

# Dateline Washington

prepared by the Division of Advocacy and Health Policy

## Medicare increase of 1.6 percent takes effect

After more than two years of rigorous advocacy, the College applauded the House and Senate on February 14 for passing the Consolidated Appropriations Resolution 2003, which includes provisions to temporarily fix the Medicare physician payment crisis. Signed into law by President Bush on February 20, P.L. 108-7 allows the Centers for Medicare & Medicaid Services (CMS) to correct errors it made when calculating physician payments in 1998 and 1999. Due to the cumulative nature of the payment formula, these errors were producing a series of significant annual physician payment cuts, amounting to a 5.4 percent decrease in 2002 and a projected 4.4 percent cut in 2003. As a result of this congressional action, CMS increased Medicare payments to physicians by 1.6 percent for services rendered on or after March 1.

To accommodate the change, physicians had an additional 45 days, through April 14, to change their participation status. Physicians who change their status should begin preparing claims according to their new status as soon as they submit the necessary paperwork. Any claims that are processed incorrectly will be adjusted automatically after July 1.

## College calls for changes in 2004 fee schedule

Hugh H. Trout III, MD, FACS, testified on behalf of the College at a hearing held by the Practicing Physicians Advisory Council (PPAC) on February 10. During his testimony, Dr. Trout identified changes the College believes CMS should make in the 2004 Medicare fee schedule and emphasized the need for the agency to use its administrative authority to adjust the sustainable growth rate (SGR), which determines, in part, the annual updates to the fee schedule conversion factor.

Most of the College's remarks centered on the refinement of malpractice relative value units (RVUs), a process that CMS is required to conduct at least once every five years. The College asked that CMS seek public comments on the appropriateness of refining the malpractice relative value units a year earlier than normally scheduled, that is, in 2004 rather than in 2005. PPAC included both of the College's points in its recommendations to CMS.

A request for public comments is likely to be issued when the draft 2004 fee schedule is released in June, and a final version is expected on November 1. For additional details, please see Dr. Trout's testimony at <http://www.facs.org/dept/hpa/testimony/trout.html>.

## College continues to advocate for liability reform

On March 13, the House passed the Help Efficient, Accessible, Low-cost, Timely Healthcare Act (HEALTH) of 2003, a comprehensive medical liability reform proposal introduced by Rep. Jim Greenwood (R-PA). The College, which actively supported the legislation, will now lead the charge in advocating for passage of medical liability reform legislation in the Senate.

Recently, the College-led Health Coalition on Liability and Access (HCLA) released the results of a nationwide poll indicating that 84

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## **College testifies on health care competition**

percent of those surveyed believe the availability and quality of the health care they receive may be compromised because of rising medical liability costs and the lack of liability insurance coverage in some states. In addition, three-quarters of the Americans surveyed favor a law that guarantees full payment for lost wages and expenses, places reasonable limits on awards for noneconomic damages, and limits the percentage of a client's award a personal injury trial lawyer may receive. Full poll results can be found on at [www.hcla.org](http://www.hcla.org).

Joint hearings held by the Federal Trade Commission and the Department of Justice on health care and competition law and policy began last month with Frank Opelka, MD, FACS, testifying on behalf of the College. The hearings examined the state of the health care marketplace and the role of competition, antitrust, and consumer protection in satisfying consumer preferences for high-quality, cost-effective health care.

"Without sufficient leverage, insurers offer surgeons a take-it-or-leave-it medical service agreement. Insurance companies set policies and prices for surgical care with little or no direct relationship to the actual costs of providing the service. In an increasing number of markets, physicians find themselves with very little left on the table to negotiate," Dr. Opelka said. His remarks addressed a number of issues, including consolidation of the health insurance industry, all-products clauses, undisclosed fee schedules, unilateral amendments by payors, delayed payments, and insurance antitrust exemptions.

The third set of hearings, to be held April 23-25 and April 30-May 1, will focus on issues involving health insurers. At the conclusion of the hearings, the commission will provide a report to Congress. A copy of Dr. Opelka's remarks is available at <http://www.facs.org/dept/hpa/testimony/opelka.html>.

## **College advocates for trauma care systems**

In 1988, Congress first designated May as National Trauma Awareness Month. To mark the 15th anniversary, the College is highlighting the accomplishments made in trauma systems planning, and is calling on Congress to increase funding for FY 2004 to ensure that these state-wide networks are fully prepared to respond to emergencies or natural disasters. To urge your congressional representatives to support increased funding, please visit the College's Legislative Action Center at <http://capwiz.com/facs/home/>.

The College is also working with Senate and House committees to introduce and pass legislation to reauthorize the trauma system grant program administered by the Health Resources and Services Administration through FY 2008. The Trauma Care Systems Planning and Development Act of 2003, S. 239, was introduced by Senate Majority Leader Bill Frist, MD, FACS (R-TN), and Sen. Edward Kennedy (D-MA) in January and was recently approved by the Senate Health, Education, Labor, & Pensions Committee. A companion House bill is expected to be introduced later this spring.