



Capitol News!

December 22, 2014

Vol. 11, Issue 7

Dear NASHIA Member,

Welcome to *Capitol News*, the last issue of this year! The 113th Congress concluded its work last week, having resolved the appropriations issues for most of federal government for this fiscal year. Congress approved a slight reduction in funding for the Federal TBI Program, which funds both the State and P&A grant programs. As the President has signed the TBI Reauthorization of 2014, NASHIA prepared a summary on the bill and the history of the TBI Act. The reauthorization bill has been a priority for NASHIA. Given that this Congress has passed so few bills, this has been a major achievement and victory for the brain injury community!

The 114th Congress will convene on January 6, 2015, with the Senate under republican leadership. This issue of *Capitol News* contains some of the leadership and chairs of key committees for the next Congress. The NASHIA Public Policy Committee adopted its recommendations for upcoming Congress during the Annual Meeting in October. These recommendations will be put forth in a Public Policy Platform after the President releases his proposed budget. Meanwhile, read further on issues addressed in recent weeks.

This Week in Congress

The 113th Congress finished last week, leaving a legacy of being the most unproductive Congress the past 60 years. Before adjourning, Congress did pass an Omnibus FY 2105 appropriations bill combining eleven of the twelve appropriations bills and a Continuing Resolution to fund the twelfth bill, funding for the Department of Homeland Security until the end of February - which together is referred to as "CRomnibus." The Senate also approved several judicial and administration appointments, including the U.S. Surgeon General.



Appropriations

FY 2015 Appropriations

On Saturday, December 13th, the U.S. Senate approved a \$1.1 trillion funding measure, which had passed the U.S. House of Representative the previous week, in order to fund most of federal government programs through the end of fiscal year 2015. The exception is the Department of Homeland Security, which is funded only through February 27, 2015. Overall, the budget stays within the discretionary caps that were set by House and Senate budget leaders last year. The funding agreement includes the following:

Department of Health and Human Services

Administration for Children and Families (ACF) -- The bill provides \$17.8 billion for the ACF, a \$108 million increase. This includes a \$75 million increase for activities within the Child Care and Development Block Grant that was just reauthorized and improved. Most child welfare programs remain funded at FY14 levels. Child Abuse Prevention and Treatment Act State grants and the Community-Based Child Abuse Prevention funds are all level-funded.

Administration for Community Living (ACL) -- The agreement includes a new general provision to

support the transfer of the National Institute on Disability and Rehabilitation Research (NIDRR), Independent Living, and Assistive Technology Act programs from the U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) to the ACL, in keeping with the enactment of the Workforce Innovation and Opportunity Act. All three programs are level-funded. The budget also designates \$2 million of the \$33 million Assistive Technology Programs funding towards competitive grants to support alternative financing programs for purchasing assistive technology devices.

Center for Disease Control and Prevention (CDC) -- The bill includes a total of \$6.87 billion for CDC, an increase of \$37.2 million over FY 2014 appropriation levels. This funding includes CDC's budget authority as well as transfers from the Public Health Service Evaluation, the Prevention and Public Health Fund, and the Public Health and Social Services Emergency Fund. The bill includes a total program level funding of \$170.4 million for CDC's Injury Prevention activities, an increase of \$20 million above FY 2014 levels. The bill includes the following highlights for the Injury Center:

- A new Prescription Drug Overdose(PDO) budget line funded at \$20 million for evidence-based PDO prevention programs. It includes PDO-related language that:
 - Directs CDC to fund the PDO initiative through cooperative agreements that target States that significantly contribute to the national burden of PDO morbidity and mortality.
 - Directs CDC to incorporate State burden of PDO, including CDC's mortality data (age adjusted rate), in the competitive process to test and implement best practices for identification, treatment, and control of prescription drug abuse.
 - Directs States to work with local businesses, medical providers, medical organizations, law enforcement, and not-for-profit organizations to prevent PDO.
 - Directs funding to States to address data issues, improve data standards, and improve their ability to share data across state lines and nationally in order to improve PDO prevention activities.
 - Requires CDC to develop performance measures with annual targets for the program.
- The Injury Control Resource Center (ICRC) budget line is not included in the report language budget table; however, the FY 2015 ICRC appropriation level of \$9.596 million is reflected in the Injury Center's overall appropriation. CDC believes the ICRC line was inadvertently excluded from the budget table. The mistake was communicated to appropriations committee staff, but there will not be another table released. The funding for the ICRCs will be reflected in CDC's FY 2015 operating budget.
- All other Injury Center budget lines are level with FY 2014 appropriation levels.

