

LEGISLATIVE UPDATE



AMERICAN PUBLIC HEALTH ASSOCIATION
protect • prevent • live well



APHA Legislative Update December 2011

- I. **Congressional Super Committee Fails to Develop a Deficit Reduction Plan**
- II. **Congress continues work on FY2012 spending bills**
- III. **Capps Introduces Climate Change Health Promotion and Protection Act**
- IV. **Anti-regulatory Bills Pass House**
- V. **House Passes Balance Budget Amendment**
- VI. **Reauthorization of disaster preparedness bill moves forward in Congress**
- VII. **Obama administration overrules FDA decision on emergency contraception**
- VIII. **Policy watch: Updates from the States**

Congressional Super Committee Fails to Develop a Deficit Reduction Plan

The Joint Select Committee on Deficit Reduction, or the Super Committee, announced on November 21, 2011 that they were unable to reach an agreement on \$1.2 trillion in deficit reduction. The Super Committee was created in the debt ceiling legislation, the Budget Control Act, and was tasked with presenting a deficit reduction plan to Congress by November 23, 2011. The Budget Control Act then provided Congress a month to act on the legislation. Because the Super Committee failed to produce a plan, sequestration – or across-the-board cuts – of \$1.2 trillion are scheduled to begin in January 2013.

The 2013 cuts are split between defense spending and non-defense spending. Non-defense programs, including both discretionary and mandatory spending, will face cuts of nearly \$55 billion per year from 2013 to 2021. The mandatory cuts include up to a two percent reduction in spending on Medicare provider payments. The Prevention and Public Health Fund could also face cuts under mandatory spending. Non-defense discretionary programs, which include many public health programs, could face cuts of about \$38.6 billion, or nearly eight percent, in 2013. However, because these cuts do not go into effect until 2013,

Congress has a year to develop a plan to reduce the federal deficit through spending reductions and/or by raising additional revenues without the sequester occurring.

Already some members of Congress are floating proposals to remove or reduce the defense spending cuts from the sequester. If this is to occur, non-defense discretionary programs could be left to shoulder the burden for a majority of the spending cuts. However, President Obama has repeatedly stated that he would veto any bill that seeks to repeal the planned sequestration. APHA continues to meet with members of Congress and their staff to discuss the importance of public health funding.

Congress continues work on FY2012 spending bills

More than two months into Fiscal Year 2012, Congress has not yet approved spending measures for the federal government. The government is currently being funded under a Continuing Resolution that is set to expire on December 16, 2011. House and Senate conferees met yesterday to begin discussion on a package of the remaining nine appropriations bills – three were passed earlier this fall – in a so-called ‘megabus’ spending package. Included in this package is the Labor-Health and Human Services – Education spending bill, which funds many public health programs, including those at CDC and HRSA. Also included are the Interior-EPA Appropriations bill and the State-Foreign Operations Appropriations bill (which funds international health programs). Currently the House and Senate versions of the Labor-HHS-Education bill vary widely. The House version includes many controversial policy riders, including defunding much of the Affordable Care Act and blocking environmental protection regulations, that are unlikely to pass the Senate. If appropriators are unable to reach an agreement on the Labor-HHS-Education and Interior-EPA bills, the bills may end up being attached to the “megabus” package as yearlong Continuing Resolutions that would fund these programs at FY2011 levels. The appropriations bills must meet new overall caps on federal spending (\$1.043 trillion for discretionary programs) that were included in the Budget Control Act, the debt ceiling legislation, earlier this year.

Capps Introduces Climate Change Health Promotion and Protection Act

On November 3, 2011, Representative Lois Capps (D-Calif.) and Representative Edward Markey (D-Mass.) joined [APHA's Dr. Georges Benjamin and other public health advocates at a Capitol Hill press conference](#) to introduce the Climate Change Protection and Health Promotion Act (H.R. 3314). The legislation would strengthen the [public health response to climate change](#). The bill passed the House of Representatives in 2009 when it was included as part of the larger American Clean Energy and Security Act at the request of Capps and public health advocates.

The bill would require the Department of Health and Human Services to develop a national strategic action plan for addressing the impacts of climate change on public health. It would also enhance the current level of research on the health impacts of climate change. The bill would prioritize climate change preparedness planning, surveillance, education and training in order to ensure that our already overburdened state and local health systems can adequately address the health impacts of climate change while continuing to respond to other ongoing challenges. Finally, the legislation would allow for the development of

programs to educate public health and health care professionals and the public about the health impacts of climate change.

APHA has long advocated for increased funding to expand research into the health impacts of climate change and to provide resources for capacity building and workforce training at the state and local levels.

Anti-regulatory Bills Pass House

In early December, the House of Representatives passed two anti-regulatory bills [opposed by 40 public health organizations, including APHA](#).

