

# OSR Focus on Legislative Affairs

## A Resource for OSR Representatives

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Tomorrow's Doctors, Tomorrow's Cures

Concise updates on recent legislation. Additional information may be found on the AAMC's Government Affairs website and online editions of Washington Highlights: [www.aamc.org/advocacy/start.htm](http://www.aamc.org/advocacy/start.htm)

### Medicare Physician Payments - *Bryan Harris*

In the final hours of the 109<sup>th</sup> Congress, the Senate cleared (79-9) the House-passed version of the *Tax Relief and Health Care Act of 2006*, which President Bush signed into law on December 20. Included in the bill is a provision to freeze 2007 Medicare physician payments at the 2006 level. This provision averted an across the board 5 percent cut in physician payments scheduled in accordance with the sustainable growth rate (SGR) formula. The estimated cost of \$3.1 billion appears to be covered by a reduction in funding for Medicare Advantage Plans. Also included in the bill is a provision to extend the geographic price cost index to prevent additional payment cuts for physicians in rural areas.

This bill creates a short-term physician quality reporting program in which participating physicians may qualify for a 1.5 percent bonus payment for services provided July 1, 2007-December 31, 2007. The provision also sets up a long-term quality reporting program to begin in Calendar Year (CY) 2008.

The *Tax Relief and Health Care Act of 2006* also calls for a voluntary quality reporting program which will be implemented no sooner than 2009 for hospital outpatient and ambulatory surgery centers. Non-participating centers will face a two percent cut in their annual payment update.

While the bill averts physician payment cuts in CY 2007, lawmakers did not produce a long-term solution for yearly Medicare payment updates. Currently, the basic SGR mechanism is to compare actual spending to target spending and adjust the annual update when a mismatch occurs. Because health care spending has grown rapidly in recent years, actual spending has been much greater than what had been projected and therefore budgeted for. The SGR has called for physician payment cuts since 2002; if not overruled annually, the SGR calls for deeper reimbursement cuts each year. Congress has overridden these cuts multiple times, but adjusting the formula is a huge legislative issue for providers every year and consumes time, energy, and resources from physicians and physician lobbying groups.

At the January 9<sup>th</sup> meeting, the Medicare Payment Advisory Commission (MedPAC), an independent federal body that advises Congress on issues affecting the Medicare program, finalized their report discussing recommendations to change or replace the SGR formula. The MedPAC commissioners agreed that the payment system needs to be altered but could not agree on whether the SGR should be repealed outright or replaced with a different expenditure target. They elected not to make a formal recommendation at this time. They did conclude, however, that if another target mechanism is used it should include a geographic component to reflect high and low cost areas, inclusion of all Medicare costs (not just physician costs), and should allow for the sharing of savings with organizations that are efficient. For CY 2008, MedPAC has recommended a 1.7 percent physician payment update.

*For more information:*

Washington Highlights 12-15-07 [www.aamc.org/advocacy/library/washhigh/2006/121506/start.htm](http://www.aamc.org/advocacy/library/washhigh/2006/121506/start.htm)

Washington Highlights 1-12-07 [www.aamc.org/advocacy/library/washhigh/2007/011207/start.htm](http://www.aamc.org/advocacy/library/washhigh/2007/011207/start.htm)

### VA Plans to Increase GME Positions - *Roxanne Richards*

Medicare largely funds graduate Medical Education (GME). It funds residency programs through DGME (Direct Graduate Medical Education), paying for the actual stipends of residents, the salaries of teaching physicians, and related overhead costs, and through IME (Indirect Medical Education), paying for expenses associated with higher inpatient costs of teaching hospitals. In 1997, in an attempt to balance the federal budget, Congress limited the number of residents that are funded per hospital, with increases dictated by inflation.

The Department of Veterans Affairs (VA) has proposed increased support for GME, and plans to add approximately 2000 resident positions over the next 5 years. The Congressionally mandated residency cap does not apply to the VA, which receives its funding from the Veterans Health Administration budget. Funding is reported to be approved for FY2007-2008, and includes the addition of 341 new positions across the country in July 2007. Malcolm Cox, M.D., VA Chief Academic Affiliations Officer states, "These positions will not only address VA's critical needs and the looming U.S. physician workforce shortage, but will also provide flexibility in training in new specialties and new sites of care, such as community-based clinics."

*For more information:*

"Medicare Payments for Graduate Medical Education: What Every Medical Student, Resident, and Advisor Needs to Know," AAMC, April 2006.

Washington Highlights 12-8-06 [www.aamc.org/advocacy/library/](http://www.aamc.org/advocacy/library/)

### SCHIP Reauthorization and Redistribution of Unspent Funds - *Roxanne Richards*

Under the State Children's Health Insurance Program (SCHIP), a joint federal-state program, states receive an annual federal allotment. The program was established by the Balanced Budget Act of 1997, and its 10 year funding allocation will run out in FY 2007. Reauthorization of SCHIP was discussed at a Nov. 16, 2006 hearing with the Senate Finance Subcommittee on Health. While the subcommittee members generally support continuation of the program, there was discussion about restructuring the program.

Senator Orrin Hatch (R-Utah), noting shortfalls in SCHIP funding, stated that the subcommittee should look at "what populations should most appropriately be covered by SCHIP" before reauthorizing the program. Senator Hatch noted that SCHIP's current structure allowed for coverage of certain "needy and vulnerable" adult populations in addition to the original target population, children. Given this structure, he warned, budget cuts could force some children out of the program, while allowing certain adults to retain eligibility. Senator Jay Rockefeller (D-WV) disagreed, advocating for increased funding, and encouraging states to expand their programs.

