

Health Care Reform – Government Affairs Update (5) July 20, 2009

This is an issue that affects the health and financial well-being of every single American and the stability of our entire economy.

- President Barack Obama, July 17, 2009 – transcript from weekly address

The American people are on the march once more, and they will not stop until quality, affordable health care is the birthright of every American. And we are with them every step of the way.”

- Senator Edward M. Kennedy – July 15, 2009 – Statement on Senate HELP Committee passage of the Affordable Health Choices Act

The Democratic-sponsored health care bills making their way through the House and Senate would do nothing to curb skyrocketing health care spending; it would do the opposite and raise it at the federal level.

- Douglas Elmendorf, Director, Congressional Budget Office (CBO)

Health care reform hit full speed on Capitol Hill this past week. Tuesday, July 14, saw the release of introductory legislation entitled [America’s Affordable Health Choices Act \(HR 3200\)](#). This legislation built off the June 19, 2009, discussion draft and was the framework for action on the three House committees of jurisdiction. HR 3200 would increase access and coverage for an estimated 97% of Americans at a cost of just over \$1`trillion dollars.

To finance this legislation, America’s Affordable Health Choices Act would raise revenues from two primary sources. First, HR 3200 would create a new tax on wealthy Americans. This new tax, called the [Health Care Surcharge](#), would begin at 1% for those individuals making \$280,000 and at \$350,000 for married couples filing jointly and graduate to 5.4% for those making \$1,000,000 or more. The second major source of revenue is through achieving cost savings through policy changes to the Medicare and Medicaid programs. HR 3200 addresses four areas of cost savings: eliminating the current overpayments to Medicare Advantage plans, reducing payments to pharmaceutical companies for providing drugs to Medicare Part D, changing hospital and other facilities/settings for greater productivity and equity, and decreasing the number of readmissions following discharge. The new tax and Medicare policy changes would provide almost \$1 trillion to pay for the reforms included in the America’s Affordable Health Choices Act.

To reform the health care delivery system in the United States, HR 3200 would establish a health care insurance exchange that offers a public plan option. Insurance plans would be required to meet national standards to participate in the health care insurance exchange. These national standards would include the elimination of preexisting conditions as criteria for coverage, guarantee issue and renewal, and rehabilitative and habilitative services as part of a set of minimum benefits to be covered. The Act would also provide for extensive investments to trained a qualified workforce, authorize prevention programs and initiatives, and curb fraud and abuse.

In addition to structuring a new delivery system, HR 3200 also modifies or reforms payments under Medicare. This legislation permanently reforms the flawed payment formula that is used to calculate reimbursement under the Medicare Physician Fee Schedule (MPFS). The portion of the formula used to calculate the conversion factor for annual updates, the Sustainable Growth Rate (SGR), is replaced over the next 10 years with an adjustment linked to the Medicare Economic Index in 2010 and then linked to the Gross Domestic Product (GDP) in 2011 through 2019. The update when linked to GDP would create two revisions: GDP + 2% for primary care and prevention and GDP +1% for all other services.

In addition to these payment reforms for physical therapists (PTs) under Medicare Part B, HR 3200 also contains significant payment reforms for facilities and settings. Inpatient rehabilitation facilities (IRFs), skilled nursing facilities (SNFs) and home health care services would see their payments through their market basket updates frozen for 2010. Two specific physical therapy provisions included in HR 3200 are a two-year extension of the therapy cap exceptions process and inclusion of significant eligibility and funding for physical therapist student loan repayment through language modeled after APTA's supported legislation, the Access to Frontline Health Care Act (HR 2891). However, HR 3200 does not contain any initiatives to improve access to physical therapists through direct access and to address the abuses of referral for profit in physical therapy.

