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**Industry News**

Issue: **December 2000**



**Close Elections and a Bipartisan Congress Leave HME Industry's Fate in the Air**

As the dust from photo-finish elections settles on Capitol Hill, the HME industry's future remains unclear. It has been a season of uncertainties, from the federal budget to the fate of the White House. At the time of publication, Congress headed for a lame-duck session, while the nation looked to Florida to deliver a president elect.

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Election Day 2000 did prove that party lines in Congress will be nearly evenly distributed. "Both the House and the Senate are pretty much 50/50. Just to survive, a congressman has to be bipartisan," says Jeffrey S. Baird, JD, chairman of the Healthcare Group of Brown & Fortunato, Amarillo, Tex. "Those that harbor extreme views are going to be on the sidelines."

For Thomas Connaughton, president of the American Association for Homecare, the focus is the pending Medicare "giveback" bill. Although President Clinton threatened to veto the bill sponsored by House Ways and Means Health Subcommittee Chairman Bill Thomas (R-Calif) because of the amount of funding designated for health maintenance organizations, Connaughton hopes that the administration and the legislature will come to a compromise. "We need relief now," he says, adding that the 1-year bill would provide needed aid to home health care for the short-term.

Senator William Roth (R-Del), chairman of the Senate Finance Committee, relinquished his seat to Democrat Delaware Governor Thomas Carper. In light of this change, Connaughton says Senator Charles Grassley (R-Iowa) will have a key role. "As long as the Finance Committee is involved, we're going to be focusing on all of those members to work with them as closely as we can," Connaughton says. "It is a constant battle to convince people that we need a reasonable rate of return."

As far as the presidential outcome is concerned, Baird and Connaughton agree that the impact on HME legislation will be minimal. "Honestly, I don't think it really matters who is elected president," Baird says. "The Health Care Financing Administration is a bureaucracy, and the decisions that affect the DME industry are made primarily by mid-level administrators."

According to Cara Bachenheimer, JD, of Epstein, Becker & Green, Washington, DC, HME providers do not always vote along party lines. "We are a schizophrenic industry," she says. "The people in our industry tend to be small business owners, who tend to vote Republican. On the other hand, the Democrats tend to be more sympathetic to our issues. Which side of your pocketbook are you going to vote for?"

As for the bipartisan Congress, Bachenheimer worries that gridlock could stall needed legislation. "It could just be a mad fight all the time," she says. "Maybe they will all be rational, but we know that's not true. It's politics."

**New Director, Cochair Join Re/hab Technology Council for AAHomecare**

The American Association for Homecare (AAHomecare) announced that David T. Williams, director of government relations for Invacare, Elyria, Ohio, is the first executive director of its Re/hab Technology Council as of December 1, 2000. Rita Hostak, vice president for government relations of Sunrise Medical, Carlsbad, Calif, will join Williams as cochair to the council in May of next year.

Williams will report to both the chairman of the council and the president and CEO of the association. Williams and Hostak bring nearly 40 combined years of legislative and regulatory experience in the industry to their new positions.

"Dave's knowledge and experience coupled with the fact that he is highly respected in Washington and knows his way around HCFA headquarters make him uniquely qualified for this position," says Gary Gilberti, chairman of the council and president of Chesapeake Re/hab. "With [Rita] serving as cochair, we have a terrific team."



**PAMS and PACFI Reach for \$1 Million Bear Minimum**

Burke P. Derr, a cystic fibrosis (CF) patient, loved teddy bears, especially those made by the Boyds company. For 6 years he collected the cuddly toys. His passion inspired friends to contact Boyds to see if they would create a bear honoring Derr.

Burke P. Bear was introduced to his namesake one week before Derr died in 1997.

Since then, the 14-in beanbag teddy bears have been the center of a \$1-million campaign to fund CF

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research. Derr's father, Bob, a volunteer with PA Cystic Fibrosis Inc (PACFI), heads the project. The Pennsylvania House of Representatives, the Massachusetts State Senate, and the US House of Representatives have commended these efforts to assist CF patients. To date, the campaign has raised more than \$86,000.

The Pennsylvania Association of Medical Suppliers (PAMS) joined forces with PACFI to distribute the bears, which are now available on the association's Web site, [www.pamsonline.org](http://www.pamsonline.org). PAMS will continue to offer the bears until its May conference, when Bob Derr will announce the amount raised by PAMS and the family that the money will assist.

"We loved the idea," says Claire Turner, executive director of PAMS, adding that the association has received 100 more orders than their original goal of 300. "We are already surpassing our expectations."

