



American Society for Clinical Laboratory Science  
*Voice, Value, Vision*

**Government Affairs Committee**  
**Wednesday, September 21, 2011**  
***Executive Summary.***

**Legislative Update:** Elissa Passiment (Executive Vice President)

**Medicare Payment Advisory Committee (MedPAC)**

The recommendation now under consideration by the MedPAC to slash Medicare reimbursement rates for clinical laboratory services as part of a broader effort to fix the Medicare physician-payment system would threaten the economic survival of many clinical labs. A letter from ACLA came in response to MedPAC's recent discussions to repeal the physician payment formula, known as the Sustainable Growth Rate (SGR), and finance changes to physician payment levels via an offset package of cuts to healthcare providers totaling \$235 billion over 10 years. Laboratory would experience a 10% reduction in reimbursement. In addition, the Affordable Care Act cut Medicare reimbursement for laboratory services by an additional 19% over the next 10 years and more cuts are reportedly "on the table" for the Joint Select Committee on Deficit Reduction." The Clinical Laboratory Collaborative (CLC) will attempt to set up a meeting with MedPAC to explain to them how damaging this proposal would be. At this time, MedPAC stated that the laboratory fee schedule is "unbalanced" and can absorb this proposed laboratory fee schedule cut.

**Congressional Super Committee:**

Ms. Passiment stated that the bipartisan House and Senate "super committee" that will seek \$1.5 trillion in additional deficit reduction cuts (over the next 10 years) has held some public meetings but at this time there has not been any concrete information coming from this committee. Ms. Passiment stated that the CLC discussed setting up meetings with some of the House and Senate standing committees as they are to submit recommendations to "super committee" by October 14<sup>th</sup>. **GAC Follow-up/Discussion:** The GAC recommends that we contact our legislators (especially those members who are on the super committee) when they are at home on recess next week. GAC members also recommend that we utilize CapWiz as another mechanism to communicate our concerns to the congressional members. Ms. Passiment will work with Patrick Cooney on developing information to be broadcast to our ASCLS members via CapWiz.

**President Obama's Tax Cut Plan:** Ms. Passiment stated that Obama's tax cut plan does not include a co-payment/co-insurance for laboratory testing but there is talk on Capitol Hill that if not co-insurance than a possible laboratory fee schedule cut.

**Regulatory Update:** Elissa Passiment (Executive Vice President)

• **HHS Proposes Broad Patient Rights to Access Clinical Laboratory Test Result Reports**

As part of an ongoing effort across the Department of Health and Human Services (HHS) to empower patients to be informed partners with their health care providers in making health care decisions, HHS today proposed rules that would give patients (and their authorized representatives) direct access to their own laboratory test result reports. The proposed rules address the interplay between the Clinical Laboratory Improvement Amendments of 1988 (CLIA) rules, state laws governing direct disclosure to patients of their laboratory test results, and the Federal Privacy Rule, which currently defers to CLIA's disclosure provisions and which preempts contrary State laws on privacy and disclosure of personal health information. Under existing CLIA regulations, a laboratory may release patient test results directly to the patient only if (1) the ordering provider expressly authorizes the laboratory to do so at the time the test is ordered, or (2) state law expressly allows for it. One of the proposed rules would amend the CLIA regulations to allow laboratories to give a patient his/her individual test result reports on request. At the same time, the proposed rule would eliminate the Privacy Rule's exception for an individual's access to laboratory test result reports. The amended Privacy Rule would, in turn, preempt contrary state laws governing a patient's direct access to lab result reports.

**Comments on this proposed regulation are due by November 14, 2011.** The proposed rule can be downloaded from the *Federal Register* Inspection Desk at [www.ofr.gov/inspection.aspx](http://www.ofr.gov/inspection.aspx)

**GAC Discussion:** There is support for the intent of the regulation that laboratory test results should be available to patients. Discussion ensued around the best process to provide this information to patients. Each laboratory would need to determine this process with HIPPA regulations that need to be maintained. The next steps are for the GAC to solicit additional input from GAC members (i.e. Administration SA) and develop comments that will be submitted by the November 14<sup>th</sup> deadline.

**GAC Publications/Articles:**

- **ASCLS Today Newsletter (October 2011 edition):** Dave Falleur wrote an excellent article about Title VII funding for allied health professionals. The Co-insurance article will also be published.
- **GAC e-Newsletter** – Issue #8 includes: ASCLS Annual meeting GAC recap; posting of GAC meeting minutes; Medicare Laboratory co-pay (co-insurance) and 2012 Legislative Symposium. ***This issue was sent to Ms. Passiment for distribution to ASCLS members.***

**GAC Committee Assignments**

- Regional liaison expectations document – Cindy Johnson, Debbie Shell and Joan Longberry. ***This committee has started to collect job descriptions from state GAC representatives. An e-mail will be sent out to all state GAC representatives to seek additional job descriptions.***