

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](mailto:youdelman@healthlaw.org).

## SUBJECTS COVERED:

- Start of the 108th Congress
- Senate Democratic Healthcare Proposals
- State – Fiscal Relief
- Medicare provider payments and other – givebacks
- Judicial Nominations
- Resources
- Federal Factoid

## START OF THE 108TH CONGRESS

The 108th Congress convened on January 7th to swear in new members. During its first week, it passed (and President Bush signed) extensions to unemployment insurance and a Continuing Resolution to sustain federal spending through January 31. Congress is expected to pass an – omnibus – appropriations bill that will include the remaining 11 FY 2003 appropriations bills. Yet issues with the Labor-HHS appropriations bill – often the most contentious – are already forming. Under tentative allocations worked out between House and Senate staff over the December recess, Labor-HHS programs would receive nearly \$2.7 billion less in funding than was in the Senate's original allocation.

Healthcare issues will likely be a top priority this year, including a prescription drug benefit for Medicare. Before finalizing legislative priorities, Republican leaders await the Administration's goals, to be outlined in the President's State of the Union address on January 28, and submission of the FY 2004 budget.

## SENATE DEMOCRATIC HEALTHCARE PROPOSALS

In an opening salvo, Senate Democrats introduced two wide-ranging healthcare bills. The Prescription Drug Benefit and Cost Containment Act" (S.7) would provide a healthy outpatient drug benefit for the

Medicare program. It envisions a \$25 monthly premium for the voluntary program, no deductible and "continuous coverage with reasonable cost-sharing." Under this proposal, Medicare would pick up all drug costs if a beneficiary spends more than \$3,700 during a year. The bill also incorporates the generic drug measure (introduced by Senators Schumer and McCain separately) that the Senate passed last year, which sought to close loopholes in a 1984 law that brand- name drug makers have been using to delay generic competition. It would also write into law the "pediatric rule", which was struck down by a federal court last fall, that allows the FDA to study the effects of drugs on children.

The second bill, the "Health Care Coverage Expansion and Quality Improvement Act," (S. 10) consolidates a series of measures held over from previous Congresses. It would allow State Children's Health Insurance Program funds to cover parents, pregnant women and legal immigrants. It would provide tax credits to small businesses that offer health insurance to their workers. And it would provide \$10 billion to help states with their Medicaid costs. The measure also includes the "Patients' Bill of Rights," Medicaid/SCHIP waiver improvements, and a provision to require health plans providing coverage for mental health services to do so to the same extent that they cover other ailments.

## STATE "FISCAL RELIEF"

With healthcare costs increasing, revenues decreasing, and Medicaid costs averaging 20 percent of states' budgets, a recent Kaiser Family Foundation study reported that virtually every state is likely to cut eligibility and/or services in Medicaid. Recent estimates -- which do not include proposals likely to be announced in the next few weeks -- predict that at least 1 million people will join the ranks of the uninsured as a result of these reductions.

Senators Rockefeller, Nelson and Collins re-introduced a "fiscal relief" bill on January 9th with a price tag of \$20 billion -- \$10 billion for Medicaid FMAP and \$10 billion for the Social Services Block Grant. Representatives Peter King and Sherrod Brown will reintroduce H.R. 3414, a similar bill, in early February with only technical changes; last session the bill had 172 bipartisan

cosponsors.

In a separate proposal, Senator Max Baucus (D-MT), Ranking Member of the Senate Finance Committee, proposes \$75 billion in one-time revenue sharing for states as part of an overall stimulus plan. States could spend the money however they chose, including for Medicaid.

Republicans have stated that they hope to condition any new money to structural changes in Medicaid. A series of hearings in the House Energy and Commerce Committee on Medicaid issues is likely to include discussions on Disproportionate Share Hospital funding and long-term care is expected to begin early this session.

Early action on a Medicare prescription drug proposal could also offer some relief for the states since prescription drug costs for individuals eligible for both Medicare and Medicaid are a major driver of soaring drug costs in the latter program. Members of Congress from both parties have said prescription drug coverage will be a top priority this year. Any impact on the Medicaid program, however, will depend on the specific proposal enacted.

#### Possible Action:

Advocates wishing to do so could urge Members of Congress to support state fiscal relief, particularly a temporary FMAP increase.

## MEDICARE PROVIDER PAYMENTS AND OTHER "GIVEBACKS"

A hot topic last year was provider "givebacks" – restoring cuts in payment rates to Medicare providers enacted as part of the Balanced Budget Act in 1997. Because Congress failed to do so, Medicare physician payments will decline by 4.4 percent in March, on top of the 5.4 percent reduction that took effect last year. In a procedural move, House Ways and Means Chairman Bill Thomas has introduced a bill to use the Congressional Review Act to disapprove the CMS regulation that implemented the reimbursement rate cuts. The Senate Finance Committee Chair and its Ranking Member have also expressed interest in fixing the physician payment formula, but want to address payment issues for other providers as well.

## JUDICIAL NOMINATIONS

With the change in Senate control from Democrat to Republican, President Bush renominated thirty judges for federal appointments. Among the candidates are two who were previously rejected by the Senate Judiciary Committee, Charles Pickering of Mississippi and Priscilla Owen of Texas.

## RESOURCES

George Washington University's Center for Health Services Research and Policy (CHSRP): CHSRP recently released a pediatric managed care training module for use by individuals and organizations concerned with the health care of children. The module helps interested parties learn about managed care contracting for pediatric services, as well as write and negotiate contracts to ensure that children, particularly Medicaid and SCHIP enrollees, receive quality care. See CHSRP, Pediatric Managed Care Training Module, <http://www.gwhealthpolicy.org/pedsmod/pages/index.html>.

### Express Lane Eligibility Website:

From The Children's Partnership, <http://www.expresslane.info> identifies steps states and counties can take to help eligible children gain health coverage. "Express lane eligibility" describes processes to easily identify and enroll eligible uninsured low-income children into subsidized health insurance programs by connecting Medicaid and the State Children's Health Insurance Program with other public programs with similar eligibility guidelines, such as School Lunch, Food Stamps and WIC. The website incorporates examples of new research and Express Lane efforts in communities across the nation. For more information, contact Holly Kenny, Healthy Policy Specialist at The Children's Partnership, at 858.566.7257 or [hkenny@childrenspartnership.org](mailto:hkenny@childrenspartnership.org)

## FEDERAL FACTOID

According to the Centers for Medicare & Medicaid Services, the U.S. healthcare system in 2001 cost \$1.4 trillion to maintain, or over \$5,000 for every man, woman and child in the country. "Trends in U.S. Health Care Spending", 2001, Levit, et. al., Health Affairs (Jan/Feb, 2003).