



APHA Legislative Update August 2008

- I. *Tobacco Bill Passes House*
- II. *Mental Health Parity Blocked in Senate*
- III. *Congress Overrides Medicare Veto*
- IV. *Congress Reauthorizes Consumer Product Safety Legislation*
- V. *Draft of Second Stimulus Package Released*
- VI. *President Signs Global AIDS Bill*
- VII. *Pediatric Cancer Bill Signed into Law*
- VIII. *Senate Passes Reauthorization of Community Health Centers*
- IX. *Lawmakers Introduce New Public Health Legislation*
- X. **POLICY WATCH!** *News on relevant Federal, State and local activities*

I. Tobacco Bill Passes House

On Wednesday, July 30, 2008, the U.S. House of Representatives overwhelmingly passed H.R. 1108, Family Smoking and Tobacco Control Act, by a vote of 326 – 102, a strong bipartisan veto-proof majority. The measure, strongly supported by APHA, would give the Food and Drug Administration (FDA) the authority and financial resources to regulate tobacco products. The new costs associated with the bill would be funded entirely by a new user fee paid by tobacco companies in proportion to their market share.

Specifically, under the bill, the FDA would have the authority to:

- Stop illegal sales of tobacco products to children and adolescents;
- Require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful and less addictive;
- Restrict advertising and promotions that appeal to children and adolescents;
- Prohibit unsubstantiated health claims about so-called “reduced risk” tobacco products that discourage current tobacco users from quitting or encourage new users to start;
- Require the disclosure of tobacco product content and tobacco industry research about the health effects of their products; and
- Require larger and more informative health warnings on tobacco products.

In addition, the bill would allow FDA to ban flavor additives, with an exception for menthol flavoring. Some advocates criticized the exception, noting that menthol masks the harshness of cigarettes, which could make it easier for teenagers to start smoking and menthol cigarettes are disproportionately popular among African Americans. To address that concern, an amendment was added to require studies on the effects of menthol flavoring and FDA to produce an action plan on the advertising and promotion of menthol cigarettes to young people, particularly those in minority communities. The bill also would allow FDA to regulate menthol in the future after scientific review of its effects. Rep. John Lewis (D-GA), a member of the Congressional Black Caucus, released a statement on the issue available at http://johnlewis.house.gov/index.php?option=com_content&task=view&id=378&Itemid=1.

APHA has long supported giving FDA the authority to regulate tobacco products. The measure passed the Senate Health, Education, Labor and Pensions Committee last summer, but has not yet been debated by the full Senate. APHA is hopeful the legislation can also clear the full Senate this year and win the president's signature.

II. Mental Health Parity Blocked in Senate

On Wednesday, July 30, 2008, the U.S. Senate failed to garner the needed 60 votes to end debate and schedule a vote on S. 3335, the so-called tax extenders bill, by a vote of 51 – 43. Democratic leaders in the Senate had included the text of the mental health and addiction parity legislation as a part of the tax extenders bill in an effort to gain support for the tax extenders bill and to move the mental health parity legislation forward. The bill was caught up in partisan wrangling about soaring gasoline prices and domestic off shore oil drilling. APHA is hopeful the Senate and House of Representatives will take up the mental health parity legislation immediately upon returning from the August Congressional Recess.

III. Congress Overrides Medicare Veto

On July 15, 2008, the U.S. House of Representatives and U.S. Senate voted in a strong bipartisan manner to override the president's veto of the Medicare Improvements for Patients and Providers Act of 2008. APHA strongly supported this important Medicare legislation.

Specifically, the new law would:

- Strengthen low-income protections against rising Medicare costs;
- Provide coverage for additional preventive services determined reasonable and necessary for the prevention or early detection of a disease or disability and recommended by the U.S. Preventive Services Task Force;
- Begin to level the playing field between private insurance Medicare Advantage plans and traditional fee-for-service Medicare, consistent with nonpartisan MedPAC recommendations, thus saving taxpayers and Medicare beneficiaries billions of dollars;
- Improve consumer protections and oversight of the marketing and advertising of private insurance Medicare Advantage and Part D prescription drug plans;
- Provide mental health parity in Medicare by gradually lowering the 50 percent coinsurance rate for outpatient mental health services to 20 percent;
- Reduce medical costs and improve the safety and efficiency of prescription drugs through incentives for e-prescribing systems; and
- Expand primary care and provide incentives for physicians to provide additional primary care services.

In addition, the legislation blocked a scheduled cut to Medicare's physician payment rates.

IV. Congress Reauthorizes Consumer Product Safety Legislation

On Wednesday, July 30, 2008, the U.S. House of Representatives overwhelmingly adopted the conference agreement on H.R. 4040, legislation to reauthorize the Consumer Product Safety Commission (CPSC) in fiscal year 2010 through fiscal year 2014 by a vote of 424 – 1. The U.S. Senate followed suit on Thursday, July 31 by a vote of 89 – 3. The bill contains a number of important public health provisions including:

- Requiring mandatory toy safety standards and testing;
- Banning lead in all children’s products; and
- Restricting the use of certain plastic softeners called phthalates in children’s toys.

