiency in health care. Yul Ejnes, MD, stressed the significant cost to practices (averaging $44,000 initially and $8,500 annually), the importance of the medical home and recommended an add-on code to Medicare visits that included HIT.

When questioned, CBO Director Orszag stated that solo practitioners would require massive subsidies to purchase HIT. He agreed with Rep. Xavier Becerra's (D-CA) suggestion that HIT

requirements be added to the Medicaid and SCHIP programs; and in theory, he supported Rep. Rahm Emanuel's (D-IL) comment that federal assets, e.g., radio spectrum, be sold to provide funding.

2. HHS HALTS REVISED PHYSICIAN SCARCITY RULES IN FACE OF HARSH CRITICISM

On July 23, after an extended comment period, the Department of Health and Human Services (HHS) withdrew a proposed rule on the designation of Medically Underserved Areas and Populations (MUA/P) and Health Professional Shortage Areas (HPSA). AAFP and several chapters called for withdrawal of the proposed rule utilizing information provided by the Robert Graham Center. A preliminary review of the comments on the proposed rule prompted HHS to acknowledge that Health Resources and Services Administration (HRSA) would need to make changes.

3. RURAL HEALTH SUBJECT OF HOUSE AGRICULTURE COMMITTEE HEARING

The House Agriculture Subcommittee on Specialty Crops, Rural Development and Foreign Agriculture, held a hearing on July 23 on health care needs in rural areas. Rep. Mike McIntyre (D-NC) who chaired the hearing, is a former co-chair of the Rural Health Care Coalition. He pointed out that while 25 percent of the U.S. population lives in rural areas only 10 percent of physicians practice there. He posed questions primarily focused on construction funding for rural health facilities. Rep. McIntyre also inquired about health disparities in rural areas.

The Subcommittee's senior Republican, Rep. Robin Hayes (R-NC), pointed to the physical and financial challenges of obtaining health care in rural areas and called on the federal government to help improve access to care. Rep. Hayes asked how the administration determines the success of rural health programs.

Witnesses testified about the state of rural health care and the challenges associated with providing adequate care in rural areas.

Rep. John Salazar (D-CO) repeatedly pointed out that the most serious challenge to rural health care was attracting and retaining doctors. Rep. Jim Costa (D-CA) was concerned that the proposed HPSA rules change would de-designate 14 health care facilities in his district. Rep. Adrian Smith (R-NE) said that he finds rural doctors more "open-minded" than their urban colleagues about mid-level practitioners seeing them as more of an enhancement than a threat. Rep. Bob Goodlatte (R-VA) commended the University of Virginia's telehealth program and was advised that it would be even better if Medicare would adequately pay for the service.

4. AMA PAPER CALLS FOR MORE FLEXIBLE ANTITRUST ENFORCEMENT POLICY

The AMA prepared a white paper on antitrust enforcement to serve as the foundation for antitrust advocacy efforts moving forward with the agencies, Congress, and the new Administration. The paper was submitted to the Federal Trade Commission, which posted it under the Clinical Integration Workshop materials section at http://www.ftc.gov/bc/healthcare/checkup/pdf/AMAComments.pdf.

The AMA white paper calls on the federal antitrust agencies to recognize that payers now take a more active role in regulating the price and volume of physician services, effectively limiting physician autonomy. Further, professional, market and regulatory developments are encouraging physicians' collaboration in areas such as health information technology. AAFP staff will be participating in next week's AMA Antitrust Steering Committee meeting.

5. INCREASING MEDICAID FMAP IS PROPOSED

On Wednesday, July 23, the House Energy and Commerce Health Subcommittee held a hearing on *State Fiscal Relief: Protecting Health Coverage in an Economic Downturn*. The hearing originally was billed as the subject of H.R. 5268, a measure to provide for a temporary increase of Medicaid's federal medical assistance percentage (FMAP). Most of the witnesses spoke to the need to assist states struggling with budget shortfalls. Republican members of the Subcommittee, as in the past, said there is a need to deal with Medicaid fraud issues.

On Tuesday July 22, the Energy and Commerce Committee held a hearing which highlighted how a temporary increase in the FMAP would help the economy. While it is unlikely that a stimulus bill that includes an FMAP increase will reach the floor in either the House or Senate before September, leadership in both chambers has shown a commitment to continuing conversations about this in September.

6. FamMedPAC REACHES FOR $700,000

Since January 2007, FamMedPAC has collected $669,457 from 2275 AAFP members. For 2008, donations to the PAC total $310,218. The average donation since January 2007 is $294. The direct marketing program sent e-mails to over 25,000 AAFP members this week, and letters and phone calls will follow next week. The marketing firm also is sending a special mailing to those members who gave in 2007 but have not yet contributed in 2008. FamMedPAC has contributed $567,000 to candidates thus far in the 2007-2008 election cycle.

