

This issue is part of a series of periodic reports from the National Health Law Program's Washington office, reporting briefly on recent and forthcoming developments in federal policy of interest to NHeLP advocates and friends. We always appreciate your feedback and comments. Please send them to Sarah Lichtman Spector at [lichtmanspector@healthlaw.org](mailto:lichtmanspector@healthlaw.org). For updates and information on NHeLP publications, go to <http://www.healthlaw.org>.

**SUBJECTS COVERED** Health Reform

Proposed Schedule in House and Senate

House Tri-Committee Bill

Senate Finance Committee Releases Options Papers

Senate Health, Education, Labor, and Pension Committee Bill

Bill of Interest

2010 Budget Resolution and Appropriations

New Statute

Family Smoking Prevention and Tobacco Control Act

Executive Agency Actions

Proposed Regulations: Rescission of school-based and hospital outpatient services regulations

Establishment of Offices of Health Reform -- White House and HHS

HHS Releases \$1.79 Billion for HIV/AIDS in Ryan White monies

HHS Announces members of HIT policy and standards committees

District Court Decision – Food and Drug Administration – Plan B

Status of Presidential Appointees

Senate Update

Resources

**HEALTH REFORM** *Projected Schedule in House and Senate* In the House of Representatives, health reform is being moved through three committees on a coordinated track, with a goal of developing one bill. The committees and their chairmen are: Ways and Means: Charles Rangel, Chairman; Energy and Commerce: Henry Waxman, Chairman; and Education and Labor: George Miller, Chairman. The House has released its draft bill. Click [here](#) to read a searchable version.

*House projected schedule is:*

- June: Issue bill language and continue with hearings
- Post July 4th: Mark-up in subcommittees and full committees
- Mid/late July: Committee work combined into a single bill for floor consideration
- Late July: Votes in full House on legislation

In the Senate, two committees – Senate Finance (Chairman Max Baucus) and Senate Health

Education Labor and Pensions (HELP) (Chairman Ted Kennedy) – are developing separate bills. Click [here](#) for the HELP bill. It is anticipated that they will be merged into one bill prior to consideration on the Senate floor. The Senate Finance Committee has held three roundtables on delivery systems, coverage and financing. The Committee has released an “Options Policy Paper” on each topic and solicited comments. Click [here](#) to review the three policy papers. Click [here](#) to see NHeLP’s comments on the coverage options paper.

*Senate Projected Schedule:*

- June 18-26: HELP Committee mark-up of legislation
- After July 4th: The Senate Finance Committee anticipates mark-up of conceptual language (not legislative language) of its bill
- Mid-July: The legislation from the HELP and Finance Committees combined into one bill
- July: Votes by full Senate on health care reform legislation
- August recess (8/1 – 9/4): Conference committee works to combine House-passed and Senate-passed legislation
- September: Votes by full House and Senate on conference report/single bill

**BILL OF INTEREST** *Fiscal Year 2010 Budget and Appropriations Process* On April 29, 2009, the Senate (53-43) and House (233-193) passed the \$3.5 trillion Fiscal Year 2010 Budget Resolution Conference Report, which sets the parameters for the individual appropriations bills for each agency. The resolution assumes \$764 billion in tax cuts over five years, and \$1.086 trillion in FY 2010 discretionary spending. Non-defense discretionary spending was set at \$529.8 billion. The resolution aims to cut the deficit in half by FY 2012 and by two-thirds by FY 2014; it also contains a fix for Medicare physicians' payments.

The conference report includes reconciliation instructions for health care and education reform, to be used only as a fallback position. Under this procedural approach, health care and education legislation would only need 51 votes to pass in the Senate, preventing the use of a filibuster. Republicans oppose the use of reconciliation because they say it is an effort to quell debate and shut out the minority.

House Appropriations Chairman David Obey stated he expects the House to pass all 12 FY 2010 appropriations bills by July 30. The Labor-HHS spending measure would contain \$160.7 billion in FY 2010, a boost of about \$7.5 billion over last year.

**NEW STATUTE** *Family Smoking Prevention and Tobacco Control Act* On June 22, 2009, President Obama signed into law tobacco regulation overhaul legislation. On June 12, 2009, the House of Representatives approved (307-97) the bill that passed the Senate (79-17) one

day earlier. The law gives the FDA authority to regulate tobacco products, and restrict marketing and advertising to children. It bans flavored tobacco products unless they taste like menthol and will require manufacturers to include significantly larger warning labels on cigarette packages by 2012. This legislation has been applauded by public health advocates as landmark legislation that is many years overdue.

