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**VOR Weekly E-Mail Update
October 23, 2009**

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FEDERAL UPDATE

1. H.R. 1255 Cosponsors reaches an amazing 71! Thanks to VOR's Grassroots Membership, steady progress continues on H.R. 1255; Judiciary Committee Members now more important than ever!
2. Senate Health Care Reform Bill includes Long Term Care provisions.
3. Appropriator Says Omnibus Package Likely Needed to Finish Fiscal 2010 Work
4. States Resist Medicaid Growth

VOR Membership and Contribution Form
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1. H.R. 1255 Cosponsors reaches an amazing 71! Thanks to VOR's Grassroots Membership, steady progress continues on H.R. 1255; Judiciary Committee Members now more important than ever!

71 COSPONSORS!

WOW!

WAY TO GO VOR MEMBERSHIP and GRASSROOTS! You have spoken and many U.S. Representatives have listened.

Please continue your efforts! If your Representative has not yet cosponsored H.R. 1255, share the attached cosponsor list with your U.S. Representative and ask him/her (again) to please show their support for H.R. 1255 by cosponsoring this critical legislation.

For H.R. 1255 resources, click [here](#) or contact Tamie at Tamie327@hotmail.com.

For a **CONGRESSIONAL CONTACT** information, visit, <http://www.congress.org/congressorg/directory/congdir.tt>.

Given the numbers of cosponsors we have now, House Judiciary Committee members are especially important. This is the Committee that will consider H.R. 1255 and move the bill ahead in Congress. There are already 11 Judiciary Committee cosponsors. Here is the list of Judiciary Committees that are not yet cosponsors - if your U.S. Representative is on this list, please contact his/her office today!

Democrats:

John Conyers (Michigan), Chairman
Howard L. Berman (California)
Rick Boucher (Virginia)
Jerrold Nadler (New York)
Robert C. Scott (Virginia)
Melvin L. Watt (North Carolina)
Zoe Lofgren (California)
Maxine Waters (California)
Bill Delahunt (Massachusetts.)
Tammy Baldwin (Wisconsin)
William D. Delahunt (Massachusetts)
Robert Wexler (Florida)
Linda Sanchez (California)
Hank Johnson (Georgia)
Brad Sherman (California)
Anthony D. Weiner (New York)
Adam B. Schiff (California)
Dan Maffei (New York)

Republicans:

Lamar S. Smith (Texas), Ranking Member
Jim Sensenbrenner (Wisconsin)
Howard Coble (North Carolina)
Elton Gallegly (California)
Darrell Issa (California)
Jason Chaffetz (Utah)
Trent Franks (Arizona)
Louie Gohmert (Texas)
Jim Jordan (Ohio)
Gregg Harper (Mississippi)

2. Senate Health Care Reform Bill includes Long Term Care provisions.

On October 19, the Senate Finance Committee introduced its version of a health care reform bill, S. 1796, America's Healthy Future Act. Within this 1,500 page bill are several provisions relating to Medicaid long term care. The following are 2 highlights. Additional information will be forthcoming as more study is done regarding the other provisions:

A. The Community First Option, S. 1796, Sec. 1633 (p. 337):

The Community First Option proposes a Medicaid community-based attendant services benefit, provided at the option of a state. If passed, states will have 5 years to offer the new benefit to individuals otherwise eligible for nursing facility or ICFs/MR services. The new benefit is subject to an enhanced Medicaid match if provided in the first five years of the program, meaning states that opt to provide it will receive an additional 6% in federal matching Medicaid funds. The legislation also requires that expenditures for certain other Medicaid services must be maintained or increased (called a "maintenance of effort" provision) for during the first year that the new benefit is provided.

The Community First Option has the support of proponents of the Community Choice Act (previously called MiCASSA), including Senator Tom Harkin, the sponsor of the Community Choice Act. The most significant substantive difference between the Community Choice Act and the Community First Option is that the Community Choice Act proposes a mandatory Medicaid entitlement whereas the Community First Option benefit is provided only at the option of a state.

B. The Sense of the Senate Regarding Long-Term Care, S. 1796, Sec. 1642 (p.382):

The provision begins with "Findings" which speak about the Medicaid "institutional bias," finding that -

"In 2007, 69 percent of Medicaid long-term care spending for elderly individuals and adults with physical disabilities paid for institutional services" (*emphasis added*).

This language is significant in that VOR has for many years worked to educate Congress that there is no Medicaid "institutional bias" when comparing only Medicaid community-based services with Medicaid facility-based services for persons with developmental disabilities. Most comparisons which allege a Medicaid "institutional bias" inappropriately co-mingle programs for the elderly, physically disabled and developmentally disabled, which skews the results relative to people with MR/DD and the programs they require.

Sec. 1642 concludes that,

"It is the sense of the Senate that - (1) during the 111th session of Congress, Congress should address long-term services and supports in a comprehensive way that guarantees elderly and disabled individuals the care they need; and (2) long term services and supports should be made available in the community in addition to in institutions" (*emphasis added*).