On December 2, 2011, the House of Representatives passed the Regulatory Accountability Act by a vote of [253-167](#). The bill would prioritize cost to industry over public health. It would add years to an already lengthy rulemaking process by adding 60 new analytical requirements. The bill has the potential to extend a process that already takes an average of four to eight years to finalize a significant rule, by another two to four years, significantly slowing the government's ability to take action on emerging public health threats.

On December 7, 2011, the House passed the REINS Act by a vote of [241-184](#). The bill would require Congressional approval of all major rules within 70 days. Most rulemaking is directly tied to legislation already enacted by Congress – so this legislation would essentially give Congress veto power over laws enacted in past years without Members of Congress having to cast a single vote to repeal those laws. For example, this bill would block implementation of the Affordable Care Act, which requires new regulations to ensure that the uninsured have coverage and that insurance companies provide new consumer protections as required by law.

Neither bill is likely to be taken up by the U.S. Senate.

House Passes Balance Budget Amendment

On November 18, 2011, the U.S. House of Representatives rejected a balanced budget amendment to the U.S. Constitution. The amendment would have required that total federal outlays in any given year not exceed the total amount of revenue taken in unless Congress votes with a three-fifths majority to allow it. The bill, which needed a 2/3 majority to pass, was defeated by a vote of [261-165](#).

[APHA opposed passage of the amendment](#) that would likely require significant cuts to discretionary public health programs and Medicare and Medicaid in future years. Discretionary public health programs have already undergone major budget cuts in recent years, and requiring an annual balanced budget would further hinder the abilities of these programs. Additionally, the requirement of a three-fifths majority for passage of a debt limit raise would damage the stability of the United State economy and the public health programs it supports.

The U.S. Senate is expected to consider two versions of the balance budget amendment in the coming weeks.

Reauthorization of disaster preparedness bill moves forward in Congress

On Tuesday, December 6, the House of Representatives passed the reauthorization of the Pandemic and All-Hazards Preparedness Act (PAHPA), H.R. 2405. The legislation provides guidance and resources to programs that prepare for and respond to public health disasters, including bioterrorism and natural disasters. The reauthorization bill includes important improvements on issues such as reassigning staff to assist during a disaster. In July, APHA [sent a letter](#) to the Chair and Ranking Member of the Committee on Energy and Commerce, which drafted the legislation, recommending improvements to the bill. The Senate version, S. 1855, has been referred to the Committee on Health, Education, Labor, and Pensions (HELP) and will likely be considered in the coming weeks. APHA continues to work with partner organizations to ensure the bill includes necessary resources and guidance to carry out these important measures.

Obama administration overrules FDA decision on emergency contraception

On Wednesday, December 7, the Obama Administration denied the request of the Food and Drug Administration (FDA) to allow Plan B One-Step, an emergency contraceptive, to be sold without prescription to girls under age 17. Currently, Plan B One-Step is available to women 17 and older over-the-counter and by prescription for those under age 17. FDA Commissioner Margaret Hamburg, MD [released a statement](#) saying that the science and research supported the approval of Plan B One-Step as a nonprescription drug for girls under the age of 17. However, Health and Human Services Secretary Kathleen Sebelius [overruled this decision](#), arguing that the science did not adequately prove that young girls should be able to access Plan B One-Step without the intervention of a medical professional. [APHA has supported](#) providing girls under age 18 with over-the-counter access to contraception.

Policy Watch: Updates from the States

Boston increases regulation on tobacco products

The Boston Public Health Commission voted on November 30, 2011 to ban the use of e-cigarettes in the workplace and restrict their sale to adults only, and to ban the sale of individual cigars (rather than those sold in packages). E-cigarettes are mostly unregulated and are often used as a nicotine replacement for smokers trying to quit. Stores in Boston selling e-cigarettes must now apply for a permit and must keep the product behind the store's counter. The data on the health impact of e-cigarettes is somewhat inconclusive; however, the Food and Drug Administration (FDA) has proposed regulating the product in the same way tobacco products are regulated. Cigars must now be sold in a packaging of at least four. Individual cigars have been increasingly popular with teenagers, due to their low cost (some around 50 cents), and their availability. This regulation takes effect on January 31, 2012, and the e-cigarette regulation goes into effect immediately.

New York City Health Chief looks to start HIV drug treatment earlier

The New York City health commissioner, Dr. Thomas Farley, is trying to change policy in order to get HIV patients anti-viral drugs immediately following diagnosis. Currently, patients don't start a drug regimen until their T-cell counts fall to 500 or below, the national

guideline. Dr. Farley believes that starting anti-viral drugs immediately could end new HIV infections in New York City in the coming decades. A federal panel looking at antiviral drug recommendations has been divided on immediate treatment policy. To back-up the new policy, Dr. Farley cites recent studies that have shown immediate anti-viral treatment has "led to longer, healthier lives, and that it was 96 percent effective in cutting H.I.V. transmission from an infected partner to an uninfected partner." The new policy in New York City is similar to one started in San Francisco in 2010. The new recommendation was sent to New York City doctors on December 1st.