AAPD Legislative and Regulatory Update (LRU)

October 2005

Workforce Efforts:

- FY 2006 Title VII Funding for Pediatric Dentistry: Efforts to Obtain a $5.5 Million Earmark for the Third Consecutive Year Continue

Title VII is the highest AAPD legislative priority in 2005 for appropriations at the federal level. As you know, it is a program designed specifically to address the national shortage of pediatric dentists by providing seed money for start up or expansion of pediatric dentistry residency programs. **Title VII has been a major factor in the growth of first year positions in pediatric dentistry, which in 2005-06 was nearly 280; plus we now have 68 accredited programs.**

We will not know the final outcome on FY 2006 funding until much later this year. In June the AAPD conducted two grass roots alerts with our E-Advocates. In summary, the House appropriations bill was bad news, with zero funding allocated for Title VII Primary Care programs (where pediatric dentistry is located).

Fortunately, the Senate news was much better. **The Senate Labor-HHS Appropriations Subcommittee marked up its FY 2006 bill in early July and restored Title VII funding that had been cut in the House bill.** Overall they provided $454.4 million for health professions, a $4 million increase over last year (this amount includes both Title VII and Title VIII- nursing education). The primary care programs received a $1.2 million increase to $90 million.

In addition to the E-Advocates who wrote letters or called offices of Senate Subcommittee members, Congressional Liaison Heber Simmons Jr. made well-timed trips to D.C. in both July and September. As Heber stated after his Congressional visits but prior to mark-up:

"Our efforts have support from both the majority and minority leaders of the Senate Appropriations Committee which should bode well for us."

Mike Gilliland from Hogan and Hartson also added the following insight:

"This is indeed great news and is in line with what we had heard several weeks ago concerning the Senate's support for funding Title VII. Majority Leader Frist played an important role in getting this done. Now the battle will move to conference."

The final decision about Title VII funding, included the fate of the $5.5 million earmark for pediatric dentistry, will be decided in conference committee. We expect to announce another grass roots alert in the coming month. Congressional action on the final FY 2006 federal budget has been slowed in the aftermath of Hurricane Katrina and subsequent new relief spending that is adding to the federal deficit.
• **Title VII FY 2005 Awards: Six New Pediatric Dentistry Grants and $4.6 million in total funding for Pediatric Dentistry**

Once again this year the initial information from the grant cycle (FY 2005) was that several excellent pediatric dentistry grants would be approved but unfunded. However, thanks to successful efforts by HRSA dentist Dr. Ray Lala, and follow-up by Mike Gilliland (Hogan and Hartson) and Congressional Liaison Heber Simmons, Jr., this situation was reversed and ultimately all six approved pediatric dentistry applicants for FY 2005 were funded at a total of $1,312,133: Yale-New Haven Hospital, Howard University, UCLA, Harlem Hospital, USC/Orange County Children’s Hospital, and Children’s Hospital Boston. The total Title VII Pediatric Dentistry expenditure of $4.6 million (which includes new and continuation awards) and the overall Title VII dental expenditure of $8 million are both at the highest levels in the program's history—despite another very tough effort in Congress to fund Title VII.

• **HRSA Advisory Committee on Training in Primary Care Medicine and Dentistry**

In August, the AAPD commented on the draft 5th report of the HRSA Advisory Committee on Primary Care Medicine and Dentistry (ACTPCMD). There are currently two pediatric dentists serving on the ACTPCMD: Dr. Sandy Fenton and Dr. Man Wai Ng. In fact, Dr. Ng was one of the primary authors for the 5th report, which deals with evaluation of Title VII performance. The AAPD also responded to HRSA’s call for new ACTPCMD members (to replace those scheduled to rotate off) by nominating Dr. Kevin Donly and re-nominating Dr. Denny McTigue.