3. Key Appropriator Says Omnibus Package Likely Needed to Finish Fiscal 2010 Work

October 21, 2009

Congressional Quarterly

By Chuck Conlon, CQ Staff

Congress will likely have to pass a multi-bill appropriations package to wrap up this year's spending work, Senate Appropriations Chairman Daniel K. Inouye acknowledged on Tuesday.

With the Senate soon to take up its health care overhaul legislation, and consideration of each spending bill taking the better part of a week, the chamber almost certainly won't have time to separately consider all five fiscal 2010 spending bills it has yet to pass - much less remaining conference reports - by the end of the year.

Asked whether he envisioned having to wrap up the appropriations process through an omnibus before Thanksgiving, Inouye, D-Hawaii, replied, "Around then," before adding, "Maybe by the first of December."

But Inouye stressed that he doesn't expect the appropriations process to go far into December. Doing so would only push the work into January or beyond, he said.

"When you start doing that, there would be no activity. You'll be back next year" to complete the measures, Inouye said.

Democrats began the year with high hopes of a more orderly appropriations process. But it has bogged down in the Senate. Fiscal 2010 started on Oct. 1, and the government is operating under a stopgap funding measure, or continuing resolution, that expires at the end of the month. Another stopgap bill will be needed soon, but House Democratic aides said no decisions have been made on how long it would cover.

Inouye expressed some frustration at the slow pace of appropriations work in the Senate this year. Noting that nine of the 12 spending bills were adopted by unanimous vote in committee, while the other three had just a single vote against them, he said: "They were all carefully crafted. Bipartisan. . . . [But] some of my Republican colleagues, for reasons of their own, don't want to see those [bills] passed expeditiously, which I think is unfortunate."

Congress has cleared four of the 12 fiscal 2010 spending bills. Three others - Defense, Interior-Environment and Transportation-HUD - are in House-Senate negotiations. One or more of those bills could be cleared individually, meaning a multi-bill "omnibus" package might contain only a few spending bills.

As recently as last week, Inouye was saying he still wanted to enact the 12 appropriations measures individually.

Tom Harkin, D-Iowa, chairman of the Senate Labor-HHS-Education Appropriations Subcommittee, said he was "willing to do whatever is smoothest and most effectively gets the job done."

"I don't need to hang out on the floor for a week," Harkin said of his bill, which has yet to see Senate floor action.

While Harkin wouldn't discount the possibility that his bill could still move on its own, he noted that House Appropriations Chairman David R. Obey, D-Wis., who also chairs the House Labor-HHS-Education Appropriations Subcommittee, has said he wants to include the Labor-HHS-Education bill in a multi-bill package.

4. States Resist Medicaid Growth

Governors Fear For Their Budgets

By Shailagh Murray

Washington Post Staff Writer

Monday, October 5, 2009

The nation's governors are emerging as a formidable lobbying force as health-care reform moves through Congress and states overburdened by the recession brace for the daunting prospect of providing coverage to millions of low-income residents.

The legislation the Senate Finance Committee is expected to approve this week calls for the biggest expansion of Medicaid since its creation in 1965. Under the Senate bill and a similar House proposal, a patchwork state-federal insurance program targeted mainly at children, pregnant women and disabled people would effectively become a Medicare for the poor, a health-care safety net for all people with an annual income below \$14,404.

Whether Medicaid can absorb a huge influx of beneficiaries is a matter of grave concern to many governors, who have cut low-income health benefits -- along with school funding, prison construction, state jobs and just about everything else -- to cope with the most severe economic downturn in decades.

"I can't think of a worse time for this bill to be coming," said Tennessee Gov. Phil Bredesen (D), a member of the National Governors Association's health-care task force. "I'd love to see it happen. But nobody's going to put their state into bankruptcy or their education system in the tank for it."

These fears are resonating with members of Congress and have already yielded some important legislative changes, including alterations to the Senate Finance bill, which includes billions of dollars in additional funding, added after governors raised a fury about the original, lower sum. But House and Senate negotiators are reluctant to make further concessions, and in recent days, House Democrats have debated whether to trim Medicaid funding in their bill to make room for other priorities.

Yet lawmakers are wary about imposing a huge new burden on an imperfect program that serves one of the most challenging segments of the population, through a fragmented network of state-run systems. Among the 11 million people the nonpartisan Congressional Budget Office estimates will sign up for Medicaid under the new rules, many are single adults and parents who have gone for years without health coverage. Many of these individuals also live in communities that lack the services to treat them.

"States are already at a breaking point, and so they should be thankful that this bill is only going to cost them an additional \$30 billion," Sen. Charles E. Grassley (Iowa), the ranking Republican on the Finance Committee, told colleagues during the panel's two-week-long debate on reform. But Grassley added: "We are deluding ourselves, though, if we think that we are going to do anything in this bill to make Medicaid a better program for the people it serves."

