



APHA Legislative Update July 2008

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I. Committees Begin Work on FY 2009 Public Health Funding Bills

The U.S. House and Senate Appropriations Committees began work on the FY 2009 Labor-HHS-Education Appropriations spending bills in June. The Senate Appropriations Committee approved the bill that would provide \$154.9 billion in discretionary spending for FY 2009, a \$9.5 billion increase over the president's request. After passing out of Subcommittee by voice vote, the House bill, which would provide \$153.1 billion in discretionary spending for FY 2009, a \$7.7 billion increase over the president's request, was derailed during a scheduled full House Appropriations Committee meeting after Rep. Jerry Lewis (R-Calif.), the ranking Republican on the Committee, tried to bring up the Interior-Environment Appropriations bill in an effort to expand domestic oil exploration and drilling. Chairman David Obey (D-Wisc.) promptly ended the session and threatened to bypass the regular appropriations process for the remainder of the year. The House bill, which passed the Subcommittee, includes a \$225 million increase for the Health Resources and Services Administration (HRSA) and a \$156 million increase for the Centers for Disease Control and Prevention (CDC) over the FY 2008 enacted levels. The House bill also includes \$7.5 million in new funding for CDC climate change activities. APHA played a key role in securing the funding that would allow CDC to develop a program to help the nation prepare for and adapt to the potential health effects of global climate change. The Senate bill provides an additional \$88 million for HRSA and an additional \$76 million for CDC.

II. President Signs War Supplemental Bill Including Medicaid Regulation Moratoria

On June 30, President Bush signed a \$186.5 billion supplemental spending bill that provides funding for another year of military operations in Iraq and Afghanistan. The bill also places a moratorium, through March 2009, on six Medicaid regulations proposed by the Bush administration. APHA strongly supported the Medicaid moratoria included in the bill and APHA members sent more than one thousand messages to members of Congress in support of the moratoria.

Specifically, the bill would place a moratorium on regulations that would:

- Eliminate payment for some rehabilitation services for Medicaid beneficiaries, such as children in foster care and individuals with mental illness;
- Bar compensation for state child welfare agencies that provide Medicaid services;
- Bar the use of Medicaid funds for the transportation of school-age Medicaid patients to and from school and prohibit the use of Medicaid funds for administrative activities performed by a school employee;
- Limit state taxes on Medicaid providers by redefining what the Centers for Medicare and Medicaid Services considers to be an allowable provider tax;
- Prohibit Medicaid payments for graduate medical education; and
- Limit Medicaid payments to hospitals and nursing homes that service Medicaid patients.

Unlike the previous supplemental appropriations bill, the measure does not postpone a seventh regulation that would restrict Medicaid payment for certain outpatient services, such as dental and vision services provided to Medicaid patients in outpatient clinics. The measure also requires the Health and Human Services (HHS) Department to complete a report outlining specific problems the administration's new regulations are intended to solve.

III. Congress Enacts Farm Bill over President's Veto

On June 18, the U.S. House of Representatives and the U.S. Senate voted to override President Bush's veto of the 2008 Farm Bill. The House overrode the president's veto by a vote of 317-109 with the Senate following later in the day by a vote of 80-14. This was the second veto override by Congress on the Farm Bill. A previous version of the bill was sent to the White House in May with an entire trade-related section mistakenly omitted. The president vetoed that measure, and Congress overrode the veto. But the trade provisions, inadvertently deleted during enrollment of the bill, were in legal limbo. In order to fix the error, Congressional leaders gave the bill a new number again passed it and sent it back to the president who again vetoed the bill. APHA supported enactment of the bill and worked to ensure the inclusion of provisions in the bill aimed at improving health and nutrition including the expansion of the Fresh Fruit and Vegetable Program, which provides free fresh fruits and vegetables to low-income children in our nation's schools; a significant increase in funding to feed our nation's poor; greater assistance for food banks and community food projects; as well as the expansion of other key safety net and nutrition programs that will benefit the health of millions of Americans.

