

Vote on Modified Health System Reform Legislation Expected on Christmas Eve

Yesterday the United States Senate passed by a 60-40 vote a procedural vote that will permit it to move towards a final vote on its health system reform legislation (HR 3590) on Christmas Eve. All 58 Democrats and 2 independents voted in favor. All 40 Republican opposed the motion.

Over the weekend, Senate Majority Leader Harry Reid advanced a lengthy "manager's amendment" to the bill that contained several significant improvements to the bill. Among the positive changes to the bill:

- Elimination of the proposed 5% cosmetic surgery tax (replaces it with a 10% tanning bed tax);
- Elimination of the proposed Medicare enrollment fee for physicians (Was \$350 and then \$200 annually);
- Pays for primary care and rural surgeon Medicare bonus payments without making offsetting cuts to other physician specialists;
- Requires health insurers to meet an 85% minimum medical loss ratio for large-group plans, and 80% for small group and individual plans;
- Administrative simplification provisions including a process to facilitate greater uniformity regarding health insurer claim edit and credentialing rules;
- Would create a \$50 million incentive program for states to evaluate alternatives to litigation of medical liability claims;
- Would extend Federal Tort Claims Act liability protection to "free clinics."; and
- Elimination of the one year "patch" of a .5% increase in the Sustainable Growth Rate (SGR) Formula thereby causing a 25% rate cut effective January 1, 2011. The AMA urged the elimination of this one year patch for two reasons:
 - We continue to seek a permanent solution to the SGR problem. The days of "kicking the can down the road" are over. It is our hope that we will achieve a permanent solution during the 60 day cooling off period enacted through the Department of Defense (DOD) appropriations bill (See below);
 - Eliminating the one year patch freed up the money: 1) to eliminate having specialists pay for the payment increase for primary care and rural general surgery; 2) to eliminate the Medicare enrollment fee; and 3) to eliminate the cosmetic surgery tax;

The "manager's amendment", however, did not address all of the concerns articulate by MSSNY as well as the AMA. These concerns include:

- The Independent Payment Advisory Board, which would have the power to limit the rate of growth in health care spending potentially through cuts to fee for service payments;
- A "value based purchasing program" using untested efficiency and outcome measures;
- Penalties for non-participation in PQRI starting in 2015.
- The bill does not treat New York equitably when compared to other states with regard to federal Medicaid matching dollars; and

- No-long term fix of the Medicare SGR problem.

Overall the bill would result in coverage for 94% of Americans without creation of a “public option” or reducing the age of eligibility of Medicare to 55, both of which had been under serious consideration by the Senate. The bill would expand coverage through a combination of:

- Creation of health insurance exchanges
- Expanding Medicaid eligibility to 133% the Federal Poverty Limit (FPL)
- An individual mandate to purchase health insurance
- An employer mandate
- Advanceable and refundable tax credits for health insurance purchase.

Assuming the bill is passed by the Senate on Wednesday, it will still need to be reconciled with the health system reform bill passed by the House in November. MSSNY and AMA will continue to work together to achieve the necessary changes to the legislation.

Senate Passes Temporary SGR Freeze

The United States Senate passed a 2-month extension of expiring appropriations for the Department of Defense that includes a 2-month delay of the 21.2% Medicare physician reimbursement cut scheduled take effect on January 1. The legislation does not affect any of the other payment policies that were included in the final 2010 Medicare fee schedule rule. The bill had been approved by the House last Wednesday, and is expected to be sent to President shortly for his signature.

AMA and MSSNY are urging that a long-term fix to this problem be included within any health system reform legislation that is ultimately enacted by Congress. Senate and House leadership have committed to working to enact a permanent fix after the holidays. Senate Majority Leader Reid noted this during his December 19 press conference announcing the revisions to the Senate’s health system reform legislation.