Government Relations staff attended a healthcare event this week for **Sen. Harry Reid (D-NV),** the Majority Leader of the Senate. Sen. Reid described the process of getting the Senate to approve the Medicare bill and noted that it was absolutely correct that it couldn't have happened unless Sen. Kennedy had gotten out of his sick bed, against the advice of his physicians, to cast the 60th vote.

Sen. Reid commended the physician community for an excellent effort to bring their concerns to the attention of some Senators who had not been "paying attention" to their physician constituents.

He said that he has advised the Obama campaign that health reform next year should be approached incrementally. He thought handling the children's health insurance issue first would make the most sense. Then, he thought physician payment reform in Medicare should be next. He also mentioned the value of having the payment system support primary care better. But he cautioned against planning for wholesale reforms, no matter how much the system is perceived to be broken. He noted that however many seats the Democrats pick up in November, it will still require bipartisan agreement to move anything significant through the Senate.

Government Relations staff attended a healthcare lunch for **Rep. John Larson (D-CT),** a member of the House Ways and Means Committee as well as the House leadership team. The Representative took credit on behalf of the Democratic leadership for passing HR 6331 and keeping the pressure on the Senate. He suggested that next year amidst the problems that the next Congress and the new president will inherit, health care will be a priority. He urged the physician community to be active and demonstrate leadership in solving Medicare problems. He said physicians need to acknowledge that patients and others respect and look to them for suggestions and solutions.

He views a reasonable approach next year to include creating a safety net out of Medicare, trying to take pressure of emergency departments, and setting a floor for coverage that employers can build upon in offering other benefits.

Government Relations staff attended a fundraising event for **Rep. Gabrielle Giffords (D-AZ),** a freshman member of Congress, a member of the Blue Dog Coalition, and a strong supporter of healthcare and family medicine issues. Rep. Giffords voted correctly on both the SCHIP legislation and on the Medicare physician payment bill. She represents a very rural area of Arizona and spoke of the need to support primary care physicians and to encourage them to work in rural areas through the use of loan forgiveness programs and support of family medicine residency programs. She is looking forward to the next Congress, where she feels there will be a real effort to address long-term healthcare reform.

Government Relations staff attended a healthcare breakfast for **Rep. Jason Altmire (D-PA)**, another freshman member of Congress. Rep. Altmire, a former House Health LA and hospital association lobbyist, is a member of the New Democrat Coalition. Discussion centered on enactment of the *Medicare Improvements for Patients and Providers Act* (HR 6331) and about what happens 18 months from now. Rep. Altmire believes the November election will drive the next steps on any health care legislation. He feels that the Democrats must not repeat the mistakes of the 1993 health care reform debacle with the start of the new Congress.

7. COMMITTEE CHARGES UNNECESSARY DRUG COMPANY PROFITS IN PART D

On Thursday, July 24, the House Oversight and Government Reform Committee, chaired by Rep. Henry Waxman, (D-CA), held a hearing on the Medicare prescription drug program. At the hearing, Rep. Waxman released a report concluding that switching so-called dual eligibles (people receiving both Medicaid and Medicare) from Medicaid to the Medicare Part D program has resulted in $2 billion in additional profits for drug companies. The reason is the significant difference between the discounts provided to the two programs. As a result of this analysis, Rep. Waxman said he will introduce legislation prohibiting Medicare Part D programs from charging more than the Medicaid dual eligible program. Republicans on the committee accused Rep. Waxman of advocating for price controls.

8. HOUSE VOTES TO WAIVE MEDICARE SPENDING TRIGGER

In a largely partisan exercise, the House changed its rules to avoid the "Medicare Trigger," which sought to force the Congress to consider a Bush administration proposal intended to cut Medicare spending. The *Medicare Modernization Act of 2003* (PL 108-73) established a requirement that the President submit to Congress legislation designed to cut spending if Medicare issued financial warnings two years in a row.

The resulting legislation that President Bush proposed would have raised premiums for the Medicare drug benefit for beneficiaries with incomes of more than $82,000, or $164,000 for couples. It also sought to cap non-economic damages in medical malpractice lawsuits at $250,000 and limit the share of damage awards that plaintiffs' attorneys could collect.

Democrats derided the trigger as an arbitrary benchmark set up by a Republican Congress in an effort to privatize Medicare and pointed out the enacted *Medicare Improvements for Patients and Providers Act* (HR 6331) eliminated the need for a trigger this year. Republicans said Democrats were shirking their responsibility to ensure Medicare remained solvent.