

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>

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LEGISLATIVE DEVELOPMENTS:

Older Americans Act Reauthorized

On September 28, the House passed H.R. 6197, the "Older Americans Act Amendments of 2006", by voice vote. The Senate approved the measure by unanimous consent on September 30. The law provides an estimated \$1.8 billion in annual appropriations for health screenings, support for caregivers, Meals on Wheels, and the Department of Labor's Senior Community Service Employment Program. The bill also focuses on providing outreach to eligible low-income senior citizens to enroll them in Medicaid and the Food Stamp program, and assist them with meeting Medicare premiums.

Meanwhile, numerous bills of significance await action when Congress returns after the elections.

Appropriations:

H.R. 5647 and S. 3708, the fiscal year 2007 appropriations bills for the Departments of Labor, and Health and Human Services (HHS) are yet to be acted upon. It is reported that Senate Labor-HHS Appropriations Subcommittee Chairperson Arlen Specter (R-PA) and ranking member Tom Harkin (D-IA) have circulated a letter of support for an additional \$2 billion above the proposed \$142.8 billion appropriation for the Departments of Labor and HHS. The response of the Senate and House leadership to this request for additional funds for health, education, and other domestic programs is uncertain.

State Children's Health Insurance Programs (SCHIP) Shortfall:

SCHIP provides a fixed amount of federal matching funds to states to extend health coverage to low-income children through fiscal year (FY) 2007. Mark McClellan, Administrator of the Centers for Medicare & Medicaid Services (CMS), testified before the Senate Finance Committee in July that some states have surpassed their SCHIP allotments since 2002. These shortfalls have been addressed by using funds remaining from previous years and reallocating money from states with surplus SCHIP funds. But due to increased SCHIP enrollment, states are now using more of their allotted SCHIP funds. As a result, it is expected that at least 17 states will have an SCHIP deficit in fiscal year 2007, totaling over \$800 million.

On September 28, Senate Finance Committee Chairperson Charles Grassley (R-IA) introduced S. 3972, the "Fiscal Accountability, Integrity, and Responsibility in SCHIP Act," to address about half of the estimated SCHIP shortfall. The bill would also permit the Secretary to redistribute funds from states with excess SCHIP surpluses to those states with shortfalls in SCHIP funding, as well as designate and readjust the distributed amounts. S. 3972 is now before the Senate Finance Committee for consideration.

Other bills in the House and Senate also address the shortages in SCHIP funding. H.R. 6077, introduced Rep. Nathan Deal (R-GA) provides up to \$900,000,000 in additional funding for SCHIP to address financial shortfalls. Additional measures to eliminate SCHIP funding shortages were introduced on September 19. Rep. John Barrow (D-GA) introduced the "Keep Kids Covered Act of 2006" (H.R. 6098), which would allow the Secretary to redistribute funds to shortfall states that have spent their SCHIP allotments for FY '04 by FY '06. States can also receive additional funds to eliminate shortfalls in FY '07. Senator John Rockefeller (D-WV) introduced the Senate version of H.R. 6098, which is the "Keep Children Covered Act of 2006" (S. 3913). Both H.R. 6098 and S. 3913 provide that unexpended allotted SCHIP funds will be returned to the Department of the Treasury by October 1, 2007. All of the SCHIP bills have been referred to either the House Subcommittee on Health or the Senate Committee on Finance for further action.

Health Information Technology Promotion Act:

Among other provisions, the "Health Information Technology Promotion Act of 2006" (HIT Bill), H.R. 4157, establishes a committee to provide national standards on medical data storage, requires the Secretary of the Department of Health and Human Services to provide Congress with a privacy standard for medical information that satisfies federal and state laws, permits hospitals to give physicians health information technology supplies and equipment that is not interoperable with other hospitals' systems, and increases to over 200,000 the number of billing codes used by health care providers. The American Medical Association and other physician groups opposed the latter provision, since they believe it will be burdensome. Nonetheless, H.R. 4157 passed the House on July 27 by a vote of 270-148.

The Senate version of the HIT Bill, S. 1418, which was passed in 2005, does not authorize hospitals to provide physicians with HIT supplies and equipment, among other differences with the House bill. It is unclear whether these differences will be addressed during the lame duck session.

Minority Health:

On September 29, Senate Majority Leader William Frist (R-TN) introduced a minority health bill, S. 4024, which allocates approximately \$500 million to reduce health disparities among racial, ethnic, and other health disparity populations. Although the bill does not focus on disparities

caused by unequal access to health coverage for the nation's low income, and disproportionately minority, populations, it does include a requirement obligating federally conducted and supported programs to collect data on such variables as race, ethnicity, primary language, and income. S. 4024 also establishes various grant programs to support demonstration projects designed to eliminate health disparities, sponsors initiatives to increase minority enrollment in health professional schools, and encourages the use of culturally competent strategies and curricula. Senators Jeff Bingaman (D-NM), Edward Kennedy (D-MA), and Barack Obama (D-IL) co-sponsored the legislation.

