

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 Deborah Reid at reid@healthlaw.org. For updates and information on NHeLP publications, go to <http://www.healthlaw.org>

SUBJECTS COVERED

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Stimulus Plan with FMAP Match

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Bills of Interest

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CONTINUING BUDGET RESOLUTION:

On September 24, the House voted 370-58 to approve H.R. 2638, a continuing resolution package with over \$600 billion in funding. The bill would finance the federal government and its programs until March 6, 2009 at current funding levels. The current fiscal year ends on September 30. Also included are three appropriations bills for fiscal year 2009 for Defense, Military Construction-Veteran's Affairs, and Homeland Security; \$5.1 billion for low-income heating assistance; and \$22.9 billion for disaster relief resources.

The Senate approved the continuing resolution on September 27 by a vote of 78-12. H.R. 2638 awaits the President's signature.

STIMULUS PLAN WITH FMAP MATCH:

Representative David Obey (D-WI) introduced a second economic stimulus package to

the House on September 26. The bill, entitled the “Job Creation and Unemployment Relief Act of 2008” (H.R. 7110) was passed by a vote of 264-158 the same day. H.R. 7110 includes \$14.4 billion in fiscal relief to states, with a temporary increase of 1% in the federal matching rate for Medicaid (the Federal Medical Assistance Percentage or FMAP).

States are facing a \$52 billion shortfall for their FY '09 budgets. The House bill also provides an additional 1% increase in FMAP for qualifying states that are experiencing more severe economic constraints (e.g., high unemployment rates, increased participation in the food stamp program, and higher foreclosure rates). Temporary FMAP increases offer needed financial relief which can prevent cuts in Medicaid services or restrictions in eligibility. The legislation includes other fiscal relief provisions, such as a temporary increase of \$2.6 billion in food stamp benefits, and an additional seven weeks of unemployment benefits (with 13 more weeks for those states with unemployment rates over 6 %).

On September 24, Senators John Rockefeller (D-WV) and Olympia Snowe (R-ME) sent a letter with the support of 32 other senators to Senate Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) urging the inclusion of a temporary FMAP increase in a second stimulus package.

On September 26, the Senate failed to get the 60 votes necessary to approve their version of the economic stimulus package (the vote was 52-42). The “Reid/Byrd Economic Recovery Act of 2008,” (S. 3604) introduced by Senators Harry Reid, Majority Leader (D-NV), and Robert Byrd (D-WV), Chairman of the Senate Appropriations Committee, would have provided an equal percentage temporary increase of 4% in FMAP to states regardless of their fiscal situations, a 10% increase (an additional \$5 billion) in food stamp benefits, and the same level of additional unemployment benefits as the House stimulus plan.

President Bush is threatening a veto of temporary stimulus legislation.

Possible action: Those wishing to do so can contact their elected officials in the House and Senate to encourage their support of a second economic stimulus plan that includes a temporary increase in FMAP to provide needed fiscal relief to states during the current economic crisis.

NEW LAW:

ADA Amendments Act of 2008

On September 25, President Bush signed the “ADA Amendments Act of 2008,” (S. 3406) into law. The new law reinforces the original objectives in the Americans with Disabilities Act (ADA) of eliminating discrimination against individuals with disabilities by requiring a broad scope of protection. Prior to these amendments, the Supreme Court denied ADA protection to individuals who have partial physical disabilities, as well as those with physical disabilities that could be treated with medication (e.g., cerebral palsy, epilepsy, and cancer) or assistive devices (e.g., prosthetic limbs, oxygen therapy equipment, hearing aids and glasses).

S.3406 directs the Equal Employment Opportunity Commission (EEOC) to revise current ADA regulations defining a disability as those that “substantially limit” life activities. Instead, the EEOC must use a less restrictive interpretation of the definition of a disability, to be consistent with the original intent of Congress.

BILLS OF INTEREST:

Health-e Information Technology Act of 2008

Chairman of the House Health Subcommittee Representative Peter Stark (D-CA) introduced the latest health information technology bill, the “Health-e Information Technology Act of 2008,” (H.R. 6898) on September 15. Among other provisions, the legislation strengthens some aspects of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). For example, it provides a tiered criminal penalty structure for HIPAA violations by individuals who may or may not be associated with business entities that handle patient information. The bill also improves the HHS Office for Civil Rights’ (OCR) enforcement efforts by requiring a formal investigation of complaints and imposing civil penalties for violations rising to the level of willful neglect that are not corrected within 30 days. H.R. 6898, however, does not include a private right of action for individuals who have been harmed by breaches of HIPAA, but instead authorizes state attorneys general to enforce federal privacy and security laws. Currently, the House Subcommittee on Technology and Innovation is considering the legislation.

Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

The House voted to approve the “Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008,” (H.R. 6983) on September 24 by a vote of 376-47.

Representative Patrick Kennedy (D-RI) had introduced the compromise legislation on September 22. (Refer to the April 1 issue of the Capital Communique for a discussion of the

original bill (H.R. 1424) and related mental health parity bills.) H.R. 6983 restricts health insurers that ordinarily offer mental health benefits from charging higher co-payments and deductibles or setting more stringent treatment limits for mental health and substance abuse services than those for medical or surgical services.

Instead of a stand-alone bill, on September 23, the Senate Finance Committee included its version of a mental health parity bill as part of tax extenders legislation (H.R. 6049, S. 3335) that delays a corporate tax break. The savings from this delay would generate \$3.4 billion to offset the cost of the Senate's mental health parity bill. Senate Republicans, however, are expected to oppose this two year delay.

Both the House and Senate are reportedly asking the opposing chamber of Congress to adopt its version of the legislation. Also, Senate Majority Leader Harry Reid may try to move the House bill through the Senate through unanimous consent.

Possible action: Those wishing to do so, could contact their elected officials in Congress to urge their support of mental health parity legislation.

WOMEN'S HEALTH:

HEART for Women Act

On September 23, the House approved the "HEART for Women Act," (H.R. 1014), introduced by Representative Lois Capps (D-CA) by a two-thirds recorded vote of 418-4. Among other provisions, the HEART for Women Act requires existing efficacy and safety results for new cardiovascular drugs and devices that require Food and Drug Administration approval to be stratified by race, ethnicity and gender. The bill also requires the Secretary of HHS to submit a report to Congress on access to care for women with cardiovascular diseases, while recommending strategies to eliminate cardiovascular disparities in women. In addition, H.R. 1014 charges the Secretary with developing educational and outreach campaigns to diagnose, prevent, and treat cardiovascular disease for women ages 65 years and older.

The Senate Committee on Health, Education, Labor, and Pensions is considering the Senate's version of the bill, S. 573, which was introduced by Senator Debbie Stabenow (D-MI).

CHILDREN'S HEALTH:

Healthy Start Reauthorization Act of 2007

Both Houses of Congress approved the "Healthy Start Reauthorization Act of 2007," (S.1760). The Senate approved the bill on April 28 by unanimous consent, while the House passed the legislation by voice vote on September 23. The Healthy Start Act requires the Secretary of Health and Human Services to consider criteria such as indicators of infant mortality (e.g., low birth weight), and the use of community-based and comprehensive approaches to improve infant mortality rates, when awarding grants under the Healthy Start Initiative. The legislation also reauthorizes the Healthy Start Initiative for FY 2008-FY 2013. S. 1760 is currently awaiting President Bush's signature to become law.

Kid-Safe Chemical Act of 2008

House Committee on Oversight and Government Reform Chairman Henry Waxman (D-CA) and Representative Hilda Solis (D-CA) sponsored the "Kid-Safe Chemical Act of 2008," (H.R. 6100) to reduce exposure to environmental toxins. While tests have shown an increasing level of synthetic chemicals in the blood and tissue of infants and adults, substances that are routinely used in commercial products have never had any Federal review to determine whether they are potentially hazardous to infants, children, developing fetuses, or adults. The bill would authorize the Environmental Protection Agency (EPA) to require new testing methods to determine the health effects of low doses of exposure to toxins during fetal development. Additionally, for the EPA to consider whether a product is safe, industries must demonstrate the safety of its industrial chemicals. H.R. 6100 has been referred to the House Subcommittee on Environment and Hazardous Materials for further action.

RESOURCES:

The National Health Law Program recently issued a new resource, "Q & A on Fee Waivers for Freedom of Information Act (FOIA) Processing." The report contains pertinent information about fee waivers for processing FOIA requests. For further details, go to:

<http://www.healthlaw.org/library/attachment.132653>

The Carsey Institute of the University of New Hampshire released a fact sheet, entitled "Children in Central Cities and Rural Communities Experience High Rates of Poverty." The analysis details several findings, for example: 13 southern states had rural child poverty rates greater than 25 percent in 2007; Alaska, Arizona, and Vermont experienced the largest percentage point discrepancies between rural rates of child poverty to urban (with 10, 9, and 8 percentage points higher in rural areas, respectively); and no states have lower rates of child poverty in rural areas than in suburban communities (but 28 states have lower rates of rural child poverty than in urban communities). The study can be found at: http://www.carseyinstitute.unh.edu/publications/FS_RuralChildPoverty_08.pdf

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