IV. House Passes Medicare Legislation – Bill Blocked in Senate

On Tuesday, June 24, the U.S. House of Representatives approved H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008, by a veto-proof vote of 355 to 59. Unfortunately, a move to end debate on the bill and bring it to a vote in the Senate was blocked. The Senate is likely to revisit the matter after the July 4 Congressional recess. APHA strongly supports this important Medicare legislation.

Specifically, the legislation would:

- Strengthen low-income protections against rising Medicare costs;
- Improve access to preventive services;
- 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 would stop a cut to Medicare's physician payment rates that was scheduled to take effect July 1, but has since been delayed by the Bush administration in order to allow Congress to address the issue upon its return from the July 4 Congressional recess.

V. House Passes Bill to Protect Communities from Raw Sewage

On June 23, the U.S. House of Representatives passed by voice vote H.R. 2452, the Raw Sewage Overflow Community Right-to-Know Act, to protect communities from hazardous overflows in beaches, rivers and lakes. It is estimated that between 1.8 and 3.5 million people become sick every year from swimming in waters contaminated by sewer overflows. Introduced by Reps. Tim Bishop (D-N.Y.) and Frank Lo Biondo (R-N.J.), the bill would require sewage operators to monitor for hazardous leaks and notify the public if leaks occur. In addition, the bill would make sewage operators eligible for federal clean water funds to help them monitor their systems and develop procedures to notify the public. Currently, sewage operators are regulated by a patchwork of state and local laws. Sen. Frank Lautenberg (D-NJ) introduced a companion bill, S. 2080, last September.

VI. Legislation to Equip Schools with AEDs Passes House

On June 9, the U.S. House of Representatives passed H.R. 4926, the Josh Miller Helping Everyone Access Responsive Treatment in Schools (HEARTS) Act, by voice vote. The bill was introduced by Rep. Betty Sutton (D-Ohio) and would establish a grant program to help schools purchase automated external defibrillators (AEDs) and provide training in the use of AEDs and cardiopulmonary resuscitation (CPR). The legislation is modeled on a successful program in Ohio. It is named after a 15-year-old student from Barberton, Ohio who died after suffering a sudden cardiac arrest at school.

VII. Americans with Disabilities Amendments Act Passes House

On June 25, the U.S. House of Representatives passed by a vote of 402-17 H.R. 3195 to amend the Americans with Disabilities Act (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. House Majority Leader Steny Hoyer (D-Md.) introduced the measure in response to 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.

VIII. Electronic Health Records Bill Advances in House

On June 25, the House Energy and Commerce Subcommittee on Health approved by voice vote H.R. 6357, the PRO(TECH)T Act of 2008 that aims to encourage nationwide adoption of an electronic health record (EHR) system. The bill, introduced by Rep. John Dingell (D-Mich.), would authorize \$575 million over five years in grants and loans for health care providers—especially small physician practices and rural providers—to purchase health information technology (IT) systems. It also would codify the office of the National Coordinator for Health Information Technology at the U.S. Department of Health and Human Services and would establish a process for developing technical standards for health IT. Use of EHRs would be required among federal health programs as soon as the standards have been established. In addition, the bill would require health care providers to notify patients within 60 days if the security of their personal health data has been breached. The privacy issue has been the main point of contention over the legislation, with privacy advocates wanting patients to have absolute control over their records and health providers and data-mining companies wanting to use the records in limited ways without patient consent. A similar bill introduced by Sen. Edward Kennedy (D-Mass.), S. 1693, has stalled in the Senate.

