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BRIEFLY NOTED

What's in the stimulus for Rhode Island health care?

The prospect of hundreds of millions of new federal dollars sloshing around in the Ocean State this year and next inspires both hope and foreboding. Websites are proliferating locally and nationally to help individuals, families, homeowners, businesses and governments figure out how they can take advantage of the combination of new federal spending (\$543 billion, \$1.1 billion of which is said to be heading for Rhode Island) and tax relief (\$244 billion), for a total of \$787 billion to reinvigorate the economy.

The largest single chunk of the \$787 billion is the \$87 billion slated to help states close their budget gaps by increasing the federal share of the state/federal Medicaid match by 6.2%. In Rhode Island, that means the federal government will cover over 58.7% of the state's Medicaid program, up from 52.5%. The federal price

tag for that increase to Rhode Island will be approximately \$450 million.

For a while it looked as though Rhode Island might have outsmarted itself by getting an unprecedented "global waiver" from Washington last year in order to perform a radical restructuring of Rhode Island Medicaid. The state's waiver application, which was submitted last August and approved in December, included a cap on Medicaid spending in the Ocean State at about \$12 billion over five years. That cap could have blocked Rhode Island's access to the extra stimulus money for Medicaid. However, Rhode Island's Congressional Delegation appear to have saved the state from that potential catastrophe.

In addition to massive investments for infrastructure (including the infrastructure of health care), the stimulus bill (officially known as the American Recovery and

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The 2009 state legislative session

A preliminary overview

For better or worse, economic slowdowns tend to depress legislative activity at the Rhode Island State House. The more the economy slows and the more daunting the State's own fiscal problems become, the more legislators' thinking is dominated by a limited number of immediate problems, – problems that this year have no easy or painless solutions. The state's crushing budget problems limit possibilities and make the state's future uncertain. As a result, legislators introduce and pass fewer bills.

Which is not to say that Rhode Island's 113 legislators have been idle or unproductive during the early weeks of the current session, which opened January 6, 2009. As of March 15, some 1738 pieces of legislation had been filed (an average of 15 bills per legislator); and although the official

deadline for submitting legislation was mid-February, bills continue to appear, and the count can ultimately top 2000. However, even that substantial number would represent about a 25% drop compared with 2008, when over 2600 bills were introduced, including dozens in the final days of the session.

RIMS' 2009 legislative agenda

As always, therefore, the Medical Society's Public Laws Committee, chaired by Michael E. Migliori, MD, has its hands full. The RIMS Committee is monitoring or has developed positions and priorities on about 65 bills so far this session, including several of RIMS' own legislative initiatives, which were developed last fall in consultation with representatives of the medical specialty societies.

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How to find information about a legislative bill online

The General Assembly's website is known as the Rhode Island Legislative Information Network: www.rilin.state.ri.us. (You can get there through the Medical Society's website, www.rimed.org: click on "Links" at the top, then on "RI State Government" at the left, and finally on "Rhode Island General Assembly.")

Click on "Legislation" in the horizontal bar at top. The rest is fairly self-evident, except for the odd term "Public Laws," which has a special and limited meaning in Rhode Island. "Public laws" are recently passed laws that have not yet been incorporated into the General Laws of Rhode Island. (The "General Laws" are the full body of statutes that are currently in force in Rhode Island, excluding any "Public Laws" that have been enacted but have yet to be integrated into the General Laws.)

Finding a particular bill is easy if you know the bill's number, but it can be difficult if you do not. Also, quite a few days can pass between the introduction of a bill and the time it is assigned a number and thus becomes accessible. Bills can also be located under the name of their lead sponsor (click on "Bill Status") or by doing a search using key words, though this method can get tedious.

You can track the progress of a bill (hearings, votes, amendments) through the General Assembly website too. As bills are amended, the updated versions are posted on the website, often as "Substitute A" or "Substitute B" of the original bill.

The General Assembly website is also useful for identifying your own legislators (every Rhode Island resident is represented in the General Assembly by one State Representative and one State Senator) and communicating with them. ❖

FROM PAGE 1 - LEGISLATURE

RIMS' initiatives include (but are not limited to) the following House (H) and Senate (S) bills:

- H-5385 would prohibit the sale of tobacco products in a facility that also includes a licensed health care facility. (For example, this measure would address the potential incongruity of a drug store selling cigarettes next to an in-store clinic.)
- H-5413 would establish a loan-repayment program to help Rhode Island attract and retain physicians.
- H-5453/S-0548 would protect physicians against abuse by so-called "silent PPOs," which illegitimately exploit fee discounts that the physician may have granted contractually to others.
- H-5502/S-0248 would permit Physician Assistants to participate in emergency care and disaster relief with immunity from liability and with flexible provisions regarding physician supervision.
- S-0709 would incorporate the American College of Surgery definition of "surgery" into Rhode Island's medical practice act.
- H-5548 would impose a tax on sugary beverages.
- H-5778 would fine-tune RIMS' existing "prompt processing" law by reducing the turnaround time for electronic claims to a maximum of three days.
- S-0575 is RIMS' omnibus liability reform legislation addressing the statute of limitations, prejudgment interest, admissibility of certain communications ("I'm sorry" provision) and other improvements in the conduct of liability cases.

