

Washington Advocacy Update
for the
Health Care Association of New Jersey

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AHCA/NCAL
Advocacy Update

OVERVIEW

The New Political Environment
The Economy
Legislative Update
Looking to the Future

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The New Political Environment

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LOOKING FORWARD

Midterm Results & Why It Still Matters 5
Months Later

What's next?

Impact on AHCA

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2010 HOUSE RACES: STATUS AFTER MIDTERM

- The Republicans now hold a 242 to 193 majority
 - Close to historic peak in 1946 when Republicans held 246 seats
- Almost 25% of Congress is new with 96 freshmen
 - 87 Republicans
 - 9 Democrats
- 28 “Blue Dog” (fiscal hawk) House Democrats lost, including Zack Space (D-OH-18)
- 39 “Tea Party” Republicans elected

Boehner v. Obama



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2010 SENATE RACES: STATUS AFTER MIDTERM

- Republicans gained six seats in the Senate with 51 Democrats, 47 Republicans, and two Independents that caucus with the Democrats
- 16 new Senators overall- 4 from the House

“When Harry Met Mitch”



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POSITIONING FOR 2012

- Who takes the lead?
- Entitlement cuts?
- Strengthening the majority or taking it back
- GOP poised to take control of the Senate in '12
- What will the Tea Party candidates do?

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MIDTERM ELECTION 2010 - IMPACT ON AHCA

Legislative Challenges

- Challenges to the Patient Protection and Affordable Care Act funding, implementation and constitutionality
- Considerable increase in investigations and oversight of health care reform's implementation
- Difficult economy and new House Leadership impact overall Congressional perspective
- Look for Medicaid cuts and block grant proposals
- How will Republicans position themselves on Medicare cuts when they opposed them in 2010? Still potential for cuts.

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IMPACT ON AHCA

Regulatory Challenges

- Ensuring full market basket
- RUGS IV payment analysis by CMS and how will that affect our update?
- Continuing health care reform implementation issues
- Bundling and ACOs

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**Bad Economy + Debt = Deficit =
Major cuts**

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Currently dual track battle:

**Funding for current fiscal year & stop
gap measures: who will blink first?**

Budget resolution for next FY

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AHCA Message: Long Term Care = Economic Driver

- **Nationally, long term care directly generates 1.3% or \$183.5 billion of the U.S. GDP – up 0.2% from last year**
- Long term care employs roughly 3.1 million individuals, representing close to \$102.5 billion in labor income nationally
- 10th largest sector nationwide and second in health care
- Nursing and residential facilities added 63,000 new jobs in 2010

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THE PRESIDENT'S BUDGET

- Reduce Medicaid Provider Tax Threshold beginning in FY 2015.
- The Medicaid provider tax threshold would be reduced in phases over a 3-year period beginning in 2015.
- In the meantime, the maximum percentage would be allowed to rise to 6% from 5.5% on October 1, 2011.
- Beginning in 2015, the percentage would be phased down to 4.5% in FY 2015, 4% in FY 2016, and to 3.5% by 2017.

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Legislative Update



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WHAT'S AHEAD: NEW FISCAL ENVIRONMENT

- Major efforts on deficit and debt reduction
- Expect significant cuts to spending
- Possible adoption of some Debt Commission recommendations
- Tough Medicaid environment in the states with no help expected from Congress

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THREATS, PROBLEMS, & OPPORTUNITIES

- No additional FMAP extension
- Likely that House will adopt Medicaid block grant proposal
- Upcoming productivity adjustment to Market Basket
- MedPAC continues no update recommendation
- Reduction of provider tax

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THREATS, PROBLEMS, & OPPORTUNITIES

- CMS Initiative encouraging states to integrate Medicaid and Medicare Care for Duals
- CMS/HHS carefully watching RUGS IV
 - Forecast error/parity adjustment possible -- in 2011? 2012?

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THREATS, PROBLEMS, & OPPORTUNITIES

- Look for more efforts to cut Part B therapy reimbursements
- Independent Payment Advisory Board (IPAB) implementation is nearing
- Expansive NLRB labor agenda
- 3% withholding due in 2012 absent repeal

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THREATS, PROBLEMS, & OPPORTUNITIES

- Health Care Reform (PPACA) implementation and select repeal/modification possibilities
- GOP Wants Continuing resolution (CR) to prohibit use of funds to implement
- OIG Report expected shortly and may show negative report on quality
- DEA Nurse Agent resolution pending
- GAO follow-up report on private equity-owned SNFs/NFs with regard to quality outcomes and staffing

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LIKELY LEGISLATIVE AGENDA IN 2011

- Health Care Reform Fixes including 1099 repeal
 - Repeal passed but awaiting reconciliation on versions of “pay fors”
- Regulatory Reform
- Tort Reform
- Maintain Medicare Market Basket minus productivity adjustments already in statute
- Oppose Medicaid block grants

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LIKELY LEGISLATIVE AGENDA IN 2011

- Fight to maintain Medicaid prompt payment
- Ensure SNF role in Accountable Care Organizations (ACOs)
- Ensure SNF role in Bundling
- Continue work on eliminating 3-day stay and incorporation of observation days into that requirement

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VICTORY ON CLINICAL LAB PHYSICIAN SIGNATURE REQUIREMENT

- As part of the new Physician Fee Schedule Rule, CMS would have required a physician signature on a clinical lab service requisition in addition to the order – in effect on January 1, 2011
- AHCA helped to secure a delay in implementation to March 31, 2011
- AHCA asked CMS to withdraw the requirement for nursing facilities and submitted comprehensive comments
- On February 10, 2011 CMS informed us that the requirement would be withdrawn based on our comments

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WHAT'S NEXT?

- Gridlock or cuts?
- Health care reform repeal?
- What can get done with divided government?

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BOTTOM LINE

- Watch and prepare for CMS action
- Rule on update expected late April
- Watch out for provider tax reduction
- Be careful about “pay fors”
- Block grants in the House
- Watch what happens on entitlement cuts



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American Health Care Association

ncal
National Center for Assisted Living

Save the Date

**AHCA/NCAL
Congressional Briefing**
July 13-14, 2011
L'Enfant Plaza Hotel
Washington, DC
&
Congressional Reception
July 13, 2011
6:00pm–7:30 pm
L'Enfant Plaza Hotel

Thank you!