Unintended Pregnancies:

On September 13, Representatives Tim Ryan (D-OH) and Rosa DeLauro (D-CT) introduced H.R. 6067, "Reducing the Need for Abortion and Supporting Parents Act." The objective of the legislation is to reduce the number of unintended pregnancies and abortions by requiring states to cover contraceptives for women with incomes of up to 200 percent of the federal poverty level. In addition, H.R. 6067 increases funding for health care services for low-income women with children, increases the tax credit for adoptions, funds child care services for parents in college, and offers free nursing visits for women who have given birth for the first time. The bill also contains a provision that requires physicians who perform abortions on minors to notify their parents of the procedure. On September 13, H.R. 6067 was referred to the Committee on Energy and Commerce, as well as to the Committees on Education and the Workforce, and Ways and Means, for further consideration.

CITIZENS' HEALTH CARE WORKING GROUP:

The Medicare Modernization Act of 2003 established the Citizens' Health Care Working Group (CHCWG), with the mission of: (1) providing a national public debate on improving the American health care system to provide quality and affordable health coverage, and (2) submitting recommendations to Congress and the President for methods of doing so. A discussion of this process can be found in the August 2006 Capital Communique.

On September 25, the CHCWG published its final recommendations, which will be submitted to Congress and the President. The report determined that the majority of respondents support universal health coverage for all people, but there were numerous suggested approaches to defining and obtaining this coverage. The CHCWG issued six recommendations: (1) create public policy to ensure all Americans have affordable health care by 2012; (2) guarantee

financial protection against high health costs and require all Americans to participate; (3) foster innovative integrated community health networks; (4) promote efforts to improve quality of care and efficiency of care; (5) fundamentally restructure the way end-of-life services are financed and provided; and (6) define core benefits and services for all Americans. For more details on the CHCWG's recommendations, go to: <http://www.citizenshealthcare.gov/recommendations/finalrecs.php>

LITIGATION UPDATE: Bell v. Leavitt

In the nationwide class action lawsuit, Bell v. Leavitt, NHeLP and other advocates recently achieved some progress towards ameliorating the effects of the citizenship documentation requirements of the Deficit Reduction Act of 2005 (DRA), as they have been applied by CMS. On September 14, the federal court for the Northern District of Illinois determined that the plaintiffs were likely to prevail on their claim that the DRA's citizenship documentation requirements do not apply to children receiving foster care or adoption assistance under Title IV-E of the Social Security Act. The court is now considering whether to issue an immediate order protecting those children or to wait until the end of the case to do so. While not ruling against the plaintiffs on their other claims, the court refused to hear them on the grounds that the plaintiffs were not presently being harmed by the conduct of CMS or would not be helped if the court ruled against the agency. The plaintiffs have asked the court to reconsider that part of its opinion.

FEDERAL FACTOID:

On September 12, the Senate Special Committee on Aging heard testimony from experts on the high rates of mental illness among the elderly. The Committee heard that primary care physicians properly screen less than half of adults for symptoms of depression, poor access to mental health services contributes to the problem and senior citizens have the highest rate of suicide among any age group (20 percent of all suicides), leading Committee Chair Gordon Smith (R-OR) to comment, "there really should be no higher issue for us in Congress than to fix this."

RESOURCES:

The National Center for Education Statistics (NCES) recently published a survey on health literacy, "The Health Literacy of America's Adults: Results From the 2003 National Assessment of Adult Literacy." The survey found that out of a diverse group of 19,000 U.S. adults who participated in the survey, most respondents were rated as having intermediate health literacy. NCES explained that individuals with intermediate health literacy would have difficulty using health-related materials accurately, and recommended that health care providers, insurers, and pharmaceutical companies improve their communication skills to ensure that patients understand their medical instructions. For further details on the survey, see: <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2006483>

In "Eight Americas: Investigating Mortality Disparities Across Races, Counties, and Race-Counties in the United States," a study published in the September issue of the Public Library of Science's journal, PLoS Medicine, researchers found there are significant disparities in mortality rates within various racial and ethnic groups in the United States. The study determined that significant differences in life expectancy among and within these populations were due to the varying rates of chronic diseases and injuries that primarily affect those who are middle aged or younger. As a result, the study suggested that new government health programs should focus on addressing those health concerns that impact this age group, such as stroke, heart attacks, diabetes, and fatal injuries. For further details, go to: <http://medicine.plosjournals.org/perlserv?request=get-document&doi=10.1371/journal.pmed.0030260>

According to a recent Commonwealth Fund study, entitled, "U.S. Health System Performance: A National Scorecard," the United States spends twice as much on health care as other industrialized countries (in relation to gross domestic product), but has the highest infant mortality rate and the lowest life expectancy rate for individuals older than age 60 among an estimated two dozen industrialized nations worldwide. The study is published in the online September 20, 2006 issue of the Health Affairs journal (subscription required for access).

NEW PUBLICATIONS:

NHeLP recently released the "Language Services Resource Guide for Healthcare Providers." The Guide includes information about conducting a language services needs assessment, a language services resource locator (including information on interpreter associations and

language companies), training programs, multilingual resources, and healthcare symbols. It is available at <http://www.healthlaw.org/link.cfm?5837> .

HealthCareCoach.com:

NHeLP's HealthCareCoach.com provides consumers with information about our constantly changing health care system. The website offers facts and do-it-yourself tips on a variety of important topics. Go to <http://www.healthcarecoach.com> to find out about this month's focus on long-term care insurance, as well as other pertinent health care information.