Also of note, the bill includes:

- \$160 million for the Preventive Health and Health Services Block Grant, which many States use to conduct injury and violence prevention activities. This is level with FY 2014.
- All budget lines reflect funds to support the Working Capital Fund. No Business Services Support transfers will be required in FY 2015.

Health Resources and Services Administration (HRSA) -- The amount appropriated for FY 2015 for the Federal TBI Program is \$9.321 million, which is \$23,000 less than appropriated for FY 2015 (\$9.344 million). This amount is split by HRSA between the State and the P&A programs with the State grant program receiving roughly two-thirds of the funding of which funding for the TBI Coordinating Center, formerly known as the TBI Technical Assistance, is taken from the State amount.

National Institutes of Health (NIH) --The National Institutes of Health (NIH) received a total of \$30,084,304,000 with increases are generally distributed proportionately among NIH Institutes and Centers (ICs). Additional amounts have been added to the National Institute on Aging (NIA), in

recognition of the Alzheimer's disease research initiative throughout NIH, and several institutes received support in connection with the Brain Research through Application of Innovative Neurotechnologies (BRAIN) Initiative.

The agreement expects the NIH Rehabilitation Coordinating Committee (NIH RCC) to host a trans-NIH State of the Science Conference on Medical Rehabilitation Research, develop and regularly update a trans-NIH plan for medical rehabilitation science, and better coordinate the grants to adhere to the definition of rehabilitation research recommended by the Blue Ribbon Panel on Medical Rehabilitation Research. NIH is urged to establish certain benchmarks to assess whether the coordination proposals being implemented are having a positive impact on rehabilitation science at NIH. And, the agreement requests the Eunice Kennedy Shriver National Institute of Child and Human Development (NICHD) and the NIH Director receive an annual briefing to discuss progress in rehabilitation research and the level of trans-NIH activity in this area of research.

Rehabilitation Innovation Centers -- Comprehensive rehabilitation research centers in the United States serve a unique role in complex fields such as brain injury, strokes, multiple traumas, and wartime injuries. Given the high volume of Medicare and Medicaid patients served by these centers, HHS is urged to evaluate the current prospective payment rate with the goal of maintaining these centers of excellence and continuing the high quality of care provided by these centers.

Sports-Related Injuries -- The agreement encourages the Department to investigate the development of new and better standards for testing sports equipment that is supported through independent research, governance, and industrial independence. These standards should actually replicate on-field impacts and produce testing data for "worst-practical-impact" conditions. Such standards will lead to research and development of new safety equipment to ensure that athletes have state-of-the-art gear that significantly reduces injuries.

Department of Education

Overall, the bill funds the U.S. Department of Education at \$70.5 billion, \$133 million below the fiscal year 2014 level. The President's request of \$75 billion for 10-year investment in the Preschool for All program was rejected in the final omnibus agreement.

Special Education -- The budget provides \$11.5 billion for Part B Special Education Grants to States, a \$25 million increase over FY14 funding. The budget agreement provides level-funding for the preschool formula grants that assist States in making preschool available to children with disabilities. Part C Grants for Infants and Families, funding for State implementation of statewide early intervention services for infants and toddlers with disabilities, received a very small increase to \$438.5 million. Part D national programs -- including Parent Training & Information Centers, Personnel Development and Preparation, and technology & media programs -- all received level-funding.

Vocational Rehabilitation (VR) -- VR State grants received a \$33 million increase. However, with strict requirements for State matching funds, not all of that funding always reaches States. The agreement includes \$1,000,000 in increased funding for the VR Client Assistance State Grants to help transition-aged students with disabilities and persons with disabilities in subminimum wage positions obtain competitive, integrated employment through advocacy and the enforcement of their rights under the Rehabilitation Act. The program is carried out by P&As.

Department of Labor (DOL)

The final bill provides \$11.9 billion for programs within the Department of Labor, \$99 million less than was funded for FY 2014. This includes \$9.7 billion for the Employment and Training Administration, a decrease of \$651 million. Workforce Investment Act (now Workforce Innovation and Opportunity Act) programs are provided about a \$1.4% increase with \$776.7 million going to adult employment and \$831.8 million dedicated to Youth Activities. The Office of Disability Employment Policy is provided approximately level-funding.