## Business News

### Walgreens Launches Nebulizer Program

Walgreens Health Initiatives (WHI), Deerfield, Ill, a subsidiary of Walgreen, announced a pharmacy program targeting Medicare beneficiaries with chronic respiratory conditions, including chronic obstructive pulmonary disease. In addition to supplying both medication and equipment, WHI staff members field Medicare collection issues and fill out Medicare forms for their patients.

Every 30 days, WHI employees call patients to make sure they are maintaining their supplies of medication and equipment. A licensed pharmacist, a trained respiratory therapist, and a certified technician work with patients and health care providers to coordinate medication and respiratory services. Pharmacists are on call 24 hours a day. WHI operates facilities in Arizona, Florida, Illinois, Indiana, New Mexico, and Wisconsin.

### Apria Healthcare Increases Earnings in Third Quarter

Apria Healthcare Group, Costa Mesa, Calif, reported an increase in net income from \$11 million last year to \$14.8 million for the quarter ended September 30, 2000.

Net revenues jumped to \$252.6 million this quarter from \$237.4 million in the third quarter of 1999. This year, the company earned \$61.5 million before interest, taxes, depreciation, and amortization, compared to \$54.7 million in the same quarter in 1999.

Also during the third quarter, Apria paid \$20 million to reduce its outstanding loan. The company further reduced the loan to \$159 million in October 2000. The bank credit agreement matures on September 30, 2002.

"We are pleased to report a 40% increase in earnings and continued improvement in our operating margins," says Philip L. Carter, CEO. "Net days sales outstanding declined again, to 52 days for the quarter, reflecting strong cash collections and a sound balance sheet."

### JCAHO Honors HomeReach

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) awarded HomeReach, Worthington, Ohio, with the fourth annual Ernest A. Codman Award for excellence in the use of outcomes measurement to achieve health care quality improvement.

HomeReach, the home care division of OhioHealth, received the award in the home care category for its initiative to reduce accounts receivable days. This initiative allowed the company to improve its revenue realization and cash position, enhance opportunities for philanthropic programs, and retain market share. As part of the initiative, clinical staff used laptop computers for clinical documentation and billing charge entries. Staff mapped tasks related to the end of the month closing for a 6-month period and tracked physician orders by using existing computer systems and data related to orders.

These efforts decreased accounts receivable days from 116 days in 1998 to 70 in 1999. Billing accuracy also improved.

"HomeReach is committed to continuous quality improvement," says Fran Baby, executive director of HomeReach. "Our entire staff recognizes that improved processes in any area of our operations allow us to better serve our patients."



### Ask The Expert

#### What are the implications of PPS consolidated billing for HME providers?

Under consolidated billing, the home health agency (HHA) becomes the ultimate gatekeeper for the medical supplies provided to its patients, which means obtaining, providing, and paying for these supplies. There are 178 medical supply billing code items under the new regulation.

For HME providers, coordination of care with other agencies is no longer just a clinical issue, but also a financial necessity. Medicare part B claims filed for affected supplies will be denied if the date of service corresponds to an HHA's episode of care. HME staff members should have a list of the supplies included in bundling, and, for every order of any of the included supplies, they should ask the referral source and the patient if an HHA is currently providing care.

The second implication is that HHAs have the potential to become high-volume supply customers for the

HME provider. This potential customer relationship can result in an increased number of HME referrals from the HHA. However, in order to gain supply contracts with nursing agencies and forge these relationships, HME providers must understand the agency's needs specific to PPS reimbursement.

Because PPS payments include a fixed allowance for the provision of most supplies regardless of the patient's actual use, HHAs will be challenged to control patient supply use, supply inventory, and costs. Many HHAs lack the experience to do this effectively, and therefore will welcome an association with an HME dealer who can provide this expertise.

Fair pricing, a simple and efficient method of ordering, on-time delivery, and a knowledgeable and accessible account representative assigned to the agency round out most HHAs' checklists for seeking a medical supplies vendor.

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## Legislative News

### Most Diapers Not Covered by PPS

In response to questions raised at a National Association for Home Care conference, the Health Care Financing Administration (HCFA) confirmed that adult diapers required by patients between visits from home health agency staff members are not included under the prospective payment system (PPS). However, replacement diapers needed during routine visits are covered.

"Diapers are covered in a similar manner as other routine medical supplies used in the normal course of the visit," HCFA writes. "A routine medical supply would not be provided for the use of the beneficiary between visits in the same manner as a nonroutine supply." For more information, visit [www.hcfa.gov](http://www.hcfa.gov).

### Congress Reauthorizes the Older Americans Act

Before the election, both houses of Congress voted to reauthorize the Older Americans Act, legislation that funds a range of programs, including providing meals and home care services, to seniors. The act, originally passed in 1965, expired in 1995 after 13 reauthorizations.