A White House spokesman has said the president is expected to sign the bill.

V. Draft of Second Stimulus Package Released

On Wednesday, July 30, 2008, U.S. Senate Appropriations Chairman Robert C. Byrd (D-WV) released details of a draft of a second supplemental spending package that includes several public health provisions. The \$24 billion proposal includes:

- \$792 million in loans and grants for rural community facilities, such as hospitals, clinics, health and safety vehicles and equipment, public buildings, and adult and child care facilities;
- \$570 million for nutrition programs;
- \$500 million for the National Institutes of Health to support new research grants for cancer, Alzheimer’s disease, heart disease, and other diseases;
- \$400 million for clean water and sewer projects, particularly in rural communities;
- \$350 million to improve hospital care in Louisiana and Mississippi;
- \$172 million for the U.S. Department of Agriculture to upgrade its computer systems and implement the new Farm Bill;
- \$91 million to address public health and social service needs after natural disasters; and
- \$26 million for the Centers for Disease Control and Prevention to combat infectious diseases.

Sen. Byrd hopes to mark up the package in committee and move it to the Senate floor in September, after the August Congressional Recess. The U.S. House of Representatives also is expected to consider a second economic stimulus package in September.

VI. President Signs Global AIDS Bill

On Wednesday, July 30, 2008, President Bush signed H.R. 5501 to reauthorize and expand the president’s program to fight AIDS and other diseases abroad. The law would provide \$48 billion over five years, including \$5 billion for malaria programs; \$4 billion for tuberculosis programs; \$2 billion in fiscal year 2009 for the Global Fund to Fight AIDS, Tuberculosis and Malaria (created by the United Nations); and \$2 billion for health, clean water and law enforcement programs for American Indians. The law also would do the following:

- Overturn an existing law requiring that one-third of prevention money be spent on abstinence education and instead, require a report to Congress if abstinence and fidelity programs fall below half of prevention spending in a given country;
- Preserve a requirement that organizations that receive funding have an explicit policy opposing prostitution;
- Require that more than half of the program’s aid go towards AIDS treatment and care and ten percent go to orphans and vulnerable children;

- Link AIDS prevention and treatment programs to nutrition programs;
- Strengthen the “conscience clause”, which allows faith-based organizations to avoid endorsing or using any prevention or treatment method to which they have a religious or moral objection;
- Set a goal of providing AIDS drug treatment to two million people and preventing 12 million infections;
- Set a goal of recruiting 140,000 new health care professionals and paraprofessionals (defined as individuals who provide basic assistance in the identification, prevention or treatment of illness); and
- Repeal the existing statutory ban on HIV-positive visitors to the U.S.

The bill passed the U.S. House of Representatives by a vote of 308 – 116 on April 2. On July 16, The U.S. Senate passed the legislation with amendments by a vote of 80 – 16 and on July 24, U.S. House of Representatives cleared the Senate passed version by a vote of 303 – 115.

VII. Pediatric Cancer Bill Signed into Law

On Tuesday, July 29, 2008, President Bush signed the Caroline Pryce Walker Conquer Childhood Cancer Act of 2008 (H.R. 1553). The law authorizes \$30 million per year for fiscal years 2009 to 2013 to support pediatric cancer research institutes, establish a national childhood cancer registry and provide information services to patients and families affected by childhood cancer. The U.S. House of Representatives passed the legislation June 12 by a vote of 416 – 0 and the U.S. Senate cleared it without amendment by unanimous consent on July 16.

VIII. Senate Passes Reauthorization of Community Health Centers

On July 21, 2008, the U.S. Senate approved by voice vote the Health Care Safety Net Act of 2008 (S. 901) to reauthorize through 2012 three federal programs that provide health services to rural and underserved areas. According to the Congressional Budget Office, the bill would authorize \$15.1 billion over five years for community health centers, rural health care programs and the National Health Service Corps, which recruits physicians and nurses to serve in rural and underserved areas. The House Energy and Commerce Committee approved a companion bill (H.R. 1343) by voice vote on May 7.

IX. Lawmakers Introduce New Public Health Legislation

The following bills dealing with a variety of public health issues were introduced in July:

- Rep. Charles Boustany Jr. (R-LA) introduced H.R. 6506 to require states to report on children’s access to primary care practitioners under the State Children’s Health Insurance Program (SCHIP) based on the number of kids who actually receive a primary care visit through SCHIP. States also would report on their plans to target enrollment outreach to children who do not have private insurance to avoid displacement of private health coverage. In addition, the bill would encourage states to survey parents and report if enrolled children are receiving needed care quickly.
- Rep. Hilda Solis (D-CA) introduced the Primary Care Dental Academic Workforce Development Act, H.R. 6551, to authorize a loan repayment program for faculty members of general dentistry and pediatric dentistry program and to encourage programs that receive funding to promote and recruit diverse faculty. The legislation is intended to address the biggest obstacle to recruiting and retaining dental school faculty, which is student loan debt that averaged \$141,836 in 2006.
- Sen. Tom Harkin (D-IA) introduced S. 3321 to convene a federal interagency task force on obesity. The task force would be charged with establishing a government-wide strategy for preventing and reducing overweight and obesity, improving coordination among federal agencies, and implementing and evaluating the effectiveness of the strategy.

