

## **NHeLP's Capital Communique APRIL 2011**

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](mailto:reid@healthlaw.org).

### **SUBJECTS COVERED**

#### **Bill of Interest**

- Continuing Resolution
- Full-Year Continuing Appropriations Act, 2011

#### **HHS Updates**

- First Anniversary of the Patient Protection and Affordable Care Act
- Proposed Rule: Application Process for Waivers for State Innovation - Comments Due by May 13
- National Strategy for Quality Improvement in Health Care and Interagency Working Group

#### **Federal Factoid**

#### **New Resources**

### **BILLS OF INTEREST**

#### *Continuing Resolution*

On March 15, the House voted to approve another Continuing Resolution (C.R./H.J. Res. 48),

by a vote of 271-158. Eighty-five Democrats voted in favor of the C.R., and 54 Republicans voted against it. The legislation cuts an additional \$6 billion in federal program below FY 2010 spending levels. H.J. Res. 48 funds the operation of the federal government through April 8, 2011. The previous C.R. (H.J. Res. 44) expired on March 18. The Senate passed H.J. Res. 48 on March 17 by a vote of 87-13. On March 18, President Obama signed the C.R. into law.

### *Full-Year Continuing Appropriations Act, 2011*

While this is the second short-term C.R. to fund the federal government on a temporary basis, Congress has yet to pass a FY 2011 appropriations bill. Congress has until April 8 to pass either a bill funding the government for the remainder of the fiscal year or another C.R. The current discussions revolve around a total of \$33 billion in cuts to all of FY 2011 spending (which includes the two continuing resolutions). It is unclear whether an agreement will be finalized before Friday.

*Possible Action:* Those wishing to do so could contact their respective elected officials in the House and Senate to encourage them to fund the government through the rest of the fiscal year without harmful impacts to HHS and other federal programs.

## **HHS UPDATES**

### *First Anniversary of the Patient Protection and Affordable Care Act*

On March 23, the Obama Administration and health advocates across the nation marked the first anniversary of the passage of the Patient Protection and Affordable Care Act (ACA). Among its various features, the ACA creates expanded access to Medicaid for certain low-income individuals, eliminates pre-existing condition exclusions for children in 2010 and adults in 2014, and provides funding for community health centers that serve many uninsured individuals.

For NHeLP's press release on the significance of the ACA and health reform resources, [click here](#).

[Click here](#)

for information from a variety of organizations that also featured the importance of the ACA for women's health through a series of resources, webinars, press statements, and coalition materials.

*Proposed Rule: Application, Review, and Reporting Process for Waivers for State Innovation - Comments Due by May 13*

On March 14, the Centers for Medicare & Medicaid Services (CMS) published a proposed rule, "Application, Review, and Reporting Process for Waivers for State Innovation" that implements procedural requirements to permit the Secretaries of HHS and the Department of the Treasury to waive certain features of the ACA. The ACA requires the establishing of this waiver process.

The proposed rule applies to health insurance coverage for plan years that begin on or after January 1, 2017. To develop innovative strategies to ensure access to high quality care, the Secretary may grant states waivers from certain ACA provisions such as maintaining consumer choices and insurance competition requirements in health exchanges, establishing qualified health plans, and reducing cost-sharing for individuals in qualified health plans. Among other requirements, states can only obtain waivers if they can provide coverage that is "at least as comprehensive" as coverage provided in the health plans that will be offered in the health exchanges, and "at least as affordable" as the provisions in the ACA. It is unclear how these requirements would be interpreted and applied.

The proposed rule includes procedures for submitting state waivers; providing public notice and opportunity for commenting on waivers on the state and federal levels; reviewing waiver applications by the Secretaries of HHS and the Treasury; and monitoring and evaluating approved waivers.

For the complete *Federal Register* notice [click here](#) . The proposed rule seeks comments on issues such as the impact of the waiver on stability of coverage for individuals and employers, and the choice of health plans for individuals and employers. Comments on the proposed rule

must be received by May 13.

*National Strategy for Quality Improvement in Health Care and Interagency Working Group for Health Care Quality*

On March 21, HHS Secretary Sebelius announced the "National Strategy for Quality Improvement in Health Care" (National Quality Strategy) to promote quality health care that is focused on the needs of patients, families, and communities. The National Quality Strategy is a requirement of the ACA. The Strategy reflects the goals of health reform of providing better care for individuals and populations and reducing costs. To achieve these goals, the Strategy highlights several priorities, such as:

- reducing harm in care delivery;
- engaging patients and their families as partners in care;
- promoting the most effective prevention and treatment practices for leading causes of mortality;
- developing and implementing new health care delivery models to make quality care more affordable; and
- promoting best practices for healthy living.

The ACA also requires the establishment of an "Interagency Working Group for Health Care Quality." The 23 federal agencies in the working group include HHS and several of its divisions, and the Departments of Commerce, Veterans Affairs, and Labor. They will share information about their plans and programs on health quality improvements and coordinate these strategies with those of private sector stakeholders. By December 31, 2011, Congress will receive the working group's first annual report on the implementation of the ACA's quality improvement provisions. The annual report will also be made public on an internet website. [Click here](#) for additional details on the National Quality Strategy and the Interagency Working Group.

**FEDERAL FACTOID**

The National Alliance on Mental Illness (NAMI) documented that one in 17 people in the United States has a serious mental illness, such as schizophrenia, major depression, or bipolar disorder. One in 10 children also has a serious mental disorder. Yet states cut approximately \$1.6 billion to non-Medicaid state mental health services from 2009 - 2011, with more cuts of Medicaid funded mental health services predicted for 2011 and 2012. For NAMI's report on the impact of state-by-state cutbacks to mental health services, [click here](#) .

## NEW RESOURCES

Medicaid and CHIP Payment and Access Commission (MACPAC), *First Report to the Congress on Medicaid and CHIP*

MACPAC was established by the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and funded through the ACA. The Commission is charged with reviewing and advising Congress on Medicaid and CHIP policies on payment; access; eligibility; enrollment and retention; coverage; quality; and interactions of Medicaid and CHIP with Medicare and the U.S. health care delivery system generally.

[Click here](#)

to view MACPAC's inaugural report to Congress.

Diana Greene Foster, Ph.D. et al, "Limits on Birth Control Pills May be Costly," *Obstetrics & Gynecology* . A researcher at the University of California-San Francisco noted disparities between women who received a year's supply of birth control pills and those who were given a smaller supply. The study found that low-income women in California who received more birth control pills had fewer unplanned pregnancies than women who only received a one to three months supply. Currently, three-fourths of women in the U.S. who use the pill as a birth control method get no more than a three-month supply.

[Click here](#)

for more information on the study's findings.