MEMORANDUM

Medicare Payments to Physicians
The Health Subcommittee of the House Ways and Means Committee conducted a hearing on March 1 on the topic of Medicare payment policies. The primary theme of the hearing involved the March 2006 Medicare Payment Advisory Commission (MedPAC) Report, which recommends revision of the Medicare reimbursement system.

The MedPAC report recommends that CMS revise the system used to determine Medicare reimbursements for different forms of medical services. Under the current system, CMS assigns "Relative Value Units" to different forms of medical services based on the amount of resources required to provide the services, with higher reimbursements provided for services with higher RVU values. CMS reviews the RVU values for different medical services every five years, based in large part on the recommendations of a private sector advisory committee formed by the American Medical Association the RVS Update Committee.

In the report, MedPAC maintains that the five-year review system "does not do a good job of identifying services that may be overvalued" and that CMS has "relied too heavily on physician specialty societies to identify services that are misvalued." The update committee in most cases recommends higher RVU values for specialty care, which has led to decreased reimbursements for primary care. MedPAC Chair Glenn Hackbarth said that the disparity raises concerns about the future supply of primary care physicians. He added that the number of medical students in primary care residencies has experienced "a pretty precipitous drop-off."

The MedPAC report recommends the establishment of "a standing panel of experts to help CMS identify overvalued services and to review recommendations from the RBRVS Update Committee (RUC)," adding, "The group should include members with expertise in health economics and physician payment as well as members with clinical expertise." Hackbarth said that CMS can establish such a committee independently but added that Congress likely will have to provide financial support. Subcommittee Chairman Rep. Nancy Johnson (R-CT) was quick to point out that undervalued services need to be reviewed as well, and that this latter phenomenon has a direct impact on primary care.

Testifying on behalf of the American College of Physicians, Dr Andy Hedberg described the ACP’s concept termed the “advanced medical home,” which is based on the premise that the best quality of care is provided not in episodic, illness-oriented, complaint-based care, but rather through patient-centered, physician-guided, cost-efficient, longitudinal care.
This concept drew high praise from Chairman Johnson who noted that such an approach makes intuitive sense for the program that covers the nation’s elderly, 20 percent of whom have at least five chronic conditions.

**Appropriations**

On March 8, the House Appropriations Subcommittee on Labor/HHS held a hearing featuring HHS Secretary Mike Leavitt. In his opening statement, Sec. Leavitt outlined several basic principles underpinning the HHS FY 07 budget. Specifically, he said that prevention and targeting were at the top of his agenda, and that these principles helped identify the winners and losers in the HHS budget.

During the question and answer period, Rep. Jesse Jackson (D-IL) held up a copy of the March 1 issues of *JAMA* that includes an article about the shortage of family physicians in Community Health Centers, and expressed frustration that Title VII continues to be cut each year. Chairman Regula asked Sec. Leavitt to give him an answer in writing.

**Federal FY 2007 Budget**

On Thursday, March 9, the Senate Budget Committee passed its FY 2007 budget by a party-line vote of 11-10. The proposal caps discretionary spending at $873 billion. The mark includes a $235 million increase over the President’s request for the Health Resources and Services Administration (HRSA) and is intended primarily to support rural health programs. Numerous amendments were defeated, including $5 billion for pandemic flu preparedness. Sen. Kent Conrad (D-ND) was able to add an amendment providing $1.75 billion to Medicare for chronic care. However, this amendment is not expected to survive conference.

AAFP and AFMAA staff provided suggested comments for inclusion in the committee’s report on the Senate budget resolution highlighting the new data regarding CHCs and the NHSC. Following is the language:

*The Committee supports the President’s agenda to expand access to health care by strengthening the Community Health Center (CHC) and National Health Service Corps (NHSC) programs, funded by Section 550 of the budget. The Committee notes that a recent article in the Journal of the American Medical Association (JAMA), found that in 2004, Community Health Centers were understaffed and could not fill all clinical positions, especially in rural health centers. The Committee is concerned that more than 13 percent of family physician positions at CHCs were vacant and acknowledges that family physician training is supported by Section 747 of the Public Health Service Act. Medical schools that receive primary care training dollars produce more physicians who work in CHC’s and serve in the NHSC than other schools.*

The language was provided to the offices of Senators Judd Gregg, (R-NH) Chairman of the Senate Budget Committee; Michael Enzi (R-WY); Christopher Bond (R-MO) and John Ensign (R-NV). Sen. Ensign’s office indicated that it has been submitted to the Senate Budget Committee. We are now working to include it on the House side and have provided it to the offices of Reps. Roger Wicker (R-MS) and Mike Simpson (R-ID). Staff also posted a Key Contact alert on the budget resolution to AAFP members with
Representatives and Senators on the Budget Committees and also sent letters from the five family medicine organizations to all members of both Budget Committees.