The response from Democratic governors to the new burdens that may be imposed on them has ranged from enthusiastic to restrained. On Thursday, the Democratic Governors Association delivered a letter to House and Senate leaders signed by 22 of its members. It was silent on Medicaid but lauded the broader reform effort as essential. "We recognize that health reform is a shared responsibility and everyone, including state governments, needs to partner to reform our broken health care system," the letter noted.

Yet congressional Democrats are sufficiently alarmed about the potential impact that they already are seeking special protections for their states. Even Senate Majority Leader Harry M. Reid cut a deal with Senate Finance Committee Chairman Max Baucus (Mont.) to ensure that the federal government would pay the full cost of expanding Medicaid in Reid's state, Nevada.

Reid, who faces a potentially difficult 2010 reelection bid, responded to a Republican outcry over his stealth move by pointing to Nevada's crippling foreclosure crisis. "I make no apologies, none, for helping people in my state and our nation who are hurting the most," Reid said on the Senate floor.

Among the most vocal opponents of Medicaid expansion are Republican governors from Southern and rural Western states that offer minimal coverage under current law and are less equipped to handle an influx of new beneficiaries, compared with more urban states with better-established social-services infrastructures. The list includes Mississippi, governed by Haley Barbour, chairman of the Republican Governors Association. Barbour denounced the proposed Medicaid expansion at a news conference last month as a "huge unfunded mandate" likely to result in state tax increases.

The wake-up call for the nonpartisan National Governors Association came early in the summer, when Baucus and Grassley announced that they were considering only a temporary increase in federal funding to pay for new Medicaid enrollees. NGA leaders mobilized through their health-care task force, and after a round of conference calls with committee negotiators and bilateral talks between individual governors and senators, the temporary increase was made permanent.

Governors still worry that the boost is not enough to fully close the funding gap. Recession victims already are flocking to Medicaid, and enrollment is expected to rise through fiscal 2010, according to the Kaiser Family Foundation's Commission on Medicaid and the Uninsured. The

pace of increase is expected to ease after fiscal 2010, leaving states with a short window before an anticipated onslaught in 2014, when the proposed Medicaid expansion would take effect.

South Dakota Gov. Mike Rounds (R) saw Medicaid enrollment in his state climb to 104,000 residents this year, costing the state \$265 million out of a budget of \$1.2 billion. But he expects a \$50 million increase next year, and, even taking into account federal aid from the economic stimulus bill, South Dakota faces a \$100 million shortfall. "That's a heck of an increase, and I don't know how I'm going to pay for it," Rounds said.

Bredesen said Tennessee could face \$1 billion in extra Medicaid costs for the first five years of the expansion. "I have no idea how we're going to afford it," he said.

Nor can governors say for certain how many people will show up to claim the new benefits. Because low-income people are harder to track -- they tend to move more frequently, and they often don't file tax returns -- state officials don't know precisely how many will be eligible. Rounds estimates an enrollment increase of about 75,000 people but concedes that the number could be much higher.

Another mystery is how many people who qualify for Medicaid under current rules -- a sizable portion of the uninsured population -- will decide to finally sign up. This is the "woodwork effect" that unnerves state officials around the country because it could lead to much higher costs.

"That's part of the problem we're having, is getting hard numbers," Rounds said. "We just don't know."

In South Dakota and many other states, communities lack doctors and other health-care providers who are willing to treat Medicaid patients, either because the providers aren't available or because Medicaid payment rates are so low.

The House reform bill would increase Medicaid payment rates to the same level as Medicare rates, at a 10-year cost of \$80 billion. In some states, Medicaid rates are as low as 40 percent of Medicare rates. But the finance panel rejected a Grassley amendment that would have increased provider rates in the Senate bill.

Despite Medicaid's drawbacks, including rigid rules and a complex bureaucracy, many health-care experts still view it as the most practical way to insure the poorest Americans. Low-income adults account for about half of the uninsured population, and in states that provide minimum Medicaid coverage, few parents and no childless adults are covered unless they meet other eligibility criteria.

"If you're trying to expand coverage, at least Medicaid is already up and operational in every state," said Diane Rowland, executive director of the Kaiser Commission on Medicaid and the Uninsured. "You're not creating something new with start-up glitches. For any of its flaws, it has been operating, it is paying bills, it is contracting with managed care, it has an eligibility system already in place."

As the reform debate unfolds on the House and Senate floors, health-care negotiators are prepared for a flood of pleadings like the one Reid made that could add up to many billions, forcing reductions to other portions of the bill. California Gov. Arnold Schwarzenegger (R), for one, estimated that the Medicaid expansion could cost his state \$8 billion a year. Sen. Dianne Feinstein (D-Calif.) underscored those concerns with her own pledge: "I could not support a bill that pushes additional costs on California state government or its counties."

Editor: Tamie Hopp, VOR Director of Government Relations & Advocacy

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VOR (Voice of the Retarded)
836 S. Arlington Heights Rd., #351
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