President Clinton applauded Congress's action. "The Older Americans Act is the cornerstone of our nation's commitment to senior citizens," Clinton said in a recent statement. "I am also pleased that the ... bill includes the new National Family Caregiver Support Program, proposed by this Administration to help hundreds of thousands of family members who are struggling to care for their older or disabled relatives."

The National Family Caregiver Support Program will provide education and assistance from local service providers to people caring for aging relatives and to seniors caring for young children.

### HIPAA Regulations Will Affect Home Infusion Therapy

In the final regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the US Department of Health and Human Services (HHS) adopted key recommendations of the National Home Infusion Association (NHIA) Home Infusion EDI Coalition (HIEC). HIPAA calls for improved health care efficiency through electronic data interchange of some administrative and financial transactions, while protecting the security and privacy of the information. HHS's endorsement, published in August 2000, calls for standardized electronic claiming for home infusion claims by October 2002, which, the NHIA says, will promote significant savings.

NHIA unsuccessfully pushed for HIEC codes to aid electronic claiming for home infusion. Although the HHS did not include the HIEC codes among four nationally endorsed codes, it acknowledged that the coding systems may not address all business needs, including home infusion procedures.

"HHS has affirmed NHIA's fundamental assertion that these four endorsed medical code sets do not meet the requirements of home infusion claims," says Bruce E. Rodman, HIEC committee chair. "The elevation of this issue by HHS provides an important opportunity for our community to achieve sensible and uniform coding."

For more information, including a fact sheet and code listing, visit [www.nhianet.org](http://www.nhianet.org).

### Federal Court Says Physician's Decision for Home Care Takes Precedence Over HMO Purse Strings

A federal ruling in New York last August may affect the way health maintenance organizations (HMOs) cover home care. Using the Health Maintenance Organization Act of 1973, the US Court of Appeals for the Second Circuit said that if a physician prescribes or directs home care for a patient, the HMO cannot disregard the recommendation at will.

The ruling comes after 7 years of litigation between Louis and Ibolya Juliano, and US Healthcare (USH), the HMO of New Jersey. In 1993, Louis Juliano switched health care plans. His previous plan covered 80% of the costs of 24-hour home care for his wife, Ibolya, who had multiple sclerosis. Although Ibolya's physician wrote to USH asking for continued home care, the HMO said it would cover care only at a skilled nursing facility.

While pursuing litigation, the Julianos continued to pay for home care on their own until Ibolya's death in 1995. The unresolved issue of the "medical necessity" of Ibolya's home care led a lower court to rule that

the HMO pay only the amount the Julianos would have spent at a skilled nursing facility during the last 29 days of Ibolya's life. The Julianos paid \$500 per day for home care, while the HMO paid \$840 per day for a nursing facility.

The appeals court delved into the language of the Health Maintenance Organization Act to resolve the issue. Justices found that the "basic health services" provided by HMOs include home health services. The act defined home health services as "health services provided at a member's home by health-care personnel, as prescribed or directed by the responsible physician or other authority designated by the HMO."

The justices ruled, "We do not read the phrase 'or other appropriate authority designated by the HMO' to give an HMO, having recognized a responsible physician with respect to the treatment of a patient, ... the option to overrule at will the responsible physician if it disapproves of his or her prescription or direction."

## State Watch



**Nevada** — The Nevada Association of Medical Products Suppliers announced that the Nevada State Board of Pharmacy filed the medical devices, equipment, and gases rules and regulations providing for licensure, inspections, and standards for the HME industry. The licensure is similar to North Carolina's system.

Applications were sent to all current suppliers of DME, prosthetics, orthotics, and supplies by the end of November.



**New England**— The governors of Maine, New Hampshire, and Vermont announced the formation of the New England Prescription Drug Purchasing Pool. The states released a request for proposals, due January 9, 2001, for bids from pharmacy benefits management companies interested in operating the purchasing pool. The governors expect that this strategy will save each state 10% to 15% on prescription drug programs. The program will include approximately 330,000 Medicaid recipients.



**West Virginia**—Before the gubernatorial election, outgoing Governor Cecil Underwood signed an executive order that would give low-income Medicare beneficiaries the opportunity to receive discounts on prescription drugs. Under the plan, eligible Medicare recipients can apply for SPAN (Senior Prescription Assistance Network) II cards, which would provide a discount equal to current Public Employees Insurance Agency discounts. Individual savings for seniors involved in

the plan are projected to be \$500 annually. Participating pharmacies would absorb the cost of the discounts. According to the Charleston Gazette, pharmaceutical companies oppose the plan because of probable income losses.

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