

MEMORANDUM

To: American Society of Transplant Surgeons
From: Peter Thomas, Adam Chrisney and Theresa Morgan
Date: March 11, 2010
Re: Legislative Update on Healthcare Reform and SGR fix

Congress and the White House have engaged in a series of maneuvers on healthcare reform and the Medicare physician fee schedule fix this month, as well as on appropriations and financial sector reforms. Congressional Democrats are working on a multi-platform agenda and find their initiatives complicated by the impending elections and unified opposition from the minority party to some of the Democrats' top priorities.

On March 10, the Senate passed by a vote of 66-33 the *American Workers, State, and Business Relief Act* (HR 4213) which delays the impending 21 percent physician fee cut until October, extends stimulus FMAP funding by 6 months until June of 2011, and extends the exceptions process for Medicare therapy caps until the end of the calendar year. The bill also allows non-hospital-based physicians and other health professionals who bill Medicare and Medicaid through a hospital to receive electronic health record incentives. The next step in the House is unclear, as leaders consider conferencing the two chambers' jobs bills. Without further action, the physician fee cut is scheduled to go into effect on April 1.

Meanwhile, the President hosted two healthcare reform events in the White House this month and released an outline of a potential healthcare reform reconciliation package. The President said the plan could include only Democratic support if necessary and he argued that prolonging the debate for another year would not change the fundamental differences in perspectives that some Republicans and Democrats have on healthcare reform. On a White House conference call this week on which we participated, administration leaders answered questions from participants about the content of and process for the bill.

Congressional Democratic leaders are attempting to move forward with healthcare reform using the simple majority process known as "reconciliation" and are expected to release a package of amendments that would first move through the House Budget and Rules Committee before

coming to the House floor for a vote. But many House members are reticent to vote on the package before gaining assurance from the Senate that they will also pass the package. However, Roll Call is reporting today that the Senate Parliamentarian has said that President must sign the Senate-passed bill before the Senate can act on a companion reconciliation package.

The budget reconciliation process places tight limits on which sections can be included in the reconciliation bill, and negotiations continue on what provisions will remain in the package even as Republicans vow to challenge all parts of the package that do not meet strict budgetary rules.

Today, March 11, the Congressional Budget Office released an updated version of their score for the Senate-passed healthcare reform bill. CBO said that the new score differs from their December 19 estimate because it accounts for all of the amendments adopted by the Senate throughout the course of their debate, reflects a new expected enactment date and “incorporates some technical revisions.”

Congress is also focused on the appropriations process; on Thursday, House Republicans voted for a one-year earmark moratorium for its members. The day before, House Democratic leaders banned FY 2011 earmarks directed to for-profit businesses. In addition, it is expected that a financial reform bill will be introduced in the Senate next week.