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Hope Remains for Physician Payment Fix; NIH Appropriations Still Undecided

With lawmakers in town this week for the final session of the 109th Congress, there has been a flurry of activity that impacts the fate of the physician payment cut, while little progress has been made on NIH appropriations. It is unlikely that the House will take up the lone spending bill that did not reach the floor for a vote—the Labor-HHS-Education Appropriations Bill—that includes appropriations for the National Institutes of Health (NIH). If no action is taken, the NIH will operate under a long-term Continuing Resolution (CR) until February 2007 when the new Congress considers the bill for passage.

The outlook is slightly better for a fix for the 5.1 percent Medicare physician payment cut scheduled to go into effect on January 1, 2007. A rollback of the payment cuts is included in the Tax Relief and Health Care Act of 2006 to be considered during the lame-duck session. Although no vote has been taken, House members see the Medicare proposal as time-sensitive, year-end business. According to the language of the bill, the 5 percent cut would be replaced with the same payment rate as 2006 (i.e., a 0% update) and physicians would be eligible for a 1.5 percent bonus payment for reporting quality data. The compromise reached between House Ways and Means Committee Chairman William M. Thomas (R-CA) and Senate Finance Committee Chairman Charles E. Grassley (R-IA) includes the establishment of a fund to promote Medicare physician payment stability and physician quality initiatives in 2008. Lawmakers decided against a fix for the imaging cuts outlined in the Final Rule.

Society staff will continue to monitor the pending legislation and advocate for a positive update on physician payments and an increase in NIH funding.

Lame Duck Activity for NIH Reauthorization

With the change in command in the U.S. House of Representatives and Senate after November's mid-term elections, doubt was cast on the Senate's considering the National Institutes of Health (NIH) Reform Act of 2006 (HR 6164), which passed overwhelmingly in the House with bipartisan support. However, as a result of some negotiations by outgoing House Labor-HHS-Education Chairman Joe Barton (R-TX), the Senate may take up the legislation during the lame duck session. The bill was hotlined in the Senate on Thursday, December 07, meaning that the Senate Health, Education, Labor, and Pensions Committee (HELP) waived its right to consider the legislation and allowed it to go directly to the Senate floor.

As a member society of the Federation of American Societies for Experimental Biology (FASEB), The Endocrine Society was involved in the process of crafting the version of the

bill that originally passed the House. Despite the lack of official markup, the bill has seen some changes during negotiations with members of the Senate HELP Committee, most of them favorable to the NIH. The authorized increases in the NIH budget are larger—6.5%, 8.3%, and such sums as necessary, respectively, in 2007, 2008, and 2009, the three years during which the reauthorization would be valid. In the new version, appropriations for the common fund are to be made separately from those for the overall NIH budget, and the amount given to the common fund is no longer tied to that given to the agency as a whole. Finally, any reorganization of the agency would require congressional approval, and Congress would have up to one year to negate any proposed changes to the structure.

In the final hours before Congress adjourns, HR 6164 has been included in a package of bills to be considered together by both houses of Congress. Though a small number of senators are opposed to the bundled legislation, sources predict a strong possibility that the bills will be passed before the end of the day.

R01 Applications to Go Electronic: Applicants Must Register

Beginning with the February application cycle, all National Institutes of Health (NIH) R01 grant proposals must be submitted electronically. In order to submit an electronic grant, investigators must be registered with eRA Commons (<https://commons.era.nih.gov/commons/>), and the grant administrator must be registered with both eRA Commons and Grants.gov. Applicants and administrators are urged to register early to ensure that they are in the system well before the application deadline of February 5, 2007. The eRA Commons registration process must be started at least two weeks before the deadline.

While the content of the R01 application will not change with the implementation of electronic submission, the application form will. In place of PHS 398, applicants will complete SF424 (R&R). Sample application forms are available on the web for information purposes, but these sample applications can not be used in the submission process. Each Funding Opportunity Announcement (FOA) will have a specific SF424 (R&R).

The NIH has been gearing up for this transition by slowly transitioning applications for smaller grant mechanisms to the electronic system. As a result of the many pilot transitions, the NIH has extensive experience in accepting electronic submissions and expects the transition of R01s to be a smooth one. Nonetheless, an NIH press release states that the agency has “developed contingency plans to ensure that any issues that do arise can be addressed quickly and that applicants are not penalized for system problems.”

NIH is urging potential R01 applicants to contact their institution’s grants office to find out how they are handling the transition to electronic submission.

