

external affairs

No Ordinary Year

For the 435 members of the US House of Representatives and 34 of the 100 Senators, 2002 is an election year. As you no doubt would expect, election years are simply different—more complicated—for Congress. Although most Members of Congress start running for reelection the day after they are elected, their concern about holding their seats is now growing quickly and will crescendo in September, just before Congress adjourns for the year.

Although adjournment is less than six months away, few real workdays remain in this year's session. No votes are taken on Mondays or Fridays, so Members can be in their districts for long weekends. There are several extended recesses this year so that Senators and Representatives can campaign—first in their home-state primary elections and then in the general election, to be held on November 5th. This year, they will take two weeks at Easter, one week for Memorial Day, and one week for July 4th. Then comes August, the traditional summer break. House Members will be away from Washington for more than five weeks; Senators take just over four weeks.

What are the priorities this year? As I said, except for the few House Members who are retiring and the 66 Senators whose terms don't expire, being reelected is the highest priority. And while reelection is the goal, the means by which it is achieved are time-tested, tried-and-true. First comes the money. Most Members of Congress, those

who feel the least insecure about reelection, spend as much time raising campaign funds as they do anything else. The sad fact is that money translates into media, which translates into votes. Second come the issues. Few things are more important to a Member of Congress in an election year than making certain that the voters in their districts have a clear understanding of what the Member stands for and how s/he differs from his/her opponents.

Congress takes many votes each year on bills that are never enacted into law. The Members do this so that they can stake a claim to a position, and point to voting for something that they believe in. Last year, the House of Representatives passed Medicare reform legislation, which included adding prescription drug coverage to the program. The bill had no hope of becoming law, as Senate Democrats never gave it a second look, but GOP House Members will campaign on this and will point to inaction on the part of Democrats. So, much of this year will be used by Members to distinguish themselves from their opponents while creating the illusion of action.

This year, perhaps more than ever before, working to make clear the differences between the parties is important because the last half of 2001 was a time when bipartisanship, real or pretend, was the order of the day. Our nation was attacked; we had begun a military action in

Afghanistan; and, in Washington, we felt the increased insecurity that came from the anthrax crisis. As a result of Congressional efforts to come together and to support the President, there simply wasn't the opportunity to clarify the differences. So, differentiation will be the hallmark of the session of Congress.

Medicare Will Get Much Attention—Little Action

No block of the electorate votes as consistently as seniors. This fact alone makes their issues—Social Security and Medicare—high on any politician's agenda. This year is no different; Medicare will get much attention. The President focused on Medicare reform and on adding prescription drug coverage to Medicare as he originally did in his campaign. More recently, in the 2003 budget he sent to Congress, he proposed spending \$190 billion over ten years to reform Medicare and add drug coverage.

For more than five years, some say for decades, Congress itself has been working to find a path that enough can agree on to reform Medicare. Four years ago, the National Bipartisan Commission on the Future of Medicare recommended reforming Medicare along the lines of the Federal Employees Health Benefits Program. Congress has considered several bills to enact proposals that include similar proposals every year. Because Republicans are more supportive of reform that expands beneficiary choice among

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private-sector health plans, the GOP-controlled House has passed bills to do this each of the last several years. This year, the House will up the ante on the President to the tune of \$350 billion over ten years.

In the Democrat-controlled Senate, the majority is relatively content with the Medicare program. They would like to see benefit improvements, including a prescription drug benefit, but the basic government-administered pricing system is a model with which they are comfortable. Last week, the Senate Budget Committee reported out a budget that includes \$500 billion for health care, including Medicare reform, a drug benefit, and other health spending.

While there is big talk about reforming Medicare, across Washington there are hundreds of small conversations about ensuring that current Medicare provider and health plan payments are adequate. Fee-for-service physicians received a cut of 5.4% this year, and the same will occur for the next two years unless Congress acts. Not surprisingly, physicians are up in arms. Health plans, many of which have been limited to annual increases of 2%-3% for the last five years, argue that increases of this magnitude simply cannot keep pace with annual cost increases of 10%, more or less. And, hospitals, nursing homes, and home health agencies ... all claim they need more.

So where does this leave us? The American Association of Retired Persons (AARP) wrote to Congress saying that it would be unconscionable to increase payments to current providers (which would not result in any new benefits or increased access) before it ensures that Medicare provides coverage for prescription drugs. The AARP expresses wonder that Congress could, in good conscience, increase provider payments while not ensuring drug coverage, given the importance of drugs in modern medicine. In the end, the stalemate on reform and drug coverage will not be broken. Payments to providers and health plans are likely to increase, however, if only modestly.

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Legislative Potpourri

Medicare, especially Medicare+Choice payments that more closely reflect cost, may be the most important legislative issue, this year, but it is not the only issue of interest to Kaiser Permanente (KP). We are interested in at least half a dozen other issues.

Patients Bill of Rights

Patient protection legislation has been such a hot front burner issue for five years, it's surprising that it has not been enacted. After years of debate, both Houses of Congress last year passed their own versions. Then came September 11, and the issue seems to have disappeared. September 11 is not the only and perhaps not the major reason. Patients rights legislation may no longer be necessary—many health plans have voluntarily or in response to state laws come into compliance with most elements of the federal legislation. Rising health care costs have made Congress a little wary of legislation that would contribute to even more expensive coverage. Still, largely private conversations go on between the White House and the sponsors, principally with Senator Kennedy (D-MA). And both parties would like to use the issue in the Fall campaign. The ultimate outcome may depend on whether either party sees victory in compromise.

Bioterrorism

Major legislation to prepare the country to respond to future terror attacks is working its way to completion. Both the Senate and House passed bills last fall. The conference committee that is charged with working out differences is meeting daily and should report out an agreement within the month. The legislation will provide funds to states, local governments, and hospitals for preparedness and will expand stockpiles of pharmaceuticals used to respond to attacks as well as fund research on new medicines. For KP, the principal issue of interest is a provision that makes it easier for physicians licensed in one state to practice in another where a public health emergency has occurred. The mechanism in the House bill is a national registry that would allow physicians to submit their credentials and licensing information so that,

during an emergency, state officials could turn to the registry to verify credentials.

Patient Safety

Congress is interested in legislation that might reduce medical errors and near misses. The most commonly discussed design would establish a national patient safety database, to which providers could submit reports. Patient safety organizations, private-sector entities, would be authorized to collect the reports, transfer the data to the national database, and analyze provider-level, regional, or other aggregations of patient safety data to uncover patterns and recommend potential responses to reduce errors and near misses. This legislation is in the drafting stage in the Senate Health, Education, Labor and Pensions Committee. Senators Kennedy (D-MA), Frist (R-TN), Jeffords (I-VT), and Gregg (R-NH) are most interested. On the House side, the Ways and Means and the Energy and Commerce Committees will consider legislation in this area as well. There is only a 50/50 chance for action this year.

Mental Health Parity

Last year, Congress acted to extend for one-year legislation requiring that annual and lifetime limits on mental health coverage be identical to coverage for physical conditions. The Senate also passed a bill that would have required parity with respect to all treatment and financial aspects, but the House did not agree to it. This year, Congress has already acted to extend the penalties through the IRS code, which effectively extends current law for one more year. A broader parity bill may be considered later in the year.

Other Legislation of Interest

Other things on which we are working include a proposal to change the way that Medicaid pays for prescription drugs—which would probably increase costs to Kaiser Permanente significantly; and reauthorization of the Prescription Drug User Fee Act, which finances FDA's review of new drug applications and which we would like to see provide significant funds for postmarket surveillance. ♦