



American Association of Oral and Maxillofacial Surgeons



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Federal Affairs

[President Signs Legislation to Reauthorize State Children's Health Insurance Program](#)

President Barack Obama signed into law February 4 legislation to reauthorize the State Children's Health Insurance Program (now referred to as CHIP, rather than SCHIP) for another five years. The law extends eligibility to those living at 300% of the federal poverty level (*\$66,150 for a family with 2 children to \$111,030 for a family with 6 children*), covering an additional 4 million children beyond the 7 million children already covered. States can expand coverage to children in families beyond 300% of the federal

poverty; however, such states, with the exception of New York and New Jersey, would receive reduced reimbursement for those children.

The law includes the following dental-related provisions:

- a requirement that state CHIP programs offer certain dental benefits/services;
- funding for dental education for new mothers;
- data reporting on dental access and quality provided to CHIP children;
- clarification that federally-qualified health centers (FQHCs) may contract with private practicing dentists to provide care; and
- an option for states to allow children with private medical coverage, but no dental coverage, and whose family income level would make them otherwise eligible for CHIP coverage, to qualify for the state's CHIP dental program.

The new law also allows states the option to cover pregnant women, prohibits coverage for childless adults, as well as any new waivers to cover parents, and requires states with such waivers to transition parents out of the program. It also eliminates a five-year waiting period for documented immigrant children and pregnant women to become eligible for the program. The law uses a 62-cent per-pack increase in the federal cigarette taxes and other tobacco tax increases to finance the new spending.

\$787 Billion Stimulus Package Becomes Law – Includes Health Care Provisions

On February 17, 2009, President Obama signed into law the single largest spending bill in American history, totaling \$787 billion, although it is estimated that with interest the cost will top \$1 trillion. This massive piece of legislation was the centerpiece of the economic recovery plan. This law includes the following health care provisions:

- \$19 billion for health information technology (IT) to coordinate efforts and develop national standards by 2010, of which \$17 billion will be put toward physician incentives through Medicare and Medicaid to ensure implementation compliance by 2014; further imposes Medicare reimbursement cuts beginning in 2016 to physicians who do not adopt health IT;
- \$24.7 billion to create a 65% subsidy for COBRA continuation premiums for up to 9 months for employees involuntarily terminated, with the exception being for gross negligence, between September 2008 and December 2009;
- \$86.6 billion in the Federal Medical Assistance Percentage (FMAP) funds to allow for a 6.2% Medicaid funding increase to states over 27 months, beginning retroactively on October 1, 2008;
- \$500 million in Title VII funding for the training of physicians, dentists and nurses with focus on increasing the number of primary care providers;
- \$10 billion in funding for the National Institutes of Health to expand biomedical research and renovate university research facilities, and;
- \$1.1 billion Healthcare Research and Quality programs to compare the effectiveness of different medical treatments.

Check out the governmental affairs page of aaoms.org for more details on the law's provisions. The law now moves to the agencies for implementation where issues/timelines are subject to change. Keep monitoring the e-news for updates.

In the wake of the stimulus package, it is unclear what the next move will be for health care reform. There is some concern that taxpayers are wary of supporting an expensive health care system overhaul after this law, but legislators across the board highlight this issue as a top priority.

State Affairs

Several States Introduce CRNA Legislation

With 48 state legislatures currently in session, we have seen a lot of activity concerning certified registered nurse anesthetists (CRNAs). Much of this action coordinated with efforts by the CRNAs to promote the week of January 25-31 as Nurse Anesthetist's Week.

New York introduced legislation ([A 4509/S 1515](#)) stating anesthesia should only be administered to a patient by a physician, dentist, podiatrist, or CRNA, effectively eliminating a registered nurse (RN) from anesthesia delivery. There appears to be a concerted effort by CRNAs in recent years to amend the law so the administration of anesthesia is not within the scope of an RN, as evident from this bill. The North Dakota Board of Nursing issued a practice statement that effectively prohibits an RN who is not a CRNA from administering and monitoring Propofol. Iowa OMSs faced a similar situation in 2007 and 2008, and were successful in having the Iowa Nursing Board policy and proposed regulations rescinded. However, the Iowa Society will continue to monitor for any new initiatives by the CRNAs to re-institute similar prohibitions.

Another New York bill ([A 3981](#)) was introduced directing insurance companies to cover anesthesia services provided by an independently employed CRNA with the intended purpose of correcting reimbursement and access to care issues in rural locations. Likewise in Kansas ([H 2163](#)), Oklahoma ([H 1394](#), [H 1827](#), [S 792](#), [S 1086](#)), and Pennsylvania ([H 212](#)), language was introduced to allow a CRNA to administer anesthesia in cooperation with a physician or dentist rather than under his or her supervision. Proposals, such as these, which work to provide greater independent practice of CRNAs, have historically been prime vehicles to amend the scope of practice of RNs, and in some cases limit their abilities to assist in the administration of anesthesia.

