

September 26, 2002

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 would appreciate your feedback. Please email Mara Youdelman at [youdelman@healthlaw.org](mailto:youdelman@healthlaw.org) with your comments.

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#### CONGRESSIONAL SCHEDULE

The U.S. Congress reconvened on September 3, under the pressure of an October 5 target adjournment date and the November 5 election, which will determine the leadership of both houses. Senate Majority Leader Daschle said today that he hopes Congress will not be in session past Oct. 11. Some Washington observers predict a "lame duck" session after the election or a temporary "stopgap" continuing resolution to continue funding the federal government when the current fiscal year ends on September 30. If there is no lame duck session, Congress may pass a "continuing resolution" until early 2003, funding all existing programs at current levels.

## MEDICARE/MEDICAID "CATCH-ALL" BILL

Before adjourning, Congress is trying to put together a Medicare bill to increase payment rates to Medicare providers. This bill could become a "catch-all" vehicle for many other health measures, although prospects for this are unclear at best. The House passed a "provider givebacks" bill as part of its Medicare prescription drug bill totaling approximately \$30 billion.

Today, Senate Finance Committee Chairman Baucus (D-MT and Ranking Member Grassley (R-IA) reached agreement on an estimated \$41 billion Medicare reimbursement package. The outline of the bill includes rural health care initiatives, a smaller than planned cut in hospital payments, increases in Medicare + Choice payment rates, a five-year extension of the QI-1 program (which helps pay Medicare premiums for low-income seniors) and the physician fee increases passed by the House earlier this year. Additional funds are also provided for Medicaid and SCHIP, but not the full amount passed by the Senate for state fiscal relief and not enough to fill the "CHIP Dip" (see below).

Questions remain as to how this bill might move forward. The House is looking at ways to scale back its original bill. The Administration has said it would accept a reduced package of about \$10-\$15 billion that focuses on physician and Medicare + Choice payment increases. To add to the uncertainty, Sen. Olympia Snowe, R- Maine, has vowed to offer a prescription drug benefit amendment to any legislation being considered for healthcare providers.

## TRANSITIONAL MEDICAID

Reauthorizing transitional Medicaid, which without action will expire on October 1, 2002, is currently tied to reauthorization of the current welfare program, Temporary Assistance to Needy Families (TANF). The Senate

Finance Committee included a five-year extension in the TANF bill, H.R. 4737; the House extended it for one year in H.R. 4737. Yet TANF expires on September 30 and prospects for enactment of a new TANF program seem dim. Congress may extend the existing TANF program "rather than authorize a restructured TANF program" either as part of a continuing

resolution or for a short term (1, 2 or 3 years). This would presumably include transitional Medicaid.

Possible Action: Advocates wishing to do so could urge Members of Congress to complete action on TANF, including transitional Medicaid, before it expires on October 1.

## MEDICAID AND IMMIGRANTS

States could provide Medicaid and/or SCHIP to all lawfully present children and pregnant women under the Senate Finance Committee's TANF bill, H. R. 4737, but the fate of this provision is tied to the success of the overall welfare bill. Under current law, states must wait five years before extending such coverage to legal immigrants who entered the country after August 22, 1996. The House welfare bill maintains a ban on aid for most immigrants.

## MEDICAID FMAP INCREASE

The Senate approved an amendment on July 25 to temporarily increase Medicaid's federal matching (FMAP) rate for 18 months (April 2002 to September 2003) and provide other state fiscal relief. Some state fiscal relief has been folded into the Medicare "catch-all" drafted by Senators Baucus and Grassley. But concerns about its cost -- \$9 billion as passed by the Committee -- have led the Senators to scale it back. For specific information about the provisions passed by the Senate, see the Capitol Communique, 8/2 (available at <http://www.healthlaw.org/federal.shtml>).

## "CHIP DIP"

S. 2860 would retain the 2001 funding level for the State Children's Health Insurance Program (SCHIP) in fiscal years 2003 and 2004. This bill changes a provision of current law, under which SCHIP funding will drop by 26 percent so that 900,000 children may lose coverage. Some SCHIP funding has been added to the Baucus-Grassley "catch-all" but not enough to fill the dip.

## SCHIP AND PREGNANT WOMEN

Still awaiting full Senate consideration is S. 724, a bill to authorize states to extend Medicaid and SCHIP to more low-income pregnant women. Under the bill, states that expand coverage to women with incomes above 185 percent of poverty would receive the enhanced federal payment now available under SCHIP.

Possible Action: Advocates wishing to do so could urge Members of Congress to complete action on the above issues before the end of this session.

## HISPANIC HEALTH IMPROVEMENT ACT

On September 23, Senator Bingaman (D-NM) and Representative Rodriguez (D-TX) introduced the Hispanic Health Improvement Act. Senator Bingaman chaired a hearing of the Senate Health and Education Committee. The bill seeks to address the health care needs of the nation's Hispanic community. It includes expansions and funding to SCHIP, funding for health professions, annual reports on how federal programs respond to improve the health status of Hispanics with regard to certain diseases, and provisions on border health, data collection, and an enhanced match for language services provided to Medicaid and SCHIP enrollees.

