



APHA Legislative Update October 2008

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I. House and Senate Pass Continuing Resolution

With the fiscal year (FY) for 2009 beginning on October 1, 2008, Congress had yet to pass any of the 12 annual spending bills that fund the programs and agencies of the federal government. In order to keep the federal government in operation, the House and Senate passed a Continuing Resolution (CR) (H.R. 2638) by a vote of 370-58 and 78-12, respectively. The President signed the bill on Tuesday, September 30, 2008. The measure provides full FY 2009 funding for the Departments of Defense, Veterans Affairs, and Homeland Security. In addition, the measure funds most of the rest of the government, including all federal health programs, at the FY 2008 level for five months -- through March 6, 2009. It is expected that the new president elected this November will finish the work of the nine FY 2009 Appropriations bills in the CR, including the Labor-HHS-Education Appropriations bill. APHA will continue its efforts to ensure adequate funding for the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration when the new president and new Congress begin their work early next year to finalize the FY 2009 spending bills and begin their work on FY 2010.

II. Senate Bundles Mental Health Parity Legislation with Bailout Package, Tax Cuts

The U.S. Senate incorporated the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 into the large \$700 billion financial bailout bill. The omnibus bill also includes a tax break package and an increase in insurance limits for bank deposits. The House is likely to consider the package later in the week. On September 23, both the U.S. House of Representatives and U.S. Senate passed the legislation that would require

insurers to cover mental health conditions in the same manner as physical health conditions. The House passed the legislation as a stand-alone bill by a vote of 376-47. The Senate included the parity language in legislation that would extend expiring tax breaks. The Senate passed the bill by a vote of 93-2. While the mental health and addiction parity language passed by the House and Senate bills is identical, each used different mechanisms to pay for the legislation. These different funding strategies needed to be worked out before it could be sent to the president for his signature. APHA is urging the House and Senate to either adopt the parity language as a part of the larger bill being considered this week, or for the Senate to move the stand-alone parity bill passed by the House in September. APHA members are strongly encouraged to send a message to their Representative and Senators urging them to send the mental health and addiction parity legislation to the president before Congress adjourns. You can send your Representative and Senators a message by visiting APHA's advocacy site at: <http://www.capwiz.com/apha/issues/alert/?alertid=11971241>

III. Tobacco Legislation Fails to Move in the Senate

With Congress adjourning for the year as early as this week, legislation to allow the U.S. Food and Drug Administration (FDA) to regulate tobacco products will not make it to the Senate floor for consideration this year. The legislation which passed the House of Representatives by an overwhelming bipartisan majority back in July has long been championed by APHA and many other major public health organizations. APHA will continue to push for passage of this legislation in the 111th Congress in 2009.

IV. President Signs Bill to Expand Protections for Disabled

On September 25, President Bush signed into law the ADA (Americans with Disabilities Act) Amendments Act of 2008 (S. 3406). The law amends the ADA (PL 101-36) to specify the definition of "disabled" as any person who has—or is perceived to have—a mental or physical impairment that "materially restricts" one or more major life activities, including caring for oneself, eating, sleeping, breathing, and walking. It also would amend the ADA so that the effects of "mitigating measures", such as hearing aids and prosthetics, could not be used in weighing how a person's disability affects their life activities. The law goes against the recent Supreme Court cases (*Sutton v. United Air Lines* in 1999 and *Toyota Motor Manufacturing Kentucky Inc. v. Williams* in 2002) in which the court determined that plaintiffs did not qualify as disabled under the ADA because they either were taking steps to compensate for their disabilities or had disabilities that were not significant enough.

V. House Adopts Resolution on Prevention and Public Health

On September 23, the U.S. House of Representatives adopted a resolution that calls for an increased public and private commitment to disease prevention and public health. The resolution is based on evidence that shows community-based prevention efforts can help reduce rates of many serious diseases and related health care costs. Over 160 organizations endorsed the resolution, including APHA.

VI. Congress Sends Public Health Bills to the White House

As this year's legislative session draws to a close, Congress passed the following public health bills. The bills now await the president's signature before becoming law.

- The Comprehensive Tuberculosis (TB) Elimination Act of 2007 (H.R. 1532) would bolster domestic TB control through increased funding for CDC's National Program for the Elimination of Tuberculosis and authorize urgently needed new research on TB prevention, diagnostic and treatment tools at the National Institutes of Health (NIH) and CDC. APHA advocates sent over 400 letters to Capitol Hill in support of this legislation.

- The Healthy Start Reauthorization Act of 2007 (S. 1760) would reauthorize the Healthy Start program at \$120 million annually through 2013. The program supports efforts to improve prenatal care in communities with high infant mortality rates. APHA advocates sent over 200 letters to Capitol Hill urging their representatives to vote in favor of this legislation.
- The Health Centers Renewal Act of 2008 (H.R. 1343) would reauthorize through 2012 three federal programs that provide health services to rural and underserved areas. The bill would authorize \$13.1 billion through 2012 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 Mercury Export Ban of 2008 (S. 906) would ban exports of mercury—a toxic metal that can lead to neurological dysfunction if consumed—by 2013 and immediately ban exports by federal agencies. The European Union is set to ban exports by 2011. The bill also would require the U.S. Department of Energy to designate a long-term storage facility for mercury by 2010.
- The Poison Center Support, Enhancement and Awareness Act of 2008 (S. 2932) would reauthorize the poison center national toll-free number, national media campaign and a grant program that supports community poison control centers.
- The Breast Cancer and Environmental Research Act of 2008 (H.R. 1157) would authorize \$40 million a year through 2012 to NIH for research on breast cancer and will establish an Interagency Breast Cancer and Environmental Research Coordinating Committee within the U.S. Department of Health and Human Services (HHS).
- The QI Program Supplemental Funding Act of 2008 (S. 3560) would authorize an additional \$45 million for a program that helps low-income seniors pay their Medicare premiums. Individuals who are not eligible for Medicaid and have incomes between 120 percent and 135 percent of the federal poverty level qualify for assistance. The bill includes another provision that would give a few antibiotics manufacturers up to five years of “data exclusivity” if their antibiotics are approved by FDA, the same benefit given to other new drugs. These drugs are not currently eligible for protection against generic competition because of a technical glitch in a 1997 FDA overhaul law (PL 105-117).

