



Background on House Health Reform Legislation – HR 3961 and HR 3962

Starting as early as Friday, November 6, 2009, the U.S. House of Representatives will hold a floor vote on two health reform bills, HR 3962 “American’s Affordable Health Choices Act of 2009” and HR 3961 “Medicare Physician Payment Reform Act of 2009,” which would repeal the future 40% SGR cuts in Medicare physician payment.

CMA is strongly supporting HR 3961 because it preserves access for seniors to their doctors by repealing the future scheduled SGR cuts. The broader health reform bill, HR 3962, is very similar to HR 3200, the original House health reform bill. Regarding HR 3962, CMA supports the insurance industry reforms and the \$400 billion in physician payment fixes to both the Medicare and Medi-Cal programs, particularly the 50% increase in Medi-Cal primary care rates and the California GPCI fix. These increases will help to protect access to doctors in these programs. However, CMA remains opposed to other provisions in HR 3962. CMA will be sending a letter to Congress later this week listing the issues we support and those we oppose in HR 3962. It will be posted on the CMA website.

Our nation faces a unique opportunity to provide universal access to care for the uninsured. The CMA supports the efforts of President Obama and our California Congressional leaders to achieve meaningful health care reform. However, CMA is concerned that the legislation before Congress does not help patients obtain real access to doctors when they get sick and need help the most. Congress is building health reform on the foundations of Medicare and Medicaid without significantly repairing their current structural problems. The California Medi-Cal program has been woefully underfunded for decades leaving half of Medi-Cal patients unable to find a doctor and forced to seek care in the ER. One-third of California’s ER visits are Medi-Cal patients compared to 17% uninsured. Moreover, the Medicare reimbursement rates lag at least 20% behind the cost to provide care and the private sector in California has followed suit. California will continue to experience severe physician shortages unless these problems are fixed.

CMA fully supports the HR 3962 insurance industry reforms that rein-in health plan overhead and profit; prohibit plans from denying care based on pre-existing conditions; or that require plans to continue to provide coverage to patients who become sick or lose their jobs. CMA supports the repeal of health plan anti-trust exemptions to force competition into the marketplace.

Moreover, CMA appreciates the California Congressional leaders who are trying to begin to repair the broken Medicare and Medicaid programs by repealing the scheduled 40% SGR cuts and increasing the Medi-Cal primary care rates by 50%. However, more needs to be done to ensure that patients can find a doctor. Otherwise, Congress is making an empty promise to the uninsured of expanded coverage. No doctor. No reform. More needs to be done to fix Medicaid before it is expanded. Otherwise, the uninsured should be allowed to choose private health plans.

More needs to be done to inject individual patient responsibility for prevention, wellness and the costs of care. More needs to be done to allow freedom of choice for patients and physicians by allowing private contracting. More needs to be done to create a competitive health care marketplace, such as anti-trust changes that allow physicians to negotiate for better patient care. More needs to be done to protect the sanctity of the physician-patient relationship and build on successful models of care rather than creating new untested systems, such as the Value Index that harms poor, minority communities who already face enormous barriers to care.

CMA calls upon Congress and the President to protect the best of American medicine by truly focusing on what works and fixing what is broken.

HR 3961: Repeal Current SGR. Replace with Two New Targets

CMA believes it is imperative that the Medicare SGR bill be part of any health reform effort. Some Representatives will not vote for the bill because it increases the deficit by \$250 billion. However, in 2005, it would have cost \$48 billion to repeal the SGR. Today it costs \$250 billion and next year’s scheduled cut is 21% because Congress has not addressed the problem. The longer Congress procrastinates, the higher the price tag for American taxpayers and the fewer physicians participating in Medicare. Physicians must contact their Representatives and ask them to eliminate the current SGR once and for all.

