



Legislative Updates

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The Association has received many calls over the last several months regarding the Clinton administration's proposal to change the method of reimbursing physicians for drugs administered to Medicare patients. Under its initial proposal, Medicare would have paid no more than actual acquisition cost of a drug instead of the current average wholesale price (AWP).

As described by ACCC Executive Director Lee Mortenson in the July/August *Oncology Issues*, the events following the introduction of this budget language were full of political intrigue. However, after months of effort by the American Society of Clinical Oncology, primarily through the efforts of Dr. Joe Bailes and many oncologists—including ACCC members—the final curtain is about to fall on this latest act.

In late July, the House-Senate conference committee voted to maintain the House Ways and Means Committee's language regarding drug payments, thus avoiding the prospect of the Secretary of Health and Human Services setting average wholesale prices. The final result (i.e., pending the president's signature) will be a new law effective January 1, 1998, requiring that the amount payable for a drug or biological will be equal to AWP minus 5 percent. In addition, the bill calls for the Secretary to study the effect on the average wholesale price of drugs and biologicals based on this new payment policy and report to Congress the results of the study by July 1, 1999.

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There is also a provision to provide coverage for an FDA-approved oral drug prescribed for use as an acute antiemetic used as part of an anticancer chemotherapeutic regimen. Coverage would be provided if the drug is administered by a physician (or as prescribed by a physician) for use immediately before, at, or within forty-eight hours after the time of chemotherapy administration and as a full replacement for the antiemetic therapy that would otherwise be administered intravenously. The effective date of this section is also January 1, 1998.

CANCER RESEARCH

U.S. Senator Dianne Feinstein (D-Calif.) has written to ACCC requesting our support for S.728, the Cancer Research Fund Act of 1997. Sen. Feinstein is cochair of the Senate Cancer Coalition. The bill was introduced on May 8 and was referred to the Senate Finance Committee. The ACCC Governmental Affairs Committee will consider ACCC support for this bill when it meets in September at ACCC's Oncology Economics Conference in San Diego.

Senate Bill 728 would allow citizens to contribute funds for federal cancer research in two ways, both in connection with their annual tax returns. Individuals could 1) designate a contribution of not less than \$1 from their tax refunds owed to them and 2) make a tax-deductible contribution of not less than \$1. The bill's other cosponsors are Senators Connie Mack (R-Fla.), Harry Reid (D-Nev.), Alphonse D'Amato (R-N.Y.), Tim Johnson (D-S.D.), and Daniel Inouye (D-Hawaii).

According to the sponsors the bill is not intended to replace annual appropriations for cancer

research, which is currently a congressional responsibility. In fact, the bill has an "anti-supplanting" provision prohibiting expenditures from the Cancer Research Trust Fund if appropriations in any year for the National Institutes of Health are less than the previous year.

Research America has estimated that if given the opportunity, Americans would contribute on average \$23 for health research. At that rate, \$1.1 billion could be raised. At current funding levels, the National Cancer Institute can only fund 26 percent of grant applications, an approval rate that has dropped from 32 percent in 1992.

OFF-LABEL UPDATE

Oregon, Louisiana, and Missouri are in the news. Effective October 4, Oregon law requires coverage of off-label indications of FDA-approved drugs for the treatment of cancer or any other condition. The law was signed by Gov. John Kitzhaber on July 23. ACCC supported the passage of this bill as did the Oregon Society of Medical Oncology and the pharmaceutical industry. In Louisiana, Senate Bill 722 took effect on August 15. This law requires coverage of off-label uses in the treatment of cancer only. House Bill 335, the Missouri managed care reform package that included off-label drug language, was also recently signed into law. The bill was approved by Gov. Mel Carnahan on June 25 and took effect on August 28. The number of states with off-label laws based on ACCC's uniform legislation now totals twenty-seven, an increase of seven states in this year alone. ■