## OWEN REJECTED, OTHER NOMINEES CONFIRMED

The Senate Judiciary Committee on September 5 rejected the nomination of Texas Supreme Court Justice Priscilla Owen to the Fifth Circuit Court of Appeals (Louisiana, Mississippi, and Texas) on a vote of 10 to 9. President Bush has not announced whom he will now nominate for this position.

The full Senate in September approved the following nominees for U.S. District Courts: Terrence F. McVerry, Western District, Pennsylvania; Kenneth A. Marra, Southern District, Florida; Timothy J. Corrigan, Middle District, Florida; Jose E. Martinez, Southern District,

Florida; and Arthur J. Schwab, Western District, Pennsylvania.

## MEDICAL MALPRACTICE

The House Judiciary Committee on September 10 approved on a voice vote a bill to limit medical malpractice awards to injured victims. The bill has a \$250,000 limit on non-economic awards for pain and suffering and no limits for economic losses. Contingency fees charged by attorneys would be limited to a sliding scale. Action in the Senate is not expected this year. If not enacted into law, the bill will die at the end of this Congress and have to be introduced in the next Congress, which will begin in January 2003.

## PRIMARIES HERALD CHANGES FOR U.S. SENATE

On September 10, incumbent Senator Robert Smith (R-NH) lost his primary re-election bid to John Sununu, who will face Governor Jeanne Shaheen on November 5. In North Carolina, Erskine Bowles won the Democratic primary. His opponent is Elizabeth Dole, who won the Republican primary. They are seeking the position held by retiring Senator Jesse Helms (R-NC). Senate races are being closely watched since the Democrats currently have only a one-vote advantage.

Advocates may view federal bills at [www.thomas.loc.gov](http://www.thomas.loc.gov). A table showing the status of all judicial nominations can be found at <http://judiciary.senate.gov/nominations>.

## RESOURCES:

NAVIGATING THE HEALTH CARE MAZE: NHeLP has launched a new website □ <http://www.HealthCareCoach.com>

-- to help anyone who needs assistance in understanding and navigating the health insurance system. Featuring hundreds of articles and links on the web, the site provides facts and do-it-yourself tips for taking control of one's health care.

**LACK OF HEALTH INSURANCE CAN HURT ENTIRE FAMILY:** If one member of a family is without health insurance, the whole family suffers, reported the Institute of Medicine/National Academy of Sciences on September 18. "The stress of having even one uninsured family member can ripple through the household as other family members cope with their relative's illness, high medical bills, and financial distress," said Arthur Kellermann, co-chair of the committee that authored the report. To read the study, visit <http://www4.nationalacademies.org/news.nsf/isbn/039085187?OpenDocument>  
Printed copies can be purchased by calling 202-334-3313 or 1-800-624-6242.

**RURAL HEALTH:** The HHS Secretary's Rural Task Force has released a report noting that for the 65 million Americans living in rural areas better coordination is needed among all services. To read the report, visit <http://ruralhealth.hras.gov/initiative.htm>.

**NATIVE AMERICANS & HIV/AIDS: A Clinician's Guide: Working with Native Americans Living with HIV,** has been prepared by the federal Health Resources Services Administration (HRSA/HHS) to help providers understand cultural issues faced by Native American patients living with or at risk for HIV infection. For more information, visit [http://www.ask.hrsa.gov/detail.cfm?id\\_HAB00260](http://www.ask.hrsa.gov/detail.cfm?id_HAB00260), report #HAB00251.

**FEDERAL FACTOID:** The number of Americans without health insurance is expected to rise to 40 million, up from 38.4 million in 2000, according to the August 27 New York Times in anticipation of a September release of new data by the U. S. Census Bureau. This escalation in the number of uninsured comes at the same time as an August Harris poll showing that more and more Americans want comprehensive coverage. According to the survey, 56 percent of the public, 46 percent of physicians, 48 percent of employers, 50 percent of health plan managers and 51 percent of hospital managers said that the American health care system needs "radical change," and it predicted that frustration with the system will increase over the next few years.

**NHELP PUBLICATIONS:** Please be sure and check out NHeLP's publications page on the web at <http://www.healthlaw.org/publications.shtml>. There are a multitude of useful resources for advocates and consumers, some for sale and others for free.

For example, we have recently published a revised resource manual on immigrant access to health benefits: <http://www.healthlaw.org/pubs/200208.immaccess.html>

And anybody who does Medicaid work must own a copy of *An Advocate's Guide to the Medicaid Program*.

One of our readers has called it a "wonderful publication used and relied upon on a daily basis." Another simply called the Guide "the best resource in the world." Find out more at <http://www.healthlaw.org/advguide/index.shtml>