VII. House Acts on Public Health Legislation

Last month, the U.S. House of Representatives passed the following public health bills. While these bills are unlikely to see movement in the U.S. Senate before the end of the year, APHA is hopeful that these bills will be reintroduced in the 111th Congress next year.

- The Stephanie Tubbs Jones Organ Transplant Authorization Act of 2008 (H.R. 6469) would authorize an increase in funding for the nation’s public-private Organ Procurement and Transplantation Network from \$2 million annually to \$7 million.
- The Breast Cancer Patient Protection Act of 2008 (H.R. 758) would prohibit insurance companies from limiting hospital stays to less than 48 hours for patients who have just had surgery related to breast cancer.
- The Physician Workforce Enhancement Act of 2008 (H.R. 2583) would create a loan program for hospitals to establish residency training programs for doctors, with an emphasis on increasing the number of primary care doctors, emergency room doctors, obstetricians and gynecologists, funded at \$25 million over 10 years.

- The Meth Free Families and Communities Act (H.R. 6901) would improve awareness among health care providers of methamphetamine addiction and expand treatment and prevention programs for pregnant and parenting women.
- The HEART (Heart Disease Education, Analysis, Research, and Treatment) for Women Act (H.R. 1014) would require pharmaceutical companies submitting new drug applications to FDA to include specific data on the drug's effect by gender, age and race and would create a campaign to educate women over the age of 65 about heart disease, stroke and cardiovascular conditions. The bill also would provide \$204.4 million over five years to reauthorize a chronic disease risk factor screening program for uninsured and underinsured women ages 40 to 64.

VIII. Lawmakers Introduce New Public Health Legislation

Even as this legislative session comes to an end, lawmakers introduced the following public health bills. APHA is hopeful that these bills will be reintroduced in the next Congress and will move quickly through the legislative process.

- Sen. Jeff Bingaman (D-NM) introduced the Obesity Prevention, Treatment and Research Act of 2008 (S. 3584) to improve collaboration and cooperation among federal and state agencies and with private entities about the prevention and treatment of obesity and overweight. The legislation also would establish a community-based grants program; reform federal oversight of food and beverage labeling; create incentives for food stamp recipients to purchase healthy choices; and allow coverage of nutrition and exercise counseling under Medicare, Medicaid and the State Children's Health Insurance Program. APHA provided Sen. Bingaman's office with a number of recommendations that were incorporated in the bill.
- Sen. Robert Menendez (D-NJ) introduced the Health Impact Assessments (HIA) Act of 2008 to establish standardized tools and models for HIAs—which are used to analyze the actual or potential effects of a policy or program on the health of a population and the distribution of those effects—and create a demonstration grant program to help state and local governments manage HIA projects. Sen. Menendez also introduced the Public Health Coordinating Council Act of 2008 to create an interagency coordinating council to facilitate and strengthen sustained communication and coordination among federal offices to improve the public's health.
- Sen. Thomas Carper (D-DE) introduced the Labeling Education and Nutrition (LEAN) Act (S. 3575) to require restaurants and grocery stores that serve prepared foods and have 20 or more locations to post calories and other nutritional content for each menu item. The legislation is intended to provide consumers the information to make healthy choices when dining out.

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

New Illinois Law Requires Hospitals to Provide Discounts to Uninsured. The Illinois Legislature voted unanimously to override Gov. Rod Blagojevich's (D) revision of a bill to give uninsured Illinoisans a discount on hospital care. Under the new law, hospitals cannot charge most uninsured patients more than 25 percent of their gross income in one year. Gov. Blagojevich's revision tried to limit the amount charged to the actual cost of care plus 20 percent with patients with incomes less than twice the poverty level not paying any markup.

Massachusetts Adopts Broad Health Care Package. Massachusetts Gov. Deval Patrick (D) signed into law a health care package that will raise \$100 million in state revenue and fees on private companies to fund the state's health insurance law. The law also is intended to cut costs and improve health care safety by banning drug companies from giving medical professionals some types of gifts, including sporting event tickets and travel

expenses, and requires drug and medical device makers to publicly disclose gifts valued at more than \$50. The law also authorizes \$25 million to promote electronic medical records, gives the state more regulatory power in reviewing health insurance rates and requires the University of Massachusetts Medical School to increase the number of primary care physicians it graduates.

New Election and Media Alerts are available on [APHA's advocacy site](#). Send a letter to Bob Schieffer, CBS News correspondent and host of the third presidential debate, asking him to question the presidential candidates about their plans to strengthen public health. You also can send a letter to candidates running for office and submit letters to the editors of local and national media outlets on the importance of public health. Help APHA influence legislators, candidates and the public to make public health a priority.

Join us this for APHA's **Public Health ACTION (PHACT) Campaign! We need your help to educate legislators and candidates running for office about public health. We are asking APHA members and Affiliates to participate in town hall meetings hosted by their legislators and seek opportunities to ask questions to candidates running for office. Visit the [PHACT campaign Web site](#) for information and resources to support your activities, including a list of questions APHA members can ask legislators and candidates that focus on prevention and support for the public health infrastructure crafted by APHA's Advocacy Coordinating Team.**

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

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