**Medicaid Dental Reform Efforts**

• **Efforts to Protect Medicaid EPSDT amidst Congressional Decision to Cut $10 Billion¹ from Medicaid over 5 Years**

The AAPD and the entire dental community, including the American Dental Association, submitted their vision of appropriate Medicaid dental reforms to the U.S. Congress on June 15, 2005. The document Dental Medicaid Reform Core Principles and Policies was delivered to coincide with testimony on Medicaid reform presented by several governors on behalf of the National Governors Association before the Senate Finance Committee and House Energy and Commerce Committee that same day. During the House hearing, Congressman (and dentist) Charles W. Norwood (R-9th Ga.) specifically asked witnesses about the protection of core Medicaid benefits, including dental benefits. Congressman Sherrod Brown (D-13th Ohio) inserted these dental principles into the hearing record. The principles are available on the AAPD web site at: [http://www.aapd.org/hottopics/advocacy/detail.asp?NEWS_ID=442](http://www.aapd.org/hottopics/advocacy/detail.asp?NEWS_ID=442)

The Children’s Dental Health Project has issued a series of analyzes about the impact of various Medicaid proposals on children’s dental care, including those from the National Governor’s Association that wishes to make many Medicaid services optional for states to mirror the SCHIP model. We have disseminated this information on the AAPD web site and via the E-Advocates List Serve.

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¹ Because of budget demands for post-Katrina relief, recent estimates of required Medicaid reductions to off-set such new spending have increased to as much as $18 billion over five years.
Most recently, a letter to Congress in support of EPSDT dental, mental, hearing, and vision services featured 22 child health provider groups signed on in addition to nine dental organizations (including the AAPD). Special thanks to the CDHP and ADA for their work on this letter. The letter’s message was that such comprehensive health benefits “above the neck” are essential services, and should not to be left to the states to determine coverage.

The current situation is quite dynamic, and the AAPD expects to issue a series of updates and grass roots alerts to our E-Advocates through-out the remainder of this Congressional session. As of the date of this update, CDHP Founding Director Dr. Burton Edelstein reports the following:

- The House Energy and Commerce Committee is believed to endorse the Governors’ suggestions for both cost-sharing and “flexibility” whereby governors could decide what services to cover for children.

- There still seems to be strong philosophical support for changing EPSDT into something more like SCHIP which would make dental benefits, for example, unstable (i.e. they could be capped, cut out, or cut back at any time without federal oversight; would vary significantly from state to state; and states would not be required to file performance reports).

- The Senate Finance Committee, which has always been more deliberate about potential Medicaid cuts, has yet to develop a bipartisan bill as Sen. Grassley (Chair) has not been working with Sen. Baucus (Ranking Minority Member), and time is running out in the budget reconciliation process. If Grassley/Baucus don’t come up with something that the 6 or 7 moderate Republicans can support, the issue reverts to Senator Gregg’s Budget Committee where Medicaid cuts are believed to be supported.

- The Republican Study Committee has put out its own recommendations in a publication titled, “Operation Offset” that seeks to find funds to offset the costs of Hurricane Katrina. This committee calls for greater Medicaid cutbacks and block granting Medicaid.

Medicaid Commission Issues 1st Report to Congress

Based on Congressional directive in the FY 2006 Budget Resolution, on May 19, 2005 the Secretary of the Department of Health and Human Services established a Medicaid Commission to advise the Secretary on ways to modernize the Medicaid program so that it can provide high-quality health care to its beneficiaries in a financially sustainable way.

The Commission was authorized to issue two reports to the Secretary for his consideration and submission to Congress. By September 1, 2005, the Commission had to provide recommendations on options to achieve $10 billion in scorable Medicaid savings over five years while at the same time make progress toward meaningful longer-term program changes to better serve beneficiaries. The Commission will also consider, to the extent feasible, specific performance goals for the Medicaid program as a basis for its longer term recommendations. By December 31, 2006, the Commission is tasked with making longer-term recommendations on the future of the Medicaid program that ensures the long-term sustainability of the program.
The Commission, chaired by former Congressman and Tennessee Governor Don Sundquist, consists of 13 voting members and 15 non-voting members. It began its operations wrapped in controversy due to Congressional Democrats’ refusal to appoint members to the Commission. Two Commission meetings were held in the summer and the first report was issued to Congress on September 1, 2005. More details concerning the Commission are available on the internet at: http://www.cms.hhs.gov/faca/mc/details.asp, and the first report is available at: http://www.cms.hhs.gov/faca/mc/090105rpt.pdf.