Social Security Administration (SSA)

Disability Early Intervention Initiative. – Within the total for research and demonstration, the agreement includes \$35,000,000 for a disability early intervention initiative. This demonstration project will test innovative and evidence-based approaches to improve outcomes for individuals with disabilities who are not yet receiving Social Security disability benefits, but who are likely to be eligible for benefits in the future, focusing on helping them remain in the workforce.

The SSA is directed to work in close consultation with the Departments of Labor, Education, HHS, and other agencies as appropriate, in developing and administering this demonstration project, including determining the appropriate target population and the types of interventions or services to be tested.

Other Legislation

President Signs TBI Act Reauthorization

On Wednesday, November 26th, President Obama signed S. 2539, the TBI Reauthorization of 2014, reauthorizing TBI Act programs through FY 2019. The bill includes two new provisions: (1) directing the Secretary of the Health and Human Services (HHS) to develop a plan to improve coordination of federal activities with respect to TBI; and (2) directing the CDC, in consultation with the NIH, to conduct a review of scientific evidence related to brain injury management in children. The law removes HRSA specifically from administering the Federal TBI Program (State grant and P&A grant programs), leaving the administration to the discretion of the HHS Secretary. Members of Congress have expressed their desire to move the program to the Administration for Community Living (ACL) within HHS to coordinate and collaborate with other disability and aging programs providing an array of services and supports to individuals with disabilities across the lifespan.

NASHIA, BIAA and NDRN will begin to advocate for the move through the appropriations process. Click [here](#) to read more about the reauthorization bill and the legislative history.

Congress Passes the ABLE/Assets Bill

Prior to adjourning, the Senate passed the Achieving a Better Life Experience Act (ABLE) legislation and sent the bill to the President for his signature. The purpose of the bill is to allow families the ability to create tax-exempt savings accounts for people with disabilities for transportation, health care and other long-term needs without jeopardizing disability benefits. Compromises were made to keep the costs down for the legislation, including limiting eligibility to persons who are diagnosed with a disability by the age of 26 and the amount which can be put into the account each year (\$14,000). The ABLE accounts will be able to accrue up to \$100,000 in savings without the person with a disability losing eligibility for government benefits, such as Social Security and Medicaid.

Veterans TBI Care Improvement Act

Last week, the Senate also passed H.R. 4276, the Veterans Traumatic Brain Injury Care Improvement Act, which amends the National Defense Authorization Act for Fiscal Year 2008, to make changes to the Assisted-Living for Veterans with Traumatic Brain Injury (AL-TBI) pilot program. The program, created in 2008, is to allow veterans with severe TBI to receive services in private, non-VA residential living programs. Among the provisions, the legislation replaces references to "assisted living" with the term "community-based brain injury residential rehabilitative care". Approximately 200 veterans have participated in the program since its inception. In August, Congress extended the AL--TBI program until 2017.

Senate Fails to Ratify the UN CRPD

The Senate failed to ratify the U.N. Convention on the Rights of Persons with Disabilities (CRPD), which calls on countries to adopt similar principles and rights as called for in the Americans with Disabilities Act (ADA). Over 150 countries have signed on, including our allies. Although the treaty

had bi-partisan support, it still was short about two votes from being adopted and was objected to by a small minority who blocked it from being considered on an up and down vote with a 2 hour debate limitation.

Congressional Hearings and Activities

House Committee Holds Hearing on CHIP

On December 3rd, the House Energy and Commerce Committee's Subcommittee on Health, chaired by Rep. Joe Pitts (R-PA), held a hearing on, the "Future of the Children's Health Insurance Program". As part of the hearing, the committee requested input from Governors on the State-operated CHIP program, which is scheduled to expire on September 30, 2105. The responses show that Governors overwhelmingly support extending funding for the CHIP program.

CBITF Sets Date for Brain Injury Awareness Day

The Congressional Brain Injury Task Force (CBITF) co-chairs, Reps. Bill Pascrell, Jr. (D-NJ) and Tom Rooney (R-FL), have set March 18th, 2015, as Brain Injury Awareness Day. The Task Force with input from NASHIA, BIAA, and NDRN will begin planning the day's events which include the Fair, Briefing and reception.