Payments to physicians and hospitals

Besides RIMS' own H-5453 (see above), RIMS is encouraged to see a number of legislative initiatives from others this year that reflect the heightened public awareness of the payment inequities and imbalances that handicap Rhode Island health care.

One such bill, H-5608, would require insurers to pay physicians at least 125% of Medicare, provided the physician sees Medicaid and RItCare patients and devotes at least 5% of her or his practice to providing free care. Moreover, the bill would put into the law books some of the recurring themes of RIMS' advocacy for physicians in recent years, including the persistent regional payment inequities, Rhode Island's resulting disadvantage in recruitment and retention, and the dangers these conditions pose to Rhode Islanders.

However, H-5608 also points up some of the difficulties of reforming physician payment through legislation. For example, how would one measure "5% free care" to "the uninsured"? Moreover, given the fundamental flaws of SGR and the 21% cut in Medicare physician payments

scheduled for January 2010, linking commercial payment to Medicare is problematic, to say the least. In addition, history demonstrates the danger of floors becoming ceilings.

S-0771 would allow physicians to claim a tax credit for 100% of the value of free care they provide to the uninsured, up to an annual total of \$25,000.

A few bills address hospital reimbursements. For example, S-0244 would mandate public disclosure of insurers' payment rates to individual hospitals for services and equipment. Another (S-0186) would impose binding arbitration when hospitals and insurers reach an impasse in their contract negotiations (as Women & Infants and Blue Cross did for a period last December).

One new piece of legislation (S-0356) put in by a veteran legislator would limit hospital CEO's salaries to 2.5 times that of the Governor (which is about \$120,000), an obvious reaction to the February 13, 2009, Providence Phoenix exposé about executive compensation at hospitals in Rhode Island.

CON

Two Certificate of Need bills have been put in at the behest of South County Hospital: H-5273 and H-5274. Both seek to protect hospitals from competition by non-hospitals. The Medical Society believes that in the absence of comprehensive, statewide health planning, the hurdles typically set up by Certificate of Need legislation can arbitrarily deprive the public of the convenience, cost savings and new technology that ambulatory facilities tend to offer. A state mandate for coordinated health planning was enacted with RIMS support in 2007, but state officials have largely ignored it. Until a plan exists, RIMS opposes CON; RIMS also favors a moratorium on all hospital mergers for the same reason, until a plan is developed.

Liability reform

In addition to RIMS' own comprehensive bill S-0575 (see above), a number of other welcome bills (S-0088, S-0090, S-0254, S-0187, S-0259) also seek to ameliorate various aspects of the liability system and reduce the expense and harm caused by the professional liability system.

S-0088 would require that medical liability settlements and awards be broken down into sub-amounts for economic damages, noneconomic damages, medical expense and accrued interest.

From Autism to Zygote

Other bills deal with tobacco taxes, breast cancer (H-5399), health workforce, autism, the creation of "compassion centers" for dispensing medical marijuana (H5385/S-0185), highway safety (including bans on texting and cell phone use while driving), mandated health insurance benefits, the nursing shortage, drug prescribing and dispensing (including the freedom of pharmacists to refuse to dispense Plan B), mandatory e-prescribing, coordinated statewide

Volunteer for a RIMS "House Call" at the State House

During his 2007-2008 presidency of RIMS, Dr. Nick Tsiongas encouraged members of the RIMS Council, RIMPAC and the Public Laws Committee to set aside a Tuesday, Wednesday or Thursday afternoon and evening (usually from 4 pm on) to accompany RIMS' Government Affairs Director Steven R. DeToy on his rounds at the Capitol. The initiative was well received by physicians and legislators alike and so has not only been renewed this year but also broadened to encourage participants to bring along a colleague, including possibly a resident or a medical student. RIMS members interested in spending a few hours at the State House are welcome to email Sarah Stevens ([sstevens@rimed.org](mailto:ssstevens@rimed.org)) and volunteer. Volunteers receive an information packet in advance of their State House visit; out of an abundance of caution, RIMS also registers each volunteer as a "limited lobbyist." ❖

health planning (S-0182), extending health insurance to the unemployed (by expanding COBRA and RItCare), protecting children from second-hand smoke (S-0209), mandating primary care (H-5399), and other topics.

H-5645 would consolidate the Department of Health; the Department of Human Services; the Department of Elderly Affairs; the Department of Mental Health, Retardation and Hospitals; and the Department of Children, Youth and Families into a single entity with six divisions.

In a few months, RIMS will report to members on the bills that make it through the legislative process, some of which will bear little resemblance to their original language. RIMS will also report to its members on any important interim developments, including matters that may call for grassroots action. RIMS occasionally depends on its members to lobby their legislators on key issues; RIMS makes such constituent interventions easy through an email program that connects physicians with their own state Representatives and Senators, or sometimes with entire committees of the legislature.

The importance of the regulatory process

In any case, supporting or opposing the passage of a new law is often less than half the battle. New laws are often implemented by regulation, which is where the devil emerges from the details. Drafting regulations entails a quasi-legislative process of its own, involving public hearings, testimony and negotiation.

RIMS routinely participates in regulatory processes conducted by the Department of Health, the Department of Business Regulation, the Attorney General's Office, the Department of Human Services, the Department of Labor and Training, and other state agencies. ❖