Fortunately, the Commission’s first report did not recommend changes to the Medicaid EPSDT benefit for children.2 The principles for dental Medicaid reform adopted by the dental community were shared and discussed with two of the Commission’s non-voting members: James M. Anderson, Chairman and CEO of Cincinnati Children’s Hospital and Medical Center, and Carol Berkowitz, MD, FAAP, President of the American Academy of Pediatrics and Director, Pediatric Clinic and Group Practice at Harbor/UCLA Medical Center.

- **Medicaid Consulting Visit to Nebraska**
AAPD Child Advocate James J. Crall recently assisted the Nebraska Dental Association and the Nebraska Academy of Pediatric Dentistry in a meeting with state Medicaid officials. Dr. Crall’s participation was supported under the AAPD’s state advocacy issues consulting program.

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2 The Commission proposals approved were:

- Adjusting the prescription drug reimbursement formula ($4.3 billion over 5 yrs) - will allow states to negotiate Rx prices based on the Average Manufacturer Price (AMP) rather than the Average Wholesale Price (AWP), as done today. (Based on NGA’s proposal)

- Extending the Medicaid drug rebate program to Medicaid managed care plans ($2 billion over 5 yrs) - will give Medicaid MCOs access to the existing Rx manufacturer rebate program, since they currently pay higher prices for drugs. (Based on a proposal submitted by the Association for Community Affiliated Plans [non profit MCOs] and the NGA.

- Changing the start date of penalty periods for persons transferring assets in order to qualify for Medicaid (approx $1.5 billion over 5 yrs). This will extend the time during which Medicaid applicants who made transfers are financially responsible for the cost of their care. Date will be changed from the date of transfer to the date of application for Medicaid or the date of nursing home admittance (whichever is later). (Based on President's FY 06 budget proposal)

- Increasing the "look back" period for seniors who transfer their assets from 3 to 5 years (<$100 million over 5 yrs) - will allow the government to look for personal asset transfers that Medicaid applicants made during a five-year period of time prior to obtaining Medicaid eligibility. (Based on NGA proposal)

- Establishing tiered copayments for prescription drugs ($2 billion over 5 yrs) - will provide states the flexibility to increase copays on non preferred drugs beyond current nominal amounts when a preferred drug is available, in order to encourage less costly treatments. Co-pays would vary, depending on poverty level and states would be allowed to enforce co-pay requirements and/or waive co-pays in cases of true hardship or for reasons of clinical necessity. (Based on NGA proposal)

- Reforming Medicaid MCO provider tax requirements (up to $1.2 billion over 5 yrs) - Provider taxes are a financing mechanism that state have used to generate state funds needed to obtain federal matching payments. This proposal will treat MCOs the same as other provider institutions that are currently taxed. (Based on President's FY 06 budget proposal)
summary below was provided by Dr. Jessica A. Meeske (Hastings, Neb.), who coordinated this initiative. Jessica is a Legislative Workshop alumnus, previous Chair of the AAPD New Dentist Committee, and previous District IV AAPC PAC Steering Committee representative.

“The Nebraska Dental Association (NDA) was pleased to have AAPD Child Advocate Jim Crall help us strategize improvements to the Nebraska Dental Medicaid Program. We met on Sept. 12, 2005 for most of the day. The morning was spent with a small group of NDA leaders including myself, our state dental director, and Jim. We discussed with the current economic and political climate in our state and how we might focus our message to Medicaid directors and staff. In the afternoon, we met with three people from the state: the Dental Medicaid Director, the Medicaid Director, and the Director of the entire Dept. of Finance within HHS.

Our group spent about three hours with these state officials. First they discussed their issues and challenges, and then we presented our information. Jim started by giving a brief explanation of the issues in every state with their Dental Medicaid Programs. He then discussed how Nebraska is doing compared to other states, and moved on to highlight what has been successful in other states.

We then presented a comprehensive plan for improving the program in Nebraska. The major focus was preserving and/or improving the fragile Medicaid provider network and not decreasing dental service and reimbursement. The concept of "maintaining services and fees" as opposed to "asking for an increase" was difficult for all the dentists to swallow, but Jim has advised us convinced that under current economics this would be considered "a win" in most states and keep the program viable for future investment.”

