AMERICAN CLINICAL LABORATORY ASSOCIATION

Side-by-Side Comparison of Lab Provisions of Health Reform Bills

March 18, 2010

SENATE BILL (PASSED 12/24/09) H.R.3590: Patient Protection and Affordable Care Act	RECONCILIATION BILL H.R. 4872: Reconciliation Act of 2010
Productivity Adjustment Repeals the .5% payment reduction in the clinical lab fee schedule effective 2011-2013 and replaces it with a full productivity adjustment for Calendar year 2011 and subsequent years. The productivity adjustment could not reduce the fee schedule update below zero.	Unchanged
Additional Adjustment to Lab Fee Schedule Applies an additional 1.75% decrease in the CPI update for calendar years 2011-2015. This adjustment could reduce the fee schedule update below zero. After 2015 only the productivity adjustment applies.	Unchanged
Technical Component of Certain Physician Pathology Services Extends the "grandfather clause" permitting independent laboratories to receive direct payments for the technical component for certain inpatient pathology services for one year until December 31, 2010.	Unchanged

Date of Service Demonstration Establishes a two year demonstration project beginning in July 2011, capped at $100 million. It would apply to tests that analyze gene protein expression, topographic genotyping or cancer chemotherapy sensitivity assays; that are billed using a HCPCS code other than a not otherwise classified code; for which there is not an alternative test having equivalent performance characteristics. The Secretary would determine appropriate payment rates for the test. The Secretary would report to Congress within two years after completion of the demonstration on its impact on access, quality, health outcomes and expenditures.	Unchanged
Prevention and Wellness The bill includes coverage for preventative services without cost sharing – limited to coverage that have an "A" or "B" rating by the USPSTF initially. It also includes the "Bright Futures" program for children. Going forward the bill reconstitutes the USPSTF with broader representation and will require the new task force to update previous recommendations considering clinical preventative best practices from government agencies, professional medical societies, patient groups and scientific societies. The bill further instructs HHS to provide for the planning and implementation of a national public-private partnership for a prevention and health promotion outreach and education campaign to raise public awareness of health improvement across the life span.	Unchanged

Other Provisions of Interest	
Medical Device Excise Tax The Senate bill would impose a fee on Class II and III medical devices apportioned by Treasury based on prior year's reported sales share beginning in 2010. Companies with revenues less than $5 million dollars will be exempted and for those with $5 million to $25 million in annual revenue the only 50 percent of gross receipts will be taken into account. None of the taxes are deductible.	Converts the annual fee in the Senate bill to an excise tax of 2.3 percent of the price of the medical device sold. Includes Class I devices but exempts from the tax: eyeglasses, contact lenses, hearing aids, and any other medical device determined by the Secretary to be of a type that is generally purchased by the general public at retail for individual use. Effective for medical device sales after December 31, 2012.
Independent Payment Advisory Board The bill would establish a 15-member Independent Payment Advisory Board (IPAB) with significant authority with respect to Medicare payment rates. Beginning in 2014, in any year in which the Medicare *per capita* growth rate exceeded a target growth rate, the IPAB would be required to recommend Medicare spending reductions. The recommendations would become law unless Congress passed an alternative proposal that achieved the same level of budgetary savings. Subject to some limitations—hospitals, for example, would be exempt until 2020—the IPAB could recommend spending reductions affecting Medicare providers and suppliers, as well as Medicare Advantage and Prescription Drug Plans. In years in which the IPAB would not be required to make recommendations, it would be required to submit an advisory report. Every two years, the IPAB would make recommendations on slowing the growth of private health expenditures.	Unchanged

Note: The Senate bill does not address the 21.2 percent reduction in Medicare physician payments resulting from the sustainable growth rate (SGR) formula that is scheduled to go into effect on April 1, 2010. Separate legislation to address the SGR cuts and provide a 30 day extension to April 30, 2010 is currently under consideration in Congress.