Legislative Outlook: Opportunities and Challenges

By Joseph S. Bailes, MD

The upcoming year brings both the opportunity to address longstanding problems with the health care system and the challenges of a tightening budget. With more robust Democratic majorities in both chambers of the US Congress and a Democrat in the White House, there is great potential for passage of significant health reform efforts in 2009 and 2010. This could set the stage for legislative dynamics that are similar to those of 2003, when the Republican-controlled Congress enacted far-reaching changes in policy under the Medicare Modernization Act.

The political environments in Washington, DC, and state capitals throughout the country are dominated by the economic crisis, which presents the most significant barrier to addressing various aspects of health reform. The upcoming months will clarify whether the crisis facing our financial system will provide the tipping point that moves the nation to tackle the difficult issues related to health care reform.

There is widespread interest in ensuring that all Americans have access to health care coverage, although there are strong differences in opinion on how best to achieve this objective. Congress will take one incremental step in providing coverage to the uninsured in early 2009 by expanding the scope of the State Children's Health Insurance Program (SCHIP), which is a program for low-income children funded by both the federal and state governments. President Bush vetoed this bill in 2008, but it will find a more receptive audience with President Obama. Working to ensure coverage for all people who are diagnosed with cancer and are uninsured is an imperative for ASCO. It is well documented that cancer patients who are uninsured are diagnosed at a later stage and have worse outcomes than do those with insurance. All Americans should have access to recommended screening and diagnostic tests well described in the evidence-based guidelines, and all individuals with cancer should be able to secure affordable health care coverage.

On Capitol Hill, there is significant interest in proposals to promote comparative effectiveness (CE) research. The oncology community is familiar with the concept of comparing the clinical effectiveness of two or more treatment modalities through clinical trials. The policies under consideration involve initiatives through which the federal government would provide direct funding for, and possibly oversight of, such studies.

There is much for the oncology community to embrace in CE, although the devil will be in the details of any proposal. We must ensure that when implemented, these initiatives result in studies that are scientifically rigorous. An effective CE program must provide transparency and opportunity for

expert input regarding the selection and design of these studies. We must be engaged in the debate regarding how these studies are used. The inclusion of cost considerations in CE studies or the application of these studies by public and private health insurance plans is a critical part of this debate.

We must continue to engage policymakers to ensure that barriers to conducting clinical trials in the United States are addressed. Perhaps more so than any other area, clinical trials provide an important way for individuals with cancer to access health care. We will continue to focus on the need to ensure that patients in communities everywhere are able to have meaningful access to ongoing clinical trials. This requires ensuring that providers in all practice settings have access to the financial resources and professional support that is needed to identify, enroll, and participate with ongoing clinical trials. The important privacy safeguards for patient information must be revised to remove unnecessary administrative burdens while still protecting our patients.

There are many legislative and regulatory initiatives that are important to the oncology community. These include efforts to create a new Medicare service for treatment planning; a proposal to correct the average sales price formula through which Medicare pays for chemotherapy drugs; and efforts to promote health information technology in our practices, identify an increasing number of performance measures for assessing quality of care, and transform pay-for-reporting requirements into pay-for-performance programs.

We anticipate that there will be proposals to refine or fundamentally revise the way in which the Medicare program pays for physician services, including the services and drug therapies that we provide to our patients with cancer. Everyone has become familiar with the term SGR, or sustainable growth rate, and the need for Congress to enact legislation periodically that avoids catastrophic cuts under Medicare to physician reimbursement. The next deadline occurs at the end of 2009, so we expect Congress to act at the end of the year.

This will be a busy year, and the realities of the economic environment and the changing demographics of the Medicare population serve to complicate these important issues. As the year unfolds, ASCO will be working closely with others in the cancer community to work with Capitol Hill and the administration to ensure we protect our patients' interests and are able to continue providing high-quality care to our patients.

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