IX. Lawmakers Introduce New Public Health Legislation

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

- Sens. Edward Kennedy (D-Mass.) and Richard Burr (R-N.C.) introduced the Select Agent Program Reauthorization Act (S. 3127) to protect the public from the potential threats posed by bioresearch facilities. The bill would establish a national system to monitor research involving dangerous pathogens and improve incident reporting, safety standards and worker training within individual bioresearch labs. Supporters of the bill cite the increased number of labs working with dangerous bio-agents, such as avian influenza and West Nile virus, as the reason that improved government oversight is necessary.
- Sen. Kay Bailey Hutchinson (R-Tex.) recently outlined new comprehensive legislation designed to “renew the war on cancer.” Crafted in part due to concerns about flat-funding at the National Institutes of Health, this legislation would increase funding for the prevention, detection and care costs associated with cancer. Sen. Edward Kennedy (D-MA) has also played a major role in developing the legislation. The bill will not be introduced until Kennedy returns to the Senate.
- Sen. Judd Gregg (R-N.H.), along with Sens. John Sununu (R-N.H.), David Vitter (R-La.), and Mary Landrieu (D-La.), introduced the Mosquito Abatement for Safety and Health Reauthorization Act of 2008 (S. 3201) to help control mosquito-borne diseases. If passed this bill would provide money to state and local governments to support state initiatives to prevent and treat illness like West Nile Virus and Eastern Equine Encephalitis.
- The Medicare Telehealth Enhancement Act (H.R. 6163/S. 2812), introduced in the U.S. House of Representatives by Reps. Mike Thompson (D-Calif.) and Kenny Hulshof (R-Mo.) and in the U.S. Senate by Sen. Kent Conrad (D-N.D.), would help bring telehealth services to Medicare recipients in rural areas. Telehealth technology allows doctors to see and treat patients from afar using audio-visual equipment. If passed, the bill would increase reimbursement rates for physicians that provide telehealth services and provide \$30 million in grants to help physicians purchase telehealth equipment.
- Sens. Gordon Smith (R-Ore.) and Christopher Dodd (D-Conn.) in the U.S. Senate and Rep. Pete Stark (D-Calif.) in the U.S. House of Representatives introduced the Healthy Transition Act of 2008 (H.R. 6375/S.

3195). The bill would help ease the transition that young adults with mental illness face as they move from youth to adult care programs.

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

Connecticut Governor Vetoes Health Care Bill. Connecticut Gov. Jodi Rell (R) vetoed legislation designed to expand the state employee health insurance plan by opening enrollment to employees of municipalities and small businesses. The Connecticut Business and Industry Association and state Republicans opposed the bill primarily because the cost of the expansion and the potential benefits have not been determined. State employees' unions and Democrats supported the bill. Rell said she would work with Democrats to pass new legislation, while Democratic leaders said they would work to pass a similar bill next year.

New York Passes Bill to Eliminate Mandatory Overtime for Nurses. New York Gov. David Paterson (D) and the State Legislature reached an agreement to ban mandatory overtime for nurses working in hospitals and other medical facilities. The legislation will take effect in the summer of 2009. It is expected to encourage more people to pursue a career in nursing and improve nurse recruitment and retention at health care facilities. The bill bans facilities from requiring nurses to work more than their regular schedule of work, but does not impose restrictions on the total number of hours that nurses can work in a week. The measure includes a number of exceptions, such as in the event of a natural disaster or a state of emergency.

California Legislature Considers Multiple Health Care Bills. The California Legislature is considering more than a dozen bills that would reform the state's health care system. Several proposals contain elements of a previously proposed comprehensive health care reform plan championed by Gov. Arnold Schwarzenegger (R) and Assembly Speaker Fabian Núñez (D) that failed to pass out of the State Senate Health Committee in January due to concerns about the plan's projected \$14.9 billion cost. The new bills are viewed by many Legislators as financially viable because they shift most of the cost to the health care industry. The bills advancing through the Legislature include measures that would require insurance companies to spend a minimum of 85 percent of premiums on patient care; cover more procedures, such as maternity services; publicly release price and quality-of-care data; and allow policyholders to compare competing plans and limit their maximum out-of-pocket costs.

Take action on APHA's updated legislative alerts and tell Congress to pass mental health parity legislation, support the Healthy Start program to reduce infant mortality and morbidity, strengthen the public health work force, make the connection between climate change and public health, support global HIV/AIDS programs and authorize the U.S. Food and Drug Administration to regulate tobacco products. 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 at: <http://www.capwiz.com/apha/home/>. 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 Web site at www.apha.org/advocacy/tips/advocacyActionCampaign.htm.**

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

[Contact](#) * [APHA Home](#)

APHA 800 I Street NW, Washington DC 20001

202-777-APHA (tel) * 202-777-2534 (fax)