6th Annual Legislative Workshop

On September 9-11, 2005, 10 pediatric dentists from around the country gathered in Lincolnshire, Illinois for the sixth annual AAPD Legislative Workshop for Pediatric Dentistry Leaders. The AAPD Council on Government Affairs once again sponsored this two-day workshop, in cooperation with the ADA’s Department of State Government Affairs, and with the generous underwriting support of Sunstar Butler. The goal of this workshop is to assist AAPD members with efforts at the state and local level, as well as to build a national “grass roots” network for work on federal issues and sharing of critical information for legislative advocacy. The presidents of AAPD-recognized state unit organizations nominate participants for this workshop. **To date, the AAPD has trained 89 advocates from 32 different states.**

Participants heard presentations on the state legislative process and strategies, current Medicaid issues and successful Medicaid dental reforms, tips on developing relationships with legislators and their staff, and the AAPD’s federal children’s oral health legislative agenda. Workshop alumnus Dr. Brent L. Holman (Fargo, N.Dak.) described lessons learned from his 2005 efforts at securing Medicaid dental fee increase legislation in North Dakota. This well-coordinated effort passed the state Senate and fell one vote short on the House floor. It will be brought back in the next session.

In addition to hearing from expert workshop faculty, participants completed two interactive exercises: “mock” legislative visits to simulate the actual experience of visiting a state legislator, and simulated state legislative committee hearings. Participants were required to
prepare briefing materials for the legislative visits, write a one page written statement for the hearings, and testify using various persona. An article will run in the November 2005 Pediatric Dentistry Today.

AAPD PAC

In reviewing the many requests for PAC support through-out the year from sources including other lobbyists, health groups, AD-PAC, the Republican and Democratic campaign committees, etc., the AAPD PAC’s interim decision team (AAPD PAC Chair Dr. Charles Hall, Congressional Liaison Dr. Heber Simmons Jr. and AAPD Executive Director and PAC Treasurer Dr. John Rutkauskas) approved two recent contributions.

- Per a request from Chicago-area oral surgeon Dr. Mike Menis, we participated in a small Chicago event on August 3, 2005 for Congressman Eric Cantor (R-VA, 7th District), who serves as House Chief Deputy Majority Whip right under Roy Blunt. Our initial contribution was a modest $500 for the 2006 primary, but this is obviously an office where we will continue to develop a relationship. (Note: AD-PAC supported Mr. Cantor at $2500 for the primary and $2500 for the general election in 2004).

- AAPD was a co-host of a small fund-raiser for Congressman Danny Davis (D-IL, 7th District) on Sept. 6, 2005 in Washington, D.C that was organized by Mike Gilliland of Hogan and Hartson. Mr. Davis’s district includes the ADA headquarters and UIC dental school. We have worked at cultivating this relationship, as Mr. Davis is a strong supporter of issues such as Medicaid. Immediate Past President Dr. Ned Savide and Executive Director Dr. John Rutkauskas represented AAPD at the event, to which the AAPD PAC contributed $2000. It also happened to be Mr. Davis’ birthday, so a suitable cake and singing was provided!

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This AAPD Legislative and Regulatory Update (LRU) is available on the AAPD web site (www.aapd.org) in the Members’-only area under advocacy. It provides current information on status of the AAPD’s legislative and regulatory priorities at the federal and state level, and activities of the Council on Government Affairs and Political Action Committee.

The 2005 AAPD Legislative and Regulatory priorities as approved by the Board of Trustees are provided in “Latest Advocacy News” at: http://www.aapd.org/hottopics/advocacy/detail.asp?NEWS_ID=405

These priority issues were pursued at the AAPD’s Congressional Lobby Day on April 19, 2005, which featured invited AAPD advocates from 25 states.

Join the AAPD E-Advocates network to be informed of the latest information and be a part of critical grass-roots advocacy campaigns that support the AAPD’s legislative and regulatory priorities. To join this List Serve, please contact Margaret Bjerklie at mbjerklie@aapd.org.

Activity highlights from the Children's Dental Health Project (CDHP) are contained adjacent to this report on the AAPD Advocacy page. Although CDHP is a separate corporate and
financial entity from the AAPD, both organizations share a common mission to improve the oral health status of children. The AAPD financially supports the CDHP in part, and works collaboratively with CDHP on pediatric oral health policy issues. These highlights and other policy analysis are also accessible on the CDHP web site (www.cdhp.org).

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