114th Congress Leadership and Committee Appointments

House and Senate Elect Leaders and Assign Committee Chairs

The mid-term election has changed the make up of the Senate and added more republicans to the House. The republicans will hold the majority of both houses when the new Congress convenes. The two parties have elected their leadership positions in both houses. Rep. John Boehner (R-OH), will continue as the Speaker of the House; Rep. Kevin McCarthy (R-CA) will continue as the Majority Leader; and Rep. Steve Scalise (R-LA) as the Majority Whip. The Democratic Caucus re-elected Rep. Nancy Pelosi (D-CA) as Minority Leader, Rep. Steny Hoyer (D-Md.) as the Democratic Whip, and Rep. James E. Clyburn (D-SC) as Assistant Democratic leader, the number three position in the leadership.

Sen. Mitch McConnell (R-KY) will assume the Senate Majority Leader position in January. Sen. John Cornyn (R-Texas) will be the Republican Whip, and Sen. John Thune (R-S.D.) will be the Conference Chairman. Sen. Harry Reid, (D-NV) was elected by the Senate Democratic Caucus as the Minority Leader and Sen. Richard (Dick) Durbin (D-IL) as the Minority Whip.

Most of the House Committee Chairs will continue serving in the same capacity as the 113th Congress. Rep. Harold Rogers (R-KY) will become the Chair of the House Appropriations Committee and Rep. Tom Price (R-GA) as the Chair of the House Budget Committee. Rep. Paul Ryan (R-WI) is switching from the chair of the Budget Committee to Chair of the House Ways and Means Committee. Rep. Jeff Miller, (R-FL) will continue chairing the House Veterans' Affairs Committee.

The Chairman of the House Committee on Energy and Commerce will continue to be Rep. Fred Upton (R-MI) with Rep. Marsha Blackburn (R-TN) as the Vice Chair. Rep. Frank Pallone Jr. (D-NJ) will assume the position of Ranking Member of the House Energy and Commerce Committee and Rep. Joe Pitts (R-PA) will serve as the Chair of the Subcommittee on Health.

Administration

NASHIA Signs Letter to CMS on Speech Generating Devices

NASHIA signed on to the Consortium for Citizens with Disabilities (CCD), December 5, 2014, [letter](#) to Laurence Wilson, the Director of the Chronic Care Policy Group of the Centers for Medicare and Medicaid Services (CMS), with regard to Speech Generating Devices (SBDs). CMS opened a 30-day window for comments with regard to proposed changes to limit Medicare coverage for SGDs.

In 2013, the CMS announced it was moving SGDs to a capped rental formula in an effort to reduce costs. This change is of particular concern to brain injury, as the capped rental rules require that an individual return a device (one that has been customized for his or her own needs) if that person is admitted to a hospital or nursing home. The capped rental rules mean that a user is left without a device during a time when it is most needed - and, if the person is able to return home, the replacement device will not be the customized one the user had prior to his inpatient stay.

Then, in March 2014, CMS amended the 2001 coverage decision that allowed reimbursement of SGDs. This amendment severely limits the permitted functionality of the devices by stating that the device cannot perform non-speech functions and cannot be "unlocked" to access other applications such as email.

The December 5th CCD letter urged CMS to recognize device access technologies, including those that utilize eye gaze, as essential, medically necessary accessories for patients with limited or no mobility and that other methods of communications, such as email, can be encompassed in the patient's right to "upgrade" their devices at their own expense without sacrificing the integrity of the SGD benefit. The letter encouraged CMS to update policies to reflect today's technologies.

NASHIA Signs on to CPR Letter on Habilitative and Rehabilitation Benefits

Today, NASHIA signed on to the Coalition to Preserve Rehabilitation (CPR) [letter](#) commenting on the proposed rule *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016*. CPR believes the federal government must have a strong leading role in the establishment and enforcement of the essential health benefits (EHB) package and strongly supports HHS implementing EHB through binding federal regulations. The benefit category the proposed rule seeks to clarify involves both rehabilitative *and* habilitative services and devices. CPR weighed in with its recommendations with respect to *habilitative* services and devices equally apply to *rehabilitative* services and devices.

The CCD Health Task Force also sent in its [comments](#) in response to the *Notice of Benefit and Payment Parameters for 2016*.



This update was prepared by:

Susan L. Vaughn, Director of Public Policy, publicpolicy@nashia.org

William A.B. Ditto, MSW, is Chair of the NASHIA Public Policy Committee
Rebecca Wolfkiel is Governmental Relations Consultant, rwolfkiel@ridgepolicygroup.com

Like us on Facebook 

*The National Association of State Head Injury Administrators assists State government
in promoting partnerships and building systems to meet the needs
of individuals with brain injuries and their families.*

www.nashia.org

National Association of State Head Injury Administrators | PO Box 878 | Waitsfield | VT | 05672