**Medicare Part D**
During the Senate Budget committee markup, Sen. Debbie Stabenow (D-MI) offered an amendment to allow the Secretary of HHS to negotiate drug prices; create a Medicare-administered prescription drug option; and make changes to the standard benefit. The amendment was defeated by a vote of 12-8.

Senator Ron Wyden (D-OR) offered a similar amendment on drug price negotiation that was briefly debated and then defeated by voice vote. However, Sen. Wyden said that he would offer the amendment when the budget resolution was considered on the Senate floor.

**Expansion of Health Savings Accounts**
On Wednesday, March 7, Finance Committee Chair, Senator Chuck Grassley (R-IA) announced that he will not support a proposal by President Bush to expand tax-free health savings accounts (HSA) this year. Citing a lack of support in the Senate for expansion of HSAs, he noted that their effectiveness is still in doubt. Since they cost $177.6 billion last year, he felt that they deserve a thorough review. Senator Max Baucus (D-MT), who is the senior Democrat on the Finance Committee, raised concerns that HSAs would attract younger and healthier individuals and traditional health insurance unaffordable for older and sicker individuals.

**Association Health Plans**
On Wednesday, March 7, the Senate Health, Education, Labor and Pensions (HELP) Committee postponed until March 15 further consideration of the *Health Insurance Marketplace Modernization and Affordability Act* (S. 1955), which would allow small businesses to form association health plans. The bill, offered by Senator Mike Enzi (R-WY), who chairs the committee, would leave supervision of the plans with state officials, and would not allow participating businesses to establish self-insured plans. In considering the bill, the Committee defeated an amendment that would have preserved some of the coverage mandated by state laws.

**FamMedPAC**
As of March 10, 2006, FamMedPAC has received $183,079.92 in contributions from 626 AAFP Members and staff. The average contribution per member is $292.

A FamMedPAC insert and return envelope was included in the dues renewal notice sent to AAFP members who had not yet paid their 2006 dues as of February 13. Dues renewal notices were sent to 19,427 AAFP members. This particular insert is not generating the returns we hoped, with only 2 contributions to the PAC received so far. We expect a much better response from our insert in the general dues mailing scheduled for October.

This week, FamMedPAC made contributions to the following members of Congress:
- **Rep. Tom Allen (D-ME)** $1,000
- **Rep. Pat Kennedy (D-RI)** $1,000
- **Rep. Nancy Johnson (R-CT)** $2,000
Rep. Dave Weldon (R-FL) $1,000

Allen Healthcare Event
AAFP Board member Dr. Judy Chamberlain and FamMedPAC Director Mark Cribben attended an event in Washington, D.C for Rep. Tom Allen (D-ME). Dr. Chamberlain is a constituent of Rep. Allen. The event was a small, healthcare-only event. Rep. Allen serves on the Health Subcommittee of the House Committee on Energy and Commerce. He supports Title VII, Medicare physician payment reform, and GME payments for volunteer faculty. Rep. Allen spoke about the need to increase the availability of health insurance and asked for support for a bill he is drafting to make insurance more available for small businesses. Dr. Chamberlain spoke about the problems created by the new Medicare drug plan, in particular her ability to prescribe generic versions of drugs, some of which are not covered by the Medicare plan. Dr. Chamberlain plans to meet with Rep. Allen back home in Maine to follow up on the topics raised at this event.

Pat Kennedy Healthcare Event
AAFP Board member Dr. Vergilio Licona and AAFP Government Affairs staff member Doreen Bell attended a healthcare event in Washington, D.C. for Rep. Patrick Kennedy (D-RI). Kennedy sits on the Appropriations subcommittee on Labor-HHS-Education and had just returned from a hearing during which he spoke with Sec. Leavitt about the need to reform HIPAA. He does not believe HIPAA guarantees adequate privacy for any patients, and particularly for those with mental illness or addiction disorders. He spoke about the mental health parity bill and his frustration with the lack of support for moving it along despite a majority of support in the House.

Rep. Kennedy is concerned about threats to Title VII funding and he supports expanding the number of community health centers. Dr. Licona was able to speak to Rep. Kennedy about his experience working at a community health center and about the need to continue to train people to staff all these new facilities. He also spoke about the value and cost of health information technology and the need for federal funding, for both health centers and small and solo practices.

Dr. Licona also discussed medical liability reform, characterizing it as a way to redirect those funds that would have gone for liability premiums toward improved patient services. Dr. Licona pointed out that, in one year, an additional $180 million was reinvested in patient care for these facilities. He mentioned that he was not personally affected because as an employee of a federal community health center his liability is covered by the federal government, but he was concerned about access for patients.

