

This is one of a series of periodic reports from NHeLP's Washington office, reporting briefly on recent and forthcoming developments relating to federal policy of interest to NHeLP advocates and friends. We always appreciate your feedback and comments, which can be sent to Mara Youdelman at youdelman@healthlaw.org.

SUBJECTS COVERED

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THE RETURN OF THE LAME DUCK

With Congress adjourning on October 8 until after the election, the appropriations process has again been pushed to a lame duck session in November. Pursuant to an agreement between the Senate Majority and Minority leaders, the lame duck will focus solely on enacting an omnibus appropriations bill and raising the debt limit ceiling. Other legislation will likely be delayed until January. The Senate agreement may be due in part to uncertainty about the makeup of the Senate in early November because of an expected run-off in Louisiana's open-seat race. (State law requires a winner to take more than 50 percent of the Nov. 2 vote, which may necessitate a run-off between the top two candidates in December).

If, however, Democrats are clearly in control of the Senate after Nov. 2, the lame duck outlook may change. Senate Democrats may then try to pass a continuing resolution to defer the omnibus appropriations bill until next year. Additionally, aides in both parties have speculated that if bicameral talks on the tax and intelligence bills break down, Democrats could push final votes on those bills into the next Congress as well.

SCHIP EXPIRING FUNDS

On September 30, \$1.07 billion in SCHIP funds expired and returned to the federal treasury. While both Congress and the Administration have expressed their desire to keep the money in the program, they disagree on how to distribute it and for what uses. The Bush administration wants to use the money to find and enroll eligible children who are not signed up. Bipartisan Congressional bills would allow states more time to spend the money on children already receiving benefits and would target the large majority of those funds to the states that need the funds to avert cutbacks in their children's health insurance programs (see Capital Communique, August 2004). Despite the expiration of these funds, states received their first FY05 allotment on October 1, with \$4.05 billion newly available. Further, HHS Secretary Thompson plans to redistribute \$660 million in unspent funds from FY 2002 (these funds, set to expire at the end of FY 2003, were extended by Congress last year).

TMA and QI-1

Transitional medical assistance has been extended for six months as part of a TANF extension. The House approved H.R. 5149 under suspension of rules and the Senate cleared the bill later in the day by voice vote. This is the eighth time the program has been extended. Reauthorization of TANF is thus postponed until the next Congress convenes.

The QI-1 program (which allows Medicaid to pay Medicare Part B premiums for certain low-income individuals), also scheduled to expire on Sept. 30th, was extended. But due to a technical error, the extension is only through November 20th. Congress intended a one year extension and Senator Majority Leader Frist has expressed his intent to fix the error and extend the program through next year.

JUDICIAL NOMINATIONS

To date, the Senate has confirmed 201 judicial nominees for the federal bench, 95.3 percent of President Bush's federal judge nominees. Currently, fifty-two vacancies exist on the federal bench, with nominees pending for all but six of the positions. Ten nominees have been filibustered.

NHeLP RESOURCES

Medicaid Guide:

NHeLP's An Advocate's Guide to the Medicaid Program, 2001 Edition. This manual, revised in 2001, offers a detailed yet concise overview of the enormously complex Medicaid program. An Advocate's Guide to the Medicaid Program is an essential resource for health advocates and lawyers working with the Medicaid program. For more information, see <http://www.healthlaw.org/advguide>.
\$235.00 (\$135.00 for nonprofit advocacy organizations)

Newsletter:

NHeLP's Health Advocate will keep you up-to-date on critical developments as our country's lawmakers and health care providers cut costs, reduce services and reexamine their obligation to provide health care for low-income people.

Want to know:

- * what states are doing to preserve a rapidly fraying safety net?
- * the latest developments in counteracting abusive managed care practices?
- * how to ensure proper cultural and linguistic access to health care?
- * which states are still implementing federal requirements to provide preventive services to children?
- * what new court cases have been filed by advocates?

These and dozens of topics are covered in Health Advocate, along with: updates on federal laws, regulations and programs, court decisions in the health care arena affecting low-income people, state laws and health care programs, developments in the fast-growing field of Medicaid managed care law, and trends in preserving the health care safety net. Quarterly (\$85.00/year). Contact Brendan McTaggart at brendan@healthlaw.org for a free sample copy.

FEDERAL FACTOID

According to the Kaiser Family Foundation, the growth of Medicaid expenditures in FY2004-05 averaged 9.5 percent, basically unchanged from FY2003, when that growth slowed for the first time since 1996. This growth rate is due to increases in enrollment as a result of the economic downturn, rising prescription drug costs, and increasing overall health care costs. States experienced 5.2 percent enrollment growth in FY2004 and expect 4.7 percent growth in FY2005. With continuing state budget pressures, all states are planning at least one new cost-containment action for their Medicaid programs in FY2005.

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