Complete information on the new process, including instructions for registering with eRA Commons and Grants.gov, can be found in the most recent issue of NIH Extramural Nexus at: <http://grants.nih.gov/grants/partners/1106Nexus.htm>

Society Garners National Press Coverage for Position on Bioidentical Hormones

The Endocrine Society received extensive national media coverage in response to its November 14 press release announcing the American Medical Association's (AMA) resolution on so-called bioidentical hormones. The *Associated Press* and the *New York Daily News* both featured the story, leading to coverage in more than 150 separate news outlets, including *The New York Times*, *CNN*, and the *Chicago Sun Times*. Society member Dr. Robert Vigersky was quoted in both sources and was clearly identified as a member of The Endocrine Society.

The AMA's resolution, which was introduced by The Endocrine Society and other concerned organizations, called on the FDA to maintain stricter oversight and regulation of compounded hormone preparations. The AMA specifically urged the FDA to assess the purity of ingredients in the compounds, evaluate any side effects, and require manufacturers and compounding pharmacies to report any adverse effects. It also requested that the FDA restrict the use of the term "bioidentical" to FDA-approved preparations. In the *Associated Press* story, an unnamed FDA spokesman said that "the agency shares the AMA's concerns about potentially misleading claims and is paying close attention to the issue."

Coverage of this story can be viewed at:

<http://www.mercurynews.com/mld/mercurynews/living/health/16020849.htm> and
<http://www.nydailynews.com/front/story/474345p-398922c.html>

In a follow-up feature in both the print and on-line versions of *Newsweek*, Society member Dr. Nanette Santoro was quoted, and The Endocrine Society was identified as being "the premier association for those specializing in hormones."

The follow-up story can be viewed at:

<http://www.msnbc.msn.com/id/15791227/site/newsweek/>

MedPAC Considers Options for SGR Fix

The Medicare Payment Advisory Commission (MedPAC), which is tasked with advising Congress on Medicare payment policies and recommending a new physician payment formula, has held a series of meetings to discuss possible options for replacing the Sustainable Growth Rate (SGR) formula used to determine Medicare physician payment updates. MedPAC will deliver a final report of recommendations to Congress in March 2007. Some options being considered by MedPAC to make Medicare a better purchaser, improve quality, and provide better payments to physicians include:

- Instituting a pay-for-performance (P4P) program;
- Encouraging better coordination of care;
- Implementing a bundling approach in which one payment would cover a number of services rather than one service;
- Ensuring accuracy in pricing for procedures;
- Increasing the use of primary care;
- Redesigning Medicare benefits packages to steer beneficiaries toward lower cost or more effective treatment options;

- Measuring the number of tests and procedures physicians order and comparing that to their peers;
- Assessing the cost effectiveness of various types of treatments;
- Promoting multi-specialty group practices;
- Setting quality standards for imaging services; and
- Requiring contractors who pay Medicare claims to do more to reduce improper payments.

None of these options alone will fix the current problems with the Medicare payment formula, nor is it likely that the SGR will be abandoned for any of these choices. However, MedPAC staff is considering different ideas of how to lessen the severity of the SGR's impact on payments. Under the current system, when spending targets are exceeded in a given year, the excess funds must be compensated for in the next year's payment update, leading to even deeper cuts. In order to minimize the impact of these missed spending targets, the excess spending to be recouped through the subsequent years' updates could be limited to that of the previous year rather than basing it on the cumulative excess.

The Endocrine Society staff will continue to monitor MedPAC activity as it prepares to submit its report to Congress in March.

2007 Physician Fee Schedule Contains Temporary Pricing Errors

According to a December 4, 2006 issue of *Part B News*, the 2007 physician fee schedule may contain pricing errors. The Centers for Medicare & Medicaid Services (CMS) has acknowledged this error and has attributed it to "miscalculation of fees that now include a budget neutrality adjustment to your work relative value units (RVUs)," according to CMS officials.

CMS' payment formula involves rounding the product of the work RVU times the work RVU adjustor (0.8994) to two decimal points prior to completing the remainder of the fee calculations. Unfortunately, CMS did not do the rounding in the initial publishing of the 2007 fee schedule.

CMS has already begun to send out revised fee schedules to carriers.

For questions regarding articles listed in *Endocrine Insider* or information on advocacy and policy activities within The Endocrine Society, contact the Government & Public Affairs department:

Janet B. Kreizman, Senior Director
301-941-0252
jkreizman@endo-society.org

Charles E. Blue, Director, Communications
301-941-0240
Cblue@endo-society.org

Stephanie Kutler, Assoc. Director
301-941-0254
Skutler@endo-society.org

Loretta L. Doan, PhD, Manager, Science Policy
301-941-0258
Ldoan@endo-society.org

Lisa Marlow, Coordinator
240-482-1392
Lmarlow@endo-society.org