



# HPCAI

## LEGISLATIVE UPDATE

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March 12, 2010

[Congress Eyes April 2 Easter Recess for Health Care Reform Deadline](#)

[MedPAC Releases Report to Congress](#)

[Legislative Day a Success](#)

[IPOST Extension in HHS Budget](#)

[REC Estimates Show Flat Fiscal Growth](#)

[Governor Calls for Delay in Wellmark Increases](#)

[Session End Nears](#)

[HPCAI Calendar](#)

### **Congress Eyes April 2 Easter Recess for Health Care Reform Deadline**

Though no bi-partisan agreement was reached during the recent White House summit on health care reform, one week following the meeting President Obama released an amended proposal and called on Congress to set a timetable for a final “up-or-down vote” on the issue.

The president’s amended proposal incorporates a few new provisions but largely tracks the Senate bill. The latest development is the possible inclusion of student-aid in the health reform bill which would allow the president to accomplish two of his top domestic priorities: expanding health insurance and expanding general aid for college students.

By and large, the president’s proposal does not include any major alterations to existing proposals that affect hospice. As a reminder, the Senate bill contains the least amount of cuts that were floating around throughout the development of the health reform legislation. The Senate bill contains a total of \$7.6 billion in cuts through 2019. The House bill included \$10 billion in cuts.

On process, Congress is tentatively scheduled to have a health care reform bill to the president’s desk by April 2, the Friday before the Easter recess, and with the Democrats having lost their crucial 60<sup>th</sup> vote in the Senate, the House is now being pressured to pass the Senate bill. Accomplishing this aggressive timeline, however, will be no easy task as all eyes are on the House, which is struggling to find the votes. House and Senate leaders refuse to commit to a timetable for finishing the legislation, but have acknowledged it is not something they want to drag out. As a result, the president just announced that he would delay his planned foreign trip to stay here to work on health care.

If the House is able to pass the legislation, the next step is expected to include what is being referred to as a “side-car” bill, which will be passed using the controversial reconciliation process that allows legislation to be passed in the Senate with a simple majority. The side-car reconciliation bill is

anticipated to include additional alterations to the Senate bill, including the president's requested changes and the educational proposal involving student-aid. The Senate chamber's parliamentarian has reportedly confirmed that the Senate bill must be signed into law before the Senate can take up the fixes in the side-car bill. This means that House Democrats will have to trust the Senate to pass the changes included in the side-car bill after the Senate bill has been signed into law, and that is no easy task as House members have grown rather distrustful of their Senate counterparts.

The reconciliation process sets up what will be a grueling partisan battle in the Senate as the process allows no time limit for amendments and a myriad of other parliamentary procedural tactics that are expected to add days worth of debate. The next few weeks will be critical as this legislation remains the Obama administration's top domestic priority.

[TOP](#)

## MedPAC Releases Report to Congress

The Medicare Payment and Advisory Commission (MedPAC) recently released its March report to Congress (click here: [http://www.medpac.gov/documents/Mar10\\_EntireReport.pdf](http://www.medpac.gov/documents/Mar10_EntireReport.pdf)). The principal focus of this report is the commission's recommendations for annual rate adjustments in fee-for-service (FFS) Medicare. The commission's recommendations reflect its belief that Medicare updates should exert fiscal pressure on providers, so long as doing so will not jeopardize providers' ability to offer care or keep Medicare beneficiaries healthy.

The March report includes payment policy recommendations for 10 payment systems and below are highlights:

### Hospice

- Congress should update the payment rates for hospice for 2011 by the projected rate of increase in the hospital market basket index less the commission's adjustment for productivity growth (a net update of approximately 1.1%).

### The Commission also reiterated its hospice recommendation from March 2009:

- Congress should direct the Secretary to change the Medicare payment system for hospice to: have relatively higher payments per day at the beginning of the episode and relatively lower payments per day as the length of the episode increases; include a relatively higher payment for the costs associated with patient death at the end of the episode; and implement the payment system changes in 2013, with a brief transitional period. These payment system changes should be implemented in a budget neutral manner in the first year.
- Congress should direct the Secretary to: require that a hospice physician or advanced practice nurse visit the patient to determine continued eligibility prior to the 180th-day recertification and each subsequent recertification and attest that such visits took place, require that certifications and recertifications include a brief narrative describing the clinical basis for the patient's prognosis, and require that all stays in excess of 180 days be medically reviewed for hospices for which stays exceeding 180 days make up 40 percent or more of their total cases.
- The Secretary should direct the Office of Inspector General to investigate: the prevalence of financial relationships between hospices and long-term care facilities such as nursing facilities and assisted living facilities that may represent a conflict of interest and influence admissions to hospice, differences in patterns of nursing home referrals to hospice, the appropriateness of enrollment practices for hospices with unusual utilization patterns (e.g., high frequency of very long stays, very short stays, or enrollment of patients discharged from other hospices), and the appropriateness of hospice marketing materials and other admissions practices and potential

correlations between length of stay and deficiencies in marketing or admissions practices.

- The Secretary should collect additional data on hospice care and improve the quality of all data collected to facilitate the management of the hospice benefit. Additional data could be collected from claims as a condition of payment and from hospice cost reports.

