

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 Glenda Booth at booth@healthlaw.org with your comments.

SUBJECTS COVERED:

Congressional Schedule
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CONGRESSIONAL SCHEDULE

The U.S. Congress reconvened yesterday, after a month-long recess. Facing a target adjournment date of October 5, much unfinished business and a November 5 election, many Washington observers are predicting that this Congress will have to have a "lameduck" session after the election.

BUDGET PRESSURES

The return of a federal deficit, announced by the Congressional Budget Office on August 27, creates a difficult climate for Congress to enact Medicaid or other new health care initiatives and exacerbates pressure to reduce spending on existing programs.

The CBO reported that the federal government will have a deficit of \$157 billion in fiscal year 2002 (the year ending September 30), after having a surplus of \$127 billion in fiscal 2001. The swing from surplus to deficit was caused by a decline in revenues combined with sharp growth

in spending," said the CBO.

Under the CBO's projections, Medicaid spending will jump by 14 percent, from \$129 billion in 2001 to \$147 billion in 2002. Medicare will rise from \$238 billion to \$253 billion. For comparison, defense spending, which Congress has recently boosted, will grow from \$331 billion to \$361 billion in FY 2002. For 2003, the CBO predicts a deficit of \$145 billion, while the Senate Budget Committee says it will be \$180 billion.

The reason for the deficit depends on who is analyzing the budget. The sharp decline in revenues is due to a sluggish economy and to President George Bush's \$1.35 trillion tax cut, due to expire in 2010. (The President is asking Congress to make it permanent). Others attribute the deficit to increased spending, including spending on the nation's response to terrorism.

JUDICIAL NOMINATIONS

As of August 28, President Bush had sent 123 judicial nominations to the U.S. Senate for confirmation, 32 for courts of appeals and 90 for district courts. The Senate has confirmed 72 of these nominees, 13 for courts of appeals. Some nominations are awaiting the completion of security background checks. Eleven appeals court nominations are pending before the Senate Judiciary Committee and some of these are the most controversial.

The Judiciary Committee held a hearing on July 23 on Patricia Owen, who now sits on the Texas Supreme Court and is the President's nominee to the Fifth Circuit Court of Appeals. Fourteen organizations, including Planned Parenthood and the NAACP sent the committee a letter opposing her nomination because "of her activist and extreme views on important civil rights, workers' rights, consumers' rights and women's rights issues."

In a hearing statement, Senator Edward M. Kennedy (D-MA) said, "I am greatly troubled by her near unwavering support for the positions of business and corporations over that of injured individuals, and her consistent pattern of opinions that eviscerate protections for workers, consumers and individuals injured by unsafe products." Senator Orrin Hatch (R-UT) said, "In reading Justice Owen's decisions, one sees a judge working hard to get it right -- to get at the legislature's intent and to apply binding authority and rules of judicial construction. . . Justice

Owen clearly approaches these tasks with both scholarship and mainstream American common sense. She does not substitute her views for the legislature's, which is precisely the type of judge that the Washington groups who oppose her want.

The Senate's next step in her confirmation is uncertain at this time.

During the week of July 29, before recessing, the Senate confirmed the following judges for U.S. district courts:

California: Morrison C. England, Jr., Eastern District

Illinois: Amy J. St. Eve, Northern District

Missouri: Henry E. Autrey, Eastern District; Richard E. Dorr, Western District

Pennsylvania: Joy Flowers, Western District; David S. Cercone, Western District; John E. Jones III; Middle District; Timothy J. Savage, Eastern District

Texas: David C. Godbey, Northern District

Virginia: Henry E. Hudson, Eastern District

In addition, the Senate confirmed James. E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for 15 years.

Also that week, the Senate confirmed two appellate court nominees: D. Brooks Smith for the

Third Circuit (on a vote of 64 to 35) and Julia Smith Gibbons for the Sixth Circuit (on a vote of 95 to 0).

For a table showing nominations received, confirmed and pending, visit <http://judiciary.senate.gov/nominations>

RESOURCES:

IMMIGRANTS' HEALTH CARE: The revised and expanded manual, "Immigrant Access to Health Benefits: A Resource Manual," has been released by NHeLP and the Access Project. This publication is a primer on eligibility requirements, benefits, sponsor responsibilities and other rules for federal and state programs that serve immigrants. It can be ordered for \$25.00 by calling 310-204-6010 or by sending an e-mail request to nhelp@healthlaw.org.

STATES' ACTIONS IN LONG-TERM CARE: How each state is struggling to address challenges posed by declining revenues and rising Medicaid costs for long-term care is the subject of the first of two reports by the National Conference of State Legislatures. Some states are taking "cost containment" actions. The report predicts that states are also likely to try to enable more people to live in community, rather than institutional, settings. To read the report, visit <http://aspe.hhs.gov/daltcp/reports/stateltc.pdf>.

DIRTY NEIGHBORHOODS? The public can learn about environmental conditions in their community by visiting the U.S. Environmental Protection Agency's Environmental Justice website, www.epa.gov/compliance/whereyoulive.html. The "Where You Live" page provides links to Geographical Information Systems (GIS) and features an environmental justice query mapper through which users can get information on certain facilities and environmental data in their neighborhoods.

FEDERAL FACTOID: The U.S. Department of Health and Human Services (HHS) says that the government's share of health spending in the United States is 45.3 percent or \$548 billion in 1999. This figure reflects only direct spending, such as writing a check to pay for a service. But a more accurate calculation would also include government payments for public employees and "tax spending" or "tax-financed" health care, revenues lost because of federal tax preferences for various health care and insurance expenditures. These tax preferences are

actually federal spending in another form. Including all three types of spending for health care, actual federal health expenditures totaled \$723.8 billion in 1999 or 59.8 percent of total U.S. health spending.

In 1999, national health expenditures totaled \$1.2 trillion. Of that Medicare accounted for \$213 billion; Medicaid, \$108 billion; tax subsidies, \$95 billion.

This analysis was done by Steffie Woolhandler and David U. Himmelstein, in the July-August 2002 issue of Health Affairs, a publication of Project Hope.