There was also discrepancy among subcommittee members concerning redistribution of unspent allocations from previous years.

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## SCHIP *cont'd*

Senator Hatch felt that surpluses from one state should not be used to alleviate deficits run up by other states, especially if those deficits came from covering the above-mentioned adult populations. Senator Rockefeller, on the other hand, encouraged states to expand programs to utilize their full federal allotment. In an effort to redistribute unspent SCHIP allotments from FYs 2004 and 2005, Congress approved an amendment to the "NIH Reform Act of 2006" on Dec. 9, 2006 directing the Secretary of HHS to redistribute unspent funds to states experiencing shortfalls in FY 2007. Such redistributed funds can only be used for individuals eligible for SCHIP benefits as of October 1, 2006.

Reauthorization of SCHIP was not resolved in the 109<sup>th</sup> Congress, but is a top priority for the 110<sup>th</sup> Congress, according to House Energy and Commerce Subcommittee on Health Chair Frank Pallone (D-N.J.). Current funding is set to expire at the end of May 2007.

### *For more information:*

Washington Highlights 12-15-07 [www.aamc.org/advocacy/library/washhigh/2006/121506/start.htm](http://www.aamc.org/advocacy/library/washhigh/2006/121506/start.htm)  
Forum for State Health Policy Leadership, National Conference for State Legislators, Frequently Asked Questions: SCHIP [www.ncsl.org/programs/health/forum/faqschip.pdf](http://www.ncsl.org/programs/health/forum/faqschip.pdf)  
Kaiser Family Foundation Daily Health Policy Report, January 12, 2007 [www.kaisernetwork.org/Daily\\_reports/rep\\_index.cfm?DR\\_ID=421100](http://www.kaisernetwork.org/Daily_reports/rep_index.cfm?DR_ID=421100)

## Senate Confirmation of New FDA Commissioner

*Roxanne Richards*

The Food and Drug Administration has only had a Senate-confirmed commissioner for 18 months of President Bush's tenure. Commissioner of the FDA is one of many high-level policy-making positions requiring executive nomination and Senate approval for final appointment. On December 7, 2006, the Senate voted 80-11 to confirm Andrew C. von Eschenbach, M.D. as commissioner of the FDA; he has served as acting commissioner since September 2005. Von Eschenbach, trained in urologic oncology, previously served as director of the National Cancer Institute (NCI) from January 2002 until June 2006. "For too long, the FDA has needed a Senate-confirmed leader with the mandate that Senate confirmation provides," said Sen. Mike Enzi (R-WY), chairman of the Senate Health, Education, Labor and Pensions Committee.

### *For more information:*

Washington Highlights 12-8-06 [www.aamc.org/advocacy/library/washhigh/2006/120806/start.htm](http://www.aamc.org/advocacy/library/washhigh/2006/120806/start.htm)

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## Political Outlook *Roxanne Richards*

With several races decided by incredibly narrow margins in the November election, the Democrats regained control of both the House (233-202) and the Senate (51-49). By regaining the majority in each of these congressional bodies, Democrats now chair every Congressional committee and thus have the ability to set the legislative agenda.

The 110<sup>th</sup> Congress began on January 4<sup>th</sup> with leadership elected as follows:

House Speaker: Rep. Nancy Pelosi (D-CA), the first female Speaker of the House in history.

House Majority Leader: Rep. Steny H. Hoyer (D-MD)

Senate Majority Leader: Sen. Harry M. Reid (D-NV)

Senate Minority Leader: Sen. Mitch McConnell (R-KY) (succeeding retiring Senator, Dr. Bill Frist (R-TN))

House Democrats planned an ambitious agenda for what is referred to as "The First 100 Hours." Items on the "hundred hours" agenda included student loan interest rates, stem-cell research, and Medicare prescription negotiation. Notably, the House approved legislation (253-174) requiring the Secretary of HHS to conduct and support research utilizing human embryonic stem cells; this is, however, still not enough votes to override the veto promised by President Bush. The Senate will likely consider a similar bill in February, allowing utilization of human embryos from fertility clinics that are in excess of the needs of the individual(s) seeking treatment. This bill has been endorsed by over 500 organizations and institutions, including the AAMC. Additionally, student loan interest rate cuts were approved in the House, but will not affect medical student loans. More information on these issues, as well as the President's newly proposed plan to redirect federal funds from teaching hospitals, health systems, and medical schools to state-based health coverage initiatives and the AAMC's opposition to this plan will be discussed in future issues. Stay tuned!

### **Additional Resources:**

Please see the document "Health Policy and Health System Resources" on the OSR website:  
[www.aamc.org/members/osr/communications/legislative\\_affairs/hphs\\_resources.htm](http://www.aamc.org/members/osr/communications/legislative_affairs/hphs_resources.htm)

### **Please also check out OUR current favorite resources:**

**Katie:** Institute of Medicine [www.iom.edu](http://www.iom.edu) - especially the section on minority health and the 2002 report, "Unequal Treatment" - [www.iom.edu/CMS/3740/4475.aspx](http://www.iom.edu/CMS/3740/4475.aspx)  
**Roxanne:** Kaiser Network [www.kaisernetwork.org/](http://www.kaisernetwork.org/)  
**Chris:** Kaisernetwork.org Health Policy Weekly Roundup - iTunes  
**Bryan:** Commonwealth Fund [www.cmwf.org/](http://www.cmwf.org/)  
**Robby:** Wall Street Journal Health News [online.wsj.com/home/](http://online.wsj.com/home/)

For information about the OSR, visit the OSR Web site at:  
[www.aamc.org/members/osr](http://www.aamc.org/members/osr)

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