### **Home Health**

- Congress should eliminate the market basket update for 2011 and direct the Secretary to rebase rates for home health care services to reflect the average cost of providing care.
- Congress should direct the Secretary to expeditiously modify the home health payment system to protect beneficiaries from stinting or lower quality of care in response to rebasing. The approaches considered should include risk corridors and blended payments that mix prospective payment with elements of cost-based reimbursement.
- The Secretary should identify categories of patients who are likely to receive the greatest clinical benefit from home health and develop quality outcomes measures for each category of patient.
- Congress should direct the Secretary to review home health agencies that exhibit unusual patterns of claims for payment. Congress should provide the authority to the Secretary to implement safeguards, such as a moratorium on new providers, preauthorization, or suspension of prompt payment requirements, in areas that appear to be high risk.

[TOP](#)

## **Legislative Day a Success**

HPCAI held its annual legislative day March 11 with great success. More than 20 hospice representatives descended on the statehouse to advocate on behalf of hospice.

Prior to heading to the statehouse, attendees met at HPCAI offices for a legislative briefing and a private meeting with Senator [Amanda Ragan](#) (D-Mason City), chair of the Senate Human Resources committee. Senator Ragan provided an overview of activities at the legislature including her perspective on the state budget process. Hospice and palliative care advocates talked with her about the benefits of hospice and palliative care, and the potential cost savings from the use of palliative care for targeted case management services as demonstrated in the Wellmark pilot.

Advocates also educated Senator Ragan and other legislators at the statehouse about the [HPCAI Legislative Agenda](#) including the importance of maintaining the hospice Medicaid benefit and extending the Iowa Physician Order for Scope of Treatment (IPOST) pilot in Linn County.

[Click here](#) to view all the photos taken at Legislative Day.



*In the photo above:* Christine Harlander, RN (left) and Christine Hehr, RN (right), both from Hospice of Mercy, Cedar Rapids discuss issues with Rep. Todd Taylor (D-Cedar Rapids) and Sen. Wally Horn (D-Cedar Rapids) for the HPCAI Legislative Day event on March 11 at the Iowa State Capitol.

[TOP](#)

## **IPOST Extension in HHS Budget**

On March 11, the House Appropriations Committee approved [House Study Bill 736](#), the health and human services budget bill. This budget was hardest hit of all the other state budget bills with a target set \$372 million **below** the governor's recommendation and \$172 million **below** actual FY 2010 expenditures. This represents an astounding **15 percent** reduction in the area of state budget that includes Iowa's Medicaid program and a host of other human service programs that Iowans depend upon. Next hardest hit was the state's education budget, with only \$11.5 million in reductions.

Through the use of cash reserve dollars and enhanced federal funding, HSB 736 funds the Medicaid program without any cuts to eligibility, benefits, or provider rates. However, the budget does not restore the five percent provider rate cut implemented in December due to the Governor's across the board cut.

Notable for the HPCAI legislative agenda, HSB 736, as amended and approved by the committee, extends the IPOST pilot project for 2 years and permits a modest expansion to a contiguous rural county. HPCAI supports the extension and worked closely with legislators to insure its conclusion in the bill.

[TOP](#)

## **REC Estimates Show Flat Fiscal Growth**

Iowa's Revenue Estimating Conference (REC) met March 11 to report their latest estimates regarding overall finances for the state of Iowa. The REC estimate showed no change in predictions for the current FY 2010 budget, meaning that additional budget cuts for this year will not be necessary. In addition, the REC predicted a modest \$33 million increase in state revenue for FY 2011, meaning current legislative budget targets are appropriate.

In a joint statement, Democratic leaders indicated their intention to deposit the newly projected additional revenue into the state's "rainy day" fund to decrease the possibility of mid-year budget cuts should future REC estimates turn negative.

[TOP](#)

## **Governor Calls for Delay in Wellmark Increases**

Early this week, Governor Chet Culver called for Wellmark to justify the 18 percent individual health insurance rate increase to the 80,000 Iowans affected. In a letter sent to Insurance Commissioner Susan Voss, the Governor directs her office to stay the recently-announced insurance premium increases awarded to Wellmark Blue Cross-Blue Shield until a third-party, independent actuary can review the file and determine whether the Division's processes used to award Wellmark the premium rate increases is justified.

The letter outlines four directives for the Insurance Commissioner:

1. Hire a third-party certified actuary, independent of any financial relationship with Wellmark Blue Cross-Blue Shield, to conduct a secondary review of Wellmark's recently-approved request for health insurance premium rate increases that are now scheduled to take effect on April 1, 2010.
2. Utilize an independent, qualified third-party actuary to conduct a secondary review whenever any health insurance company that conducts business in Iowa submits a health insurance premium rate

increase.

3. Seek any other practical ways to inform and educate Iowans and members of the Iowa General Assembly about the rate review processes and the relationship between Iowa's health care costs.
4. Provide to the Governor's office an annual report, to be delivered no later than November 15 of each year. The report is to include a review of current trends in health care costs with an emphasis on how the costs of delivering health care services relate to the amounts charged by health insurance companies to Iowa's consumers.

Wellmark has agreed to a voluntary 30-day delay in the planned premium increases while discussions with legislators continue.

[TOP](#)

## Session End Nears

Both the first and second legislative deadlines have passed, and the Iowa General Assembly is working toward adjournment by its 80<sup>th</sup> day on March 31. Beginning next week, the legislature will only consider appropriations, tax, and limited policy bills that have been declared as unfinished business.

While there is much budget work to be done, most expect the legislature to adjourn very close to March 31.

[TOP](#)

## HPCAI Calendar

- **April 13, 1:00 – 3:00 pm**  
**District 4 Meeting**  
Atlantic Home Care and Hospice office
- **November 2 – 3**  
**HPCAI Fall Conference**  
**Scheman Building**, Iowa State Center, Ames

To add items to the HPCAI Calendar, send information to [Stacey Nay](#).

[TOP](#)