HR 3961 would repeal the future projected 40% cuts in the Medicare SGR – costing the federal government \$250 billion. With the Obama Administration initiative, it would remove in-office physician-administered drugs from Medicare Part B and appropriately move those costs to Part D, the Medicare Prescription Drug Program. Part B drugs account for nearly \$100 billion – almost

half of the SGR price tag. Identical to HR 3200, the bill also establishes two new SGR targets and conversion factors: 1) E&M and Preventive Services which are projected to be increased at GDP + ~2% per year; and 2) All Other Services which are projected to be increased at GDP + ~1% per year. Policymakers believe that physician spending will not reach the new targets once the in-office drugs are moved to Part D. Moreover, the SGR targets will be rebased every 5 years so that any future projected cuts will be removed.

The rest of the physician payment reforms are in HR 3962 including the 5% cumulative Medicare primary care increase; the California GPCI fix bringing up to 14% increases to 14 California counties; and the 50% increase in Medi-Cal primary care rates. There are other physician payment-health care delivery system reforms in HR 3962 on which CMA has expressed opposition, including the bundled payments for post-acute care, the imaging service cuts, the failure to allow private contracting, and the study on geographic variation in spending.

In comparison, the Senate bill does not eliminate the SGR, does not include Medi-Cal rate increases and is full of punitive Medicare physician payment policies. CMA will be asking physicians and their patients to call our Senators again next week after the House vote to OPPOSE the Senate bill.

HR 3962 General Health Reform

The CMA opposes many provisions in HR 3962 and we support others. With any Congressional health reform package of this size, it is imperative to work on provisions issue by issue. Therefore, CMA will continue to support the \$400 billion in physician payment fixes as well as the new balance billing authorization in HR 3961 and HR 3962. While all other provider groups are taking deep cuts, the House leaders are trying to begin to restore physician payments to reasonable levels in both Medicare and Medicaid. It can't all be done this year but Congress is making a significant initial investment. We will continue to oppose the value index study which attempts to unfairly redistribute payments based on the geographic variation in Medicare spending, the lack of Medi-Cal rate increases for specialists, and the lack of private contracting and anti-trust exemptions for physicians. We will strongly oppose any further Medicaid expansions and scope of practice violations. The CMA letter on HR 3962 will be posted on the CMA website later in the week.

Sample Letter ([download .doc](#))

Dear Representative XXX:

As a physician, I am writing to urge your support for H.R. 3961. It would stop the imminent 21 percent Medicare SGR physician payment cut scheduled to go into effect in less than two months and stop the 40% future projected cuts. It establishes a new formula that will provide stable annual updates so that physicians can continue to see their Medicare patients. In 2005, the cost to fix the SGR was \$48 billion. This year it is \$248 billion. HR 3961 will obviate the need for the annual Band-Aid fixes that increase costs for the American taxpayers and harm access to physicians.

Seniors and the disabled who rely on Medicare and military families who rely on TRICARE are already experiencing difficulties finding a physician in California. Please eliminate the flawed Medicare physician payment formula and preserve access to care for California's seniors and military families.

Regarding, HR 3962, physicians strongly support the insurance industry reforms that reign-in excessive overhead and profit and ensure that patients have coverage when they become ill. I also appreciate the commitments in HR 3962 to increase Medicare and Medicaid (Medi-Cal) reimbursement rates because it will help patients find doctors when they need them. However, more must be done. I urge you to fulfill the promise of universal coverage by ensuring that everyone has a doctor. Medi-Cal must be fixed before it is expanded. California's Medi-Cal program is woefully underfunded. Physician rates rank almost last in the nation. 40-50% below Medicare rates. Therefore, half of all Medi-Cal patients in California cannot find a doctor causing 33% of our ER visits to be Medi-Cal. Adding millions of uninsured to Medi-Cal will frustrate patients, flood the ERs and escalate health care costs unless the doctor shortage problem is addressed.

Moreover, patients should be given the right to privately contract with any doctor of their choice which does not increase the burden on the federal budget. And finally, I urge Congress to provide anti-trust relief to physicians to balance an anti-competitive marketplace. I would like the opportunity to collectively negotiate with health plans on a level-playing field to improve patient care.

As a physician who struggles with these issues and fights to remain in practice, I urge you to support H.R. 3961 and include these other important reforms in your final health reform legislation. The patients of California need us working together.