Johnson Healthcare Event
AAFP Board Chair Dr. Mary Frank and FamMedPAC Director Mark Cribben attended a healthcare event in Washington, DC for Rep. Nancy Johnson (R-CT), Chair of the Health Subcommittee of the House Ways and Means Committee. Most of the discussion at the event focused on the challenges facing primary care. Rep. Johnson talked about the need to reform the Medicare physician payment system, discussed the concept of the “medical home” and asked for input on how to structure a payment system that would allow this design to move forward. She also discussed the problems facing residency programs that use volunteer faculty and pledged to hold a hearing on GME in the near future. She also asked for input on what topics we would like to have the hearing focus on. Dr. Frank pledged to work with Rep. Johnson on
these issues, and others, and Government Relations staff will follow up with Rep. Johnson’s health policy staff.

**Weldon Healthcare Event**
AAFP Board member Dr. Ted Epperly and Assistant Division Director of Government Relations Susan Hildebrandt attended an event for Rep. Dave Weldon (R-FL). Rep. Weldon serves on the Subcommittee on Labor/HHS of the House Appropriations Committee and is an internist. Since it was a small group, Dr. Epperly was able to speak to Rep. Weldon and his chief of staff at length about the new JAMA article and problems with Title VII funding. As a physician, Rep. Weldon was particularly interested and engaged.

During lunch, conversation centered around Medicare payment and medical liability. While Rep. Weldon listened intently the payment issues and clearly understood them, he was particularly forceful on liability. He said that it was unlikely changes would take place at the federal level; that we need to move off of caps as the primary issue; and that we must look at new alternatives for fixing this problem. He said no one has sympathy for the argument that physicians are paying too much in premiums; the stereotype is that doctors are rich and thus that argument is unpersuasive. He suggested stressed the cost of defensive medicine and how much that costs patients, and, of course, the system.

**STATE GOVERNMENT ACTIVITIES**

Thirty-five states (AK, AL, AZ, CA, CO, CT, FL, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NE, NH, NJ, NY, OH, OK, PA, RI, SC, TN, UT, VA, WA, WI, WV, and WY) and the District of Columbia currently are in session, with Delaware in budget hearings. Staff currently are monitoring 1,371 bills across 30 states (AK, AZ, DC, DE, FL, GA, IL, IN, KS, KY, MA, MD, ME, MI, MO, MS, NC, NE, NH, NJ, NY, OH, OK, PA, RI, SC, VA, WA, WI, WV) in the state legislative tracking system.
Significant Health Issues in the States

Medical Liability

Florida - FPIC Insurance Group, Florida’s largest insurer made a record $35 million in profit in 2005 and is holding insurance rates steady in 2006. Legislation has now been introduced to prohibit physicians from going bare. Florida is one of a very few states which allows physicians to practice without malpractice coverage.

Kentucky – An effort to approve a measure to amend the state constitution failed by two votes. A sixty percent majority was needed in the Senate to approve measures to amend the constitution. The bill has now been positioned for a possible later vote if the additional votes can be found.

Wisconsin – The Assembly and Senate have approved AB 1073 which limits non-economic damages in medical liability cases to $750,000 and excludes an inflationary factor. Physician groups and legal experts believe the cap will stand up to constitutional scrutiny. It is anticipated the Governor will sign the legislation within the next two weeks.

Washington - A series of reforms in HB 2292 were passed but the bill did not provide for a cap on non-economic damages. Provisions of the bill included apology language, specific reporting requirements on claims, payouts and settlements to the Office of the Insurance Commission, and disclosure of collateral sources.

Ohio - The Supreme Court determined it would be appropriate for a parent to sue a physician if a genetic screening misses a severe or fatal condition that would have caused them to seek an abortion. The case stems from a Kentucky couple litigating for the costs of raising their disabled son under a claim of wrongful birth.

Pathology Legislation
An issue brief addressing Anatomical Pathology Billing is now available for chapter use. Legislation is now active in Missouri, Nebraska, Minnesota, Utah and Oklahoma.

“Wal-Mart” Legislation
Pennsylvania has released information indicating that Wal-Mart has the highest percentage of employees enrolled in the state’s Medicaid program. One in six of the corporation’s 48,000 employees are currently enrolled in Medicaid costing over $15 million per year. Fair Share legislation has now been introduced in more than 30 states.

Scope of Practice

Georgia – Facing a number of bills dealing with expanded practice for non-physician providers, Georgia added another bill addressing expanded scope for chiropractors. SB 422 gives chiropractors new authority to "evaluate, diagnose" and treat patients for problems related to "organ system function." It will also give them the authority to examine ears and mouth for general health. SB 422 will increase the cost of health care by allowing chiropractors to refer patients for costly medical tests such as MRI,
neurodiagnostic studies and lab tests. Georgia has also addressed other scope issues this session including prescriptive authority for nurse practitioners.

Iowa – Pharmacists continue to push for revised collaborative practice arrangements that will allow them to bill for Medication Therapy Management Services (MTMS). Legislation is worded in a way that has the potential for altering physician prescriptions without notification.

Missouri – A plethora of scope bills have surfaced in Missouri. These include recognition of Naturopathic Physicians with an independent governing board; certified lay nurse midwives; prescriptive authority for psychologists and nurse practitioners; independent practice for physician assistants; and direct access to physical therapists.