APTA is working with policymakers to clarify and identify possible changes to HR 3200's proposed pilot program on bundling of post acute care services and changes in SNF payments between therapy services and non-therapy ancillary services. APTA is concerned about the addition of outpatient settings into the post acute care bundling proposal. HR 3200 would require the Secretary of the US Department of Health and Human Services to report back to Congress in three years with an implementation plan on post acute care bundling for IRFs, SNFs, home health care agencies, longterm acute care hospitals, and hospital outpatient rehabilitation facilities. APTA also is analyzing the bill's language on the use of the Continuity Assessment Record and Evaluation (CARE) tool that is currently in demonstration] through the Centers for Medicare and Medicaid Services (CMS). With regard to the second issue, APTA is concerned and assessing a provision that authorizes a 5.5% reduction in payments for therapy services with a 10% increase in non-therapy ancillary services. This provision stems from a MedPAC recommendation to reevaluate the payment methodologies for therapy and non-therapy ancillary services. HR 3200 goes beyond MedPAC's recommendation, and would implement a recalculation to increase non-therapy ancillary services with a corresponding reduction in payments for therapy services. APTA believes that, as MedPAC has discussed in their June 2008 report, further studies need to be conducted to assess patient diagnoses and the trends in case-mix of therapy and non-therapy ancillary services within the SNF setting

Two concerns that APTA is working with policymakers to gain clarification and possible changes to are HR 3200's proposed pilot program on bundling of post acute care and changes in SNF payments between therapy services and non therapy ancillary services. With regards to the first issue, HR 3200 would require the Secretary to report back to Congress in 3 years with an implementation plan on post acute care bundling to include IRF, SNF, Home Health, Long-term Acute Care Hospitals and hospital outpatient rehabilitation facilities. APTA is concerned with the addition of outpatient settings into the post acute care bundling proposal. APTA is also analyzing the language in the bill on the use of the Continuity Assessment Record and Evaluation (CARE) tool that is currently in demonstration through the Centers for Medicare and Medicaid

Services (CMS). The second issue would assess a 5.5% reduction in payments for therapy services with a 10% increase in non-therapy ancillary services to meet a MedPAC recommendation on re-evaluation of the payment methodology for non-ancillary therapy services. HR 3200 goes beyond MedPAC's recommendation to study an appropriate re-evaluation of therapy and non-therapy ancillary services and their respective payment methodologies to implementing a recalibration to increase non-therapy ancillary services with a corresponding reduction in payments for therapy services.

Following the release of America's Affordable Health Choices Act, two of the three House committees of jurisdiction moved quickly to mark up the legislation in full committee and proceed to a committee vote. As the week concluded, the House Committee on Ways and Means and the House Education and Labor Committee passed HR 3200 by votes of 23-18 and 26-22 respectively. The third committee, the House Energy and Commerce Committee, is expected to continue their mark up this week.

Across the Capitol, the US Senate Committee on Health, Education, Labor and Pensions (HELP) reported out their health care reform package, the Affordable Health Choices Act. Although this legislation passed on a straight party-line 13-10 vote, it did include more than 160 amendments (including many Republican amendments) during the month-long mark-up. This mark-up was one of the longest in Congressional history. This legislation includes a health insurance exchange with a public plan option, prevention initiatives, and investments in workforce and health information technology. The Senate HELP Committee bill scored at under \$615 billion over 10 years and will have to be combined with the Senate Finance Committee's legislation to produce the overall reform bill in the US Senate.

This second committee in the Senate to engage on health care reform, the Committee on Finance, has seen limited legislative action following a year of activity on the issue. The Senate Finance Committee is in continued negotiations with an objective to produce a bipartisan proposal that can be enacted into law. The Finance Committee will also address the payment reform under Medicare and Medicaid and potential new taxes to cover the cost of the \$1 trillion reform package.

The White House and Executive Branch continue to be engaged in the debate and applying pressure on legislators to deliver this top domestic priority of President Obama. The nonpartisan Congressional Budget Office (CBO) and its director Douglas Elmendorf weighed in on the debate during hearing on Capitol Hill regarding the impact of the bill. Initial statements that HR 3200 would do little to curb costs have been countered with statements that the bill would be budget neutral over 10 years and eventually produce a \$6 billion surplus. President Obama continues to use his popularity and press access to communicate that health care reform must be done this year. This past Saturday, July 18, President Obama used his weekly address for the third time in the past four weeks to discuss the inherent and imperative need to reform health care in 2009.

APTA will continue to lobby to position physical therapy and its public policies in the health care reform debate. To stay informed and engaged, visit www.apta.org/healthcarereform.