

Congress to Reconvene in November for Lame Duck Session

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After approving a temporary measure to keep the government funded through December 11, the House and Senate concluded their work before the November 4th elections and are set to return on November 12th for a “lame-duck” session before the 114th Congress is seated in January 2015. As expected, the progress of legislation over the last several months was slow, with both parties bracing for an election where control of the Senate could come down to toss-up contests in several key states. The House is expected to remain under Republican control, with most models predicting that the GOP will add to their 34-seat majority.

Legislative priorities that could be addressed by Congress in the remainder of 2014 could vary based on the election results, but the top “must-pass” item on the agenda is another short-term government funding deal that will keep federal agencies operating through the first several months of next year.

One item that will again need to be addressed in the coming months is the “doc fix.” The current patch runs through the end of March 2015, and discussions about a permanent solution continue at the member and committee levels in the House and Senate. A permanent fix, which is supported by AAEM and many other provider groups, is something that many key members would like to accomplish, including the chairs and ranking members of the Finance, Ways & Means, and Energy and Commerce Committees. However, a permanent repeal must be offset by a minimum of \$130 billion in cuts elsewhere in the budget, which has continued to pose a steep challenge for congressional negotiators. The House and Senate Committees of Jurisdiction have largely settled on the replacement policy for the Sustainable Growth Rate (SGR), but the need to find revenue pay-fors continues to stall efforts to enact a permanent fix. Advocates of a permanent fix have pointed out that over the past 10 years it cost tens of billions of dollars more to patch the SGR than it would have to fully repeal the policy. Physicians continue to press Congress to fix this issue by the end of the year, rather than adopting another short-term patch in February or March to avert a 25 percent cut in Medicare payments to providers.

Members of the AAEM board will be meeting with key members of Congress to receive an update on SGR reform efforts in December. AAEM has expressed support for additional changes to accompany doc fix legislation, including enhanced due process protections for physicians, billing transparency and reform that will allow emergency physicians to see what is billed and collected in exchange for their services, and increased funding and access for graduate medical education (GME). AAEM has also advocated an SGR replacement policy that will allow specialty societies and medical boards to provide input in setting quality standards and performance bonuses, rather than a “one size fits all” model that does not account for fundamental differences between specialties.

Another issue that may take center stage during the lame duck session is the federal government’s response to the Ebola outbreak. The chairman of the House Appropriations Committee indicated the committee’s support for the Obama administration’s proposal to redirect money from the Overseas Contingency Operations (OCO) account to combating Ebola in impacted regions. Chairman Hal Rogers (R-KY) has pressed the

administration for more details on how the funding would be spent, and he was joined by the ranking Republican on the Senate Armed Services Committee, who signaled he would withhold support for the request until a more detailed plan is made available.

In September, the Senate Health, Education, Labor, and Pensions (HELP) Committee and the Senate Appropriations Committee’s Labor, Health and Human Services, Education, and Related Agencies (LHHS) Subcommittee held a joint hearing to discuss the Ebola outbreak. The committees received testimony from representatives of several key agencies, including the CDC, the National Institutes of Health (NIH), and the Department of Health and Human Services (HHS). The agencies describe the administration’s response as proactive, and have said that they are fully prepared to contain the spread of the virus. Due to increasing public attention to the issue, additional hearings are likely following the elections, while discussions over strategy and funding for Ebola response efforts are expected to continue over the next several weeks. Meanwhile, a number of congressional Republicans have urged the Obama administration to appoint an official to lead the Ebola response. Senate Republicans have been vocal in calling for improved coordination in the federal government’s response to the outbreak.

Senate control will be an important factor in next year’s agenda. For instance, a Republican Senate would increase the chances for medical liability reform legislation. The would-be GOP chairmen of the House and Senate Judiciary Committees have signaled that liability reform would be high on their agenda. A Republican Senate may also seek to use a procedure known as “reconciliation” to change aspects of the Affordable Care Act (ACA), such as the 2.3 percent excise tax on medical devices. If the Senate remains Democratic, it may be conducive to an agreement on budgets, taxes, and entitlement reform. In the last several years, smaller deals have been negotiated between Republican House leadership and Senate Democratic leaders, setting up the possibility for a larger deal in the last two years of the Obama administration.

EMSC Reauthorization Approved

In September, the U.S. House of Representatives and the U.S. Senate approved the bipartisan Emergency Medical Services for Children (EMSC) Reauthorization Act of 2014 (P-L 113-180), legislation that reauthorizes the program through Fiscal Year (FY) 2019. EMSC was established in 1984, and was set to expire on September 30. The bill authorizes spending of up to \$20.2 million annually for each of the next five years. Members of both parties described the legislation as important to ensuring that EMS services can be provided to ill or injured children regardless of where they live or travel.

The bill was authored by Senators Bob Casey (D-PA) and Orrin Hatch (R-UT), and Representatives Peter King (R-NY) and Jim Matheson (D-UT). Matheson said that it is critical to provide resources towards the approximately 26 million child and adolescent ED visits that occur annually. The legislation funds a number of activities focused on EMS care for children, including data analysis, readiness projects, and grants for states. ■