**EXECUTIVE AGENCY ACTIONS** *Proposed Rule to Rescind School-Based Services Final Rule and Outpatient Services Definition Final Rule, and Partially Rescind Case Management Services Interim Final Rule*

Because of concerns raised about possible adverse effects from these regulations – in particular the potential restrictions on services available to Medicaid beneficiaries – and other potential negative consequences, CMS is proposing to rescind the two final rules in full, and to partially rescind the interim final rule. See [Capital Communique, June 2008](#) for more detail on the regulations. The comment period ended on June 1, 2009. To read NHeLP's submitted comments, click [here](#)

*Establishment of the Offices of Health Reform – White House and HHS*

On April 8, 2009, President Obama issued an Executive Order establishing a White House Office of Health Reform to lead the White House effort (79-17) on that front. Nancy-Ann DeParle has been named the director. On May 11, 2009, Secretary Sebelius announced the establishment of an Office of Health Reform within HHS. Jeanne Lambrew will be the director there. For a full list of staff, click [here](#). *HHS Releases \$1.79 Billion for HIV/AIDS in Ryan White Monies*

On May 14, 2009, HHS announced the release of \$1.79 billion for persons with HIV/AIDS through the Ryan White HIV/AIDS Program. This program helps more than 529,000 individuals every year access life-saving health care and medications needed to live longer, healthier lives. Click [here](#) for more information.

*HHS Announces Members of HIT Policy and Standards Committees*

On May 8, 2009, the Department of Health and Human Services announced the appointment of members to the Health Information Technology (HIT) Policy Committee and the HIT Standards Committee. These federal advisory committees were established by the American Recovery and Reinvestment Act of 2009 to make recommendations on a policy framework to develop and adopt a nationwide health information infrastructure, including standards for the exchange of patient medical information. Dr. David Blumenthal is National Coordinator for Health Information Technology at HHS and Chairman of the Policy Committee. For complete lists of members of each committee, a schedule of meetings, and instructions on how the public can participate in the meetings and comment, click [here](#).

**DISTRICT COURT DECISION – FOOD AND DRUG ADMINISTRATION – PLAN B** On

March 23, the federal district court in the Eastern District of New York found that the Food and Drug Administration (FDA) under the Bush administration had allowed political considerations to override its usual evidence-based review and ordered the agency to make emergency contraception (Plan B ®) accessible to women 17 and older without a prescription. The court sent the case back to the FDA to reconsider whether there should be any age restrictions or other access barriers to emergency contraception. The case is

*Tummino v. Torti*

. Click

[here](#)

to read the full decision.

## **STATUS OF PRESIDENTIAL APPOINTEES**

### *Department of Health and Human Services:*

On April 29, Kathleen Sebelius was confirmed as Secretary of the Department of Health and Human Services. Previously, she was the governor of Kansas, and before that served as the Kansas State Insurance Commissioner for eight years.

On May 29, Cindy Mann was appointed to serve as Director of the Center for Medicaid and State Operations (CMSO), part of the Centers for Medicare & Medicaid Services (CMS). Mann most recently served as a research professor and executive director of the Center for Children and Families at Georgetown University's Health Policy Institute.

### *Food and Drug Administration Commissioner:*

On May 18, Margaret Hamburg was confirmed by the Senate as FDA Commissioner. Hamburg was the New York City Health Commissioner from 1991 to 1997, and was Assistant Secretary for Planning and Evaluation of U.S. Department of Health and Human Services from 1997-2001.

**SENATE UPDATE** On April 28, 2009, Pennsylvania Sen. Arlen Specter switched from the Republican to the Democratic Party saying he has found himself increasingly "at odds with the Republican philosophy." This brings the number of Democrats in the Senate to 59, very close to the 60 votes needed to prevent a filibuster. The Minnesota Senate contest between Norm Coleman and Al Franken remains unresolved. An appeal is pending in the Minnesota Supreme Court.

**RESOURCES** Health Disparities: Closing the Gap, issued by the White House. The report demonstrates the need for meaningful reform because low-income Americans and racial and ethnic minorities experience disproportionately higher rates of disease, fewer treatment options, and reduced access to care. Click [here](#) for the report. NHeLP has done a Comprehensive analysis of the

[American Recovery and Reinvestment Act of 2009](#)

and the

[Children's Health Insurance Program Reauthorization Act of 2009](#)

. See NHeLP's website.

NHeLP has recently submitted comments on: 1) the Senate Finance Committee's Proposals on

Health Care Coverage, click

[here](#)

to read them in full; 2) CMS' Proposed Regulations on Cost Sharing, click

[here](#)

; and, 3) CMS's Proposed Regulations on Benchmark Plans, click

[here](#)

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