

July 18, 2008

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### 1. CONGRESS HEARS FROM FAMILY PHYSICIANS, OVERRIDES VETO

On Tuesday, July 15, President Bush vetoed the *Medicare Improvements for Patients and Providers Act* (HR 6331) and within hours both the House (by a vote of 383-41) and the Senate (by a vote of 70-26) overrode the veto and the bill became law. This is only the third time that Congress has overridden a veto by President Bush.

Congressional action followed intensive advocacy by family physicians and their patients, by others in the physician community, by manufacturers of durable medical equipment (who sought to stall a CMS rule to introduce competitive bidding), and by groups representing beneficiaries (who supported the legislation's expansion of access to mental health and preventative services and the easing of enrollment requirements for low-income assistance to Medicare patients). President Bush vetoed the bill because it cut payments for private health insurance companies that offer Medicare Advantage fee-for-service plans.

The measure rescinds the current payment cut of 10.6 percent and reinstates the 0.5 percent increased payment rate and adds 1.1 percent beginning in January 2009. However, if Congress does not act, the current formula will impose a cut of more than 20 percent in January 2010. In addition, HR 6331 (now Public Law 110-275) extends the minimum payment level for the work component of the Geographic Payment Cost Index (GPCI), which is meant to benefit physicians in rural areas. The Physician Quality Reporting Initiative (PQRI) is extended through 2009 and the bonus payment for reporting on quality measures increases to 2.0 percent next year.

The federal government will begin paying a bonus to physicians who use electronic prescribing and by 2010 will begin to penalize those practices that do not. Finally, the Medicare Medical Home Demonstration Grant program will have an additional \$100 million and authority to expand more quickly.

Family physicians wrote some 6700 e-mails to Congress in the month prior to the veto override and submitted almost 400 letters to the editor in local newspapers. There is no accurate measure of the number of phone calls that were made to Congressional office by AAFP members and their patients, but many Congressional staff reported overwhelming numbers of calls from their constituents.

## **2. FamMedPAC REACHES NEARLY 15,000 AAFP MEMBERS**

The PAC is enjoying its most successful fundraising cycle ever. Since January 2007, FamMedPAC has collected \$646,571 from 2174 AAFP members. For 2008, donations to the PAC total \$307,627. The average donation since January 2007 is \$297.

The direct marketing program is largely responsible for the success of the PAC in the first few months of 2008 (the program began in late January). As of July 11, the campaign has reached 14,429 AAFP members by phone, with 1,999, or just under 14 percent donating to the PAC. The average donation is \$175, and over \$349,000 has been pledged.

FamMedPAC has contributed \$562,000 to candidates thus far in the 2007-2008 election cycle – \$343,500 to Democratic candidates and committees and \$218,500 to Republican candidates and committees.

Government Relations staff attended a healthcare event this week for **Rep. Charles Gonzalez (D-TX)**, who is a member of the Energy & Commerce Committee. Discussion focused on the expected Presidential veto and the likely overriding of the Medicare bill. Rep. Gonzalez remarked about physicians finally getting involved in grassroots politics and expressed his belief that this is what turned around the vote. He said that he had never experienced such an outpouring of letters and phone calls from doctors and wondered aloud if the 10 percent cut finally had been the tipping point. He also lauded Senators Kay Bailey Hutchison (R-TX) and John Cornyn (R-TX) for their votes in favor. Rep. Gonzalez said that physicians groups would need to come together immediately with a solution to the SGR problem, despite the fact that there would be winners and losers.

Government Relations staff attended a breakfast this week for **Sen. Sherrod Brown (D-OH)**, who is a strong supporter of physician issues, since his father was a family physician. He serves on the HELP Committee in the Senate. Sen. Brown spoke about the Medicare bill and how impressed he was with the grassroots effort of the physician community. He said that the strong support for the Medicare bill and veto override made him confident that the Senate would bring up and pass their version of the SCHIP legislation in September. On appropriations, he feels that Congress will just pass a continuing resolution to fund the government until a new President and new Congress are elected. He does not think Congress will return for a lame-duck session once they adjourn in October.

## **3. SENATE APPROPRIATORS WANT MORE NIH SPENDING**

On Wednesday July 16, Senator Arlen Specter (R-PA), the senior Republican on the Labor-HHS-Education Appropriations Subcommittee, and Senator Tom Harkin (D-IA), who chairs the subcommittee, introduced a bill to provide an additional \$5.2 billion in emergency funding for the National Institutes of Health for the current fiscal year. The bill (S. 3272) seeks to provide \$1.2 billion for the National Cancer Institute and \$4 billion for the other institutes.

Although President Bush had requested \$29.2 billion for NIH, which is \$150 million less than in fiscal 2008, the Senate Appropriations Committee last month passed its FY 2009 Labor-HHS-Education bill (S. 1710), which included an \$875 million increase for NIH above the fiscal 2008 level.

Senator Specter is currently battling a recurrence of Hodgkin's disease and has called NIH resources "grossly insufficient."

## **4. HOUSE COMMITTEE PASSES STUDENT HEALTH INSURANCE BILL**

The House Energy and Commerce Committee unanimously approved a bill (HR 2851) Wednesday, July 16 to allow college students to remain covered by their family's health

insurance if they take up to 12 months of medical leave from school. The bill, called Michelle's Law, after Michelle Morse, a New Hampshire woman who died in 2005 of colon cancer. Morse was diagnosed with cancer in 2003 while in college and stayed in school full-time — against the advice of her doctors — in order to maintain coverage under her parents' insurance. She was 22 when she died, six months after she graduated.

## **5. CMS DISCUSSES GME VOLUNTEER FACULTY ISSUE**

On the urging of CMS acting administrator Kerry Weems, AAFP and AFMAA government relations staff scheduled a meeting with Dr. Jeff Rich, Director of the center for Medicare Management. Also attending the July 10 meeting in Baltimore were Liz Richter, Marc Hartstein, Amy Bassano, Tsvi Hefter and other CMS staff.

It was clear that CMS staff began by resisting discussions that would move toward a solution. After AAFP and AFMAA staff explained the problems associated with the volunteer faculty issue and the CMS regulations and emphasized that it was up to CMS to remove this impediment to primary care training, the CMS staff become more receptive.

The following points were made:

- Congress did intend to eliminate the disincentive to hospitals to move the primary care resident in to nonhospital settings.
- CMS interprets “all or substantially all” differently than “substantially all.” Elsewhere in Medicare regulation, the latter is interpreted to mean 75 percent.
- Family physicians enjoy volunteering their time as preceptors for many reasons. In doing so, they do not wish to be forced to comply with onerous regulations and record keeping.
- Teaching hospitals are confused by the rules and some are threatening to discontinue FP residencies. Some residency programs have closed.
- CMS' regulations present an obstacle to primary care workforce development and it is a problem CMS should resolve.

CMS will consider whether it will propose revisions to its rule on GME payment for voluntary faculty.

## **6. HOUSE WILL FOCUS ON HEALTH INFORMATION TECHNOLOGY NEXT WEEK**

The House Energy and Commerce Committee is slated to debate the *PRO(TECH)T Act* (HR 6357), which Rep. John Dingell (D-MI), the committee chair, introduced. The Health Subcommittee approved the bill prior to the July 4 recess.

The legislation would provide grants and loans to health care providers if they include with their application a strategic plan and how the practice will 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.

The House Ways and Means Subcommittee on Health will hold a hearing on health information technology next Thursday, July 24.