While CRNA legislation is introduced every year, 2009 appears to be particularly saturated with these types of bills. Some, such as the New York and Pennsylvania bills, are re-introductions of legislation from 2008, but the legislation in Kansas and Oklahoma is new to our radar. While CRNA legislation tended not to gain much momentum in 2008, AAOMS will continue to monitor these and other auxiliary personnel bills as the legislative session progresses.

Practice Management

Use Revised ABN March 1, 2009 and Later to Be Compliant

The revised CMS Advanced Beneficiary Notice of Noncoverage (ABN) takes full effect March 1, 2009, following an extension from the initial September 1, 2008 deadline. As reported in previous issues of the Advocacy E-Newsletter, the revised form has a new name: "Advance Beneficiary Notice of Noncoverage"; however, it is still referred to as the 'ABN'. The cost-estimate field is new to the final form and critical to remaining in compliance. It is therefore mandatory to complete this field. The form should continue to be provided to Medicare beneficiaries before rendering a service that is likely to be denied by Medicare.

The four key changes to the new ABN form are:

1. It is a consolidated version of the two existing ABN forms, the ABN-G for general services and the ABN-L for lab services, so it replaces both;
2. May replace the use of the Notice of Exclusion from Medicare Benefits form (NEMB);
3. Provides a field to indicate the cost estimate of the service(s) being performed (mandatory); and
4. Includes a new option for beneficiaries allowing them to choose a service for which they will pay out-of-pocket, without having a claim submitted to Medicare.

The revised form and instructions are available on the [Beneficiary Notices page](#) of the CMS website.

ICD-10-CM to Officially Replace ICD-9-CM Effective October 1, 2013

A [final rule](#) published in the January 16, 2009 Federal Register, names ICD-10-CM the standard code set for diagnosis reporting under the Health Insurance Portability and Accountability Act (HIPAA) beginning October 1, 2013. The effective date gives providers, insurers and other health care stakeholders an additional two years to prepare for adoption than was initially projected in the proposed rule. According to the CMS, adoption of ICD-10-CM is expected to support value-based purchasing and Medicare's anti-fraud and abuse activities by accurately defining services and providing specific diagnosis and treatment information; support comprehensive reporting of quality data; ensure more accurate payments for new procedures, fewer rejected claims, improved disease management, and harmonization of disease monitoring and reporting worldwide; and allow the United States to compare its data with international data to track the incidence and spread of disease and treatment outcomes, since the United States is one of the few developed countries not using ICD-10. The same day, HHS also issued a [related final rule](#) updating standards for electronic health care transactions under HIPAA. This rule, along with the ICD-10-CM rule, will facilitate the nation's transition to an electronic healthcare environment, according to CMS. A [fact sheet](#) on the CMS web site provides more on the two rules.

OSHA Resources to Help Businesses Provide a Safe and Healthful Workplace

During these challenging economic times, OSHA wants to see every business take a continuous, systematic approach to workplace safety. OSHA has the tools to help businesses of any size identify hazards, address safety and health problems, train employees to prevent injuries and fatalities and comply with safety and health standards. Some of those resources include: [OSHA's On-site Consultation Program](#); [compliance assistance products](#); [regional and local area offices](#); [publications](#); and [Safety and Health Topics Web pages](#). Visit [OSHA's Web](#) site to learn more.

New HHS Web site

HHS has launched a [new health information privacy Web site](#). The site contains a host of new content, including a summary of the HIPAA Privacy Rule; guidance on significant aspects of the Rule; fast facts for covered entities; a provider guide: communicating with a patient's family, friends, or other persons identified by the patient; frequently asked questions about family medical history information; sample business associate agreements; and information on misleading marketing claims.

It also gives a succinct summary of the [HIPAA Privacy Rule](#), including who the rule covers, what information it protects, and how covered entities may use and disclose protected health information (PHI).

HIPAA Transaction Advice Offered

Several new resources are available to help health care organizations plan for compliance with looming deadlines for updated HIPAA transaction standards. The recently revised compliance date for implementing X12 Version 5010 for claims and related transactions is Jan. 1, 2012.

The North Carolina Healthcare Information and Communications Alliance, Durham, NC, and the Workgroup for Electronic Data Interchange, Reston, Va., have prepared a revised suggested timeline for compliance efforts. The timeline is available at <http://www.nchica.org>. Also available on the site are updates on development of a suggested timeline for compliance with the new ICD-10 diagnostic codes, which must be implemented by Oct. 1, 2013. WEDI also has created related listserves for payers, providers and supporters. For information, visit <http://www.wedi.org>.