

•**Message from Dr. Sundwall:** This austere fiscal climate likely forebodes the challenges Congress will face as they consider the administration's health policy priorities.

•**CPT:** Proposals for five clinical laboratory tests codes were considered but only two were approved.

•**ESRD:** ACLA met with CMS to discuss a proposed resolution for the payment of ESRD lab services provided during a SNF stay.

•**Federal Affairs:** CMS is exploring the possibility of extending the technical component grandfather clause administratively.

•**Short Takes:** The effective date by which all affected providers must use the new CMS-approved ABN forms is January 1, 2003.

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The month of November seems to have flown by, perhaps because our most recent *Results* was distributed just three weeks ago, which allowed us to report on current lab issues in the context of the outcome of the mid-term elections. While I predicted that Congress would limit their agenda when they reconvened for a lame duck session in mid-November, I had no idea how brief their session would be (essentially only seven full legislative days!). While they did agree on legislation to establish sweeping changes in the organization of the federal government to create the new Department of Homeland Security, they did not tackle the outstanding appropriations bills. Instead they passed another short-term continuing resolution to keep government agencies running at the level of last year's budget. Nor did they provide any Medicare "give backs" to health providers, particularly hospitals and physicians, whose national organizations mounted vigorous campaigns seeking restoration of previously enacted cuts.

When Congress comes back to work in January they will have to face the very tough task of how to apportion funds among the eleven 2003 appropriations bills within the President's spending cap of \$750.4 billion. Key congressional appropriators have apparently agreed to work within such limits; so legislative staff are now working in earnest to prepare for fast track passage of these bills in early January. This austere fiscal climate likely forebodes the challenges Congress will face as they consider the administration's health policy priorities – establishing a new prescription drug benefit for Medicare beneficiaries, medical liability reform, Medicare "modernization", bio-terrorism preparedness, etc. With the re-

turn of federal deficits, and the need to finance the nation's ongoing war on terrorism, all of us involved in health care will face extraordinary challenges in the 108th Congress. Competition among health care providers for Medicare dollars will be fierce, and the pressure on policy makers to contain costs will be intense.

The stark circumstances we will inevitably face next year make it all the more important that we have the benefit of your participation as we prepare our legislative and regulatory agenda for 2003. You can best do this by attending the **ACLA Annual Membership Meeting**, scheduled for January 14, 2003, here in Washington, D.C. We have again scheduled an outstanding group of speakers – leaders representing the White House, CMS, and Congress, the FDA, NIH, state governments, and industry. Prior to and during our meeting, ACLA Advisory Committees will develop a list of issues considered important for us to address, and the ACLA Board will use this information, complemented by the information obtained from our speakers, to establish our priorities for the coming year. I encourage all of you to sign up now (a copy of the program agenda and a registration form are enclosed. This information is also available on our web site: www.clinical-labs.org).

JoAnne, Cheryl and I send our best wishes for Happy Holidays to one and all – may you find time to share with loved ones the spirit of the season.

David N. Sundwall

CPT

The CPT Editorial Panel met in New Orleans on November 7. Proposals for five clinical laboratory tests codes were considered but only two were approved (details will be

provided when formally approved by the AMA). ACLA was represented by David Sundwall and Pat Maloney, who were acknowledged and invited to comment on the clinical lab proposals.

On November 8, representatives of the Genetic Test Coding Workgroup had an informal luncheon meeting with representatives of the CPT Editorial Panel. Work to date was reviewed, and options for how to code new genetic tests were discussed. Pat Maloney represented ACLA at this meeting, and made clear that ACLA's "bottom line" is that payers must be able to understand and track the types of genetic tests being performed, our goal being to facilitate appropriate reimbursement. ACLA continues to urge CAP to convene this Workgroup to develop consensus on recommendations we will make to the CPT Panel.

ESRD

ACLA and representatives of ESRD member companies met with CMS officials by conference call to discuss a proposed resolution for the payment of ESRD lab services provided to beneficiaries during a skilled nursing facility (SNF) stay. CMS is proposing to issue a program memorandum (PM) that would instruct carriers to pay ESRD lab claims for these beneficiaries when the laboratory has used a CB modifier to indicate that the beneficiary is an ESRD patient. The PM will make it clear that the CB modifier can be but will not be required to be used to identify ESRD pa-

tients, not ESRD/SNF patients. The CMS officials hoped to have the new policy in effect by April 1, 2003.

CMS will instruct the carriers to accept electronic appeals of the denials they have and will receive prior to April 1, 2003. They will also investigate whether there is a mechanism for expediting the adjudication and payment of denials where there is a significant volume of denials for any given carrier.

Federal Affairs

Congress adjourned for the year without passing legislation amending the formula in the Medicare physician fee schedule to restore some, if not all, of the expected reductions in the 2003 fee schedule. Efforts to pass legislation were stymied by pressure from other providers to increase reimbursement rates as well as an ongoing debate between the Administration and Congress on whether the changes could be made administratively. As of publication of this issue of Results, the 2003 physician fee schedule has not been printed in the Federal Register.

Because Congress adjourned without passing Medicare legislation, they failed to adopt an extension of the pathology services technical component grandfather clause which is scheduled to expire at the end of this calendar year. We understand that CMS is exploring the possibility of extending the grandfather clause administratively. We will keep the ACLA Federal Affairs Committee advised of the status of the extension.

Short Takes

On November 22, 2002, CMS published program memorandum AB02168 announcing that the effective date by which all affected providers must use the new CMS-approved ABN forms is January 1, 2003.

On November 27, 2003, the Healthcare Leadership Council signed an agreement with the law firm Shaw Pittman to begin work on the state privacy project that will help providers comply with HIPAA preemption. The initial phase will survey and catalogue privacy laws, regulations, legal opinions and other documents relating to privacy of patient information in 41 states. As each state survey is finished, it will be published on the privacy project website. ACLA is a steering committee member of the privacy project and as such, each ACLA member will have access to the site. As the project progresses, we will keep ACLA members apprised.

REGISTER NOW!

**ACLA Annual
Membership Meeting
January 14, 2003
Marriott at Metro Center
775 12th Street, NW
Washington, DC
(202) 737-2200**

*(Deadline for a discounted room rate
is Monday, December 23, 2002)*

Calendar of Events -- December 2002

December 2	State Privacy Project Meeting	<i>Conference Call</i>
December 2	ACLA ESRD Committee Meeting	<i>Conference Call</i>
December 3	HCLA Coalition Meeting	<i>Washington, DC</i>
December 4	Lab Coalition Meeting	<i>Washington, DC</i>
December 4	CDC Quality Institute Steering Committee Meeting	<i>Conference Call</i>
December 5	Confidentiality Coalition Meeting	<i>Washington, DC</i>
December 5	Laboratory Health Care Coalition Meeting	<i>Washington, DC</i>
December 10	National Health Council Annual Membership Meeting	<i>Washington, DC</i>
December 17	HCLA Coalition Meeting	<i>Washington, DC</i>
December 18	Lab Coalition Summit Meeting	<i>Washington, DC</i>