- Sen. Richard Durbin (D-IL) and Rep. Diana DeGette (D-CO) introduced companion pieces of legislation (S. 3206 and H.R. 6393) in the U.S. Senate and U.S. House of Representatives that would provide coverage under Medicare and Medicaid for tobacco cessation treatments, such as counseling and doctor prescribed tobacco cessation therapies. The bills also would allow states to provide tobacco cessation treatments and anti-tobacco health promotion messages under the Maternal and Child Health Program to reduce tobacco use among pregnant women.

X. POLICY WATCH: News on relevant Federal, State and local activities

Pennsylvania Law to Require Insurance Companies to Cover Autism Treatment. Pennsylvania Gov. Ed Rendell (D) recently signed a law requiring private insurance companies to provide benefits of up to \$36,000 per year to diagnose and treat autism spectrum disorders in individuals under the age of 21. Patients whose treatment exceeds \$36,000 per year will receive reimbursement from the state's Medicaid department, which is currently providing care to Pennsylvania's under 21 autistic population at an annual cost of more than \$185 million. Pennsylvania hopes that this new law, set to take effect in July 2009, will decrease the state's spending on autism by up to \$13 million in the first year by increasing the number of autistic patients covered by private insurance.

Los Angeles Places Moratorium on New Fast Food Restaurants in Low Income Neighborhood. The Los Angeles City Council voted unanimously to place a one-year moratorium on new fast food restaurants in South Los Angeles, one of the city's poorest areas. Fast food restaurants account for 73 percent of restaurants in South Los Angeles, compared to 42 percent in the more affluent West Los Angeles area. The Los Angeles County health department counts 30 percent of adults in South Los Angeles as obese, compared to just over 14 percent in West Los Angeles. The city council enacted the moratorium to give South Los Angeles time to attract healthier restaurant choices. The moratorium, which will not take effect until signed by the mayor, could be extended up to a year.

Massachusetts Enacts Major Health Care Changes. In an effort to reduce the rising health care costs that now threaten the state's health insurance law, the Massachusetts state legislature recently moved two important health care reforms. The first bill, passed by both the House and the Senate, contains an amalgamation of incentives meant to increase access to care while decreasing the associated costs. Among other things, the bill would set a goal of statewide electronic medical records by 2015, expand enrollment at the University of Massachusetts Medical School, educate health care providers about the benefits of low cost alternatives to brand name medication, and create incentives for medical professionals to practice in underserved areas. The second bill, which has passed the House but not the Senate, seeks to raise additional revenue by requiring health care providers and health insurance companies to contribute more to the state's health insurance system. If enacted this bill would raise an additional \$89 million per year.

New Jersey Expands Coverage for Children and Low-Income Families. New Jersey Gov. Jon Corzine (D) signed into law legislation that mandates health coverage for children under the age of 19, expands coverage for low-income families and allow insurance companies to vary premiums by age. This policy is part of New Jersey's strategy to move toward universal coverage. The law will expand the state's child health insurance program, NJ FamilyCare, to parents in families of four earning up to \$42,400 per year, compared to the previous income cap that was set at \$27,645 per year. In addition, the new legislation allows insurance companies to charge older people up to three-and-a half times the rate of young people, although increases for people over the age of 55 will be capped at 15 percent per year for the first four years. This measure is expected to reduce premiums for people under the age of 45 by as much as 50 percent.

Take action on APHA's updated legislative alerts and tell Congress to pass mental health parity legislation, authorize the U.S. Food and Drug Administration to regulate tobacco

products, reduce health disparities among American Indians and Alaskan Natives, protect the Healthy Start program to reduce infant mortality and morbidity, and strengthen the public health work force. Help APHA influence lawmakers to make these bills a priority in 2008. You can view these and other APHA action alerts by visiting [APHA's advocacy site](#). Check back often for new and updated action alerts.

Join us this summer for APHA's **Public Health ACTION** (PHACT) Campaign! We need your help to educate legislators and candidates running for office about public health. During the months of July and August, we are asking APHA members and Affiliates to schedule meetings with their legislators in their district offices, participate in town hall meetings hosted by their legislators and seek opportunities to ask questions to candidates, both incumbents and challengers, running for office. For information and resources, please visit the [PHACT Campaign Website](#).

Please [email us](#) any relevant stories from your community or state to be included in future editions of policy watch.

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