

**CQ Transcript**  
**September 10, 2007**

**PROMO**

**SCHIP:** With a Sept. 30 deadline looming, differences remain between House and Senate bills to reauthorize the State Children's Health Insurance Program (SCHIP).

**CMS:** President Bush appoints nominee to head the Centers for Medicare and Medicaid Services (CMS) as acting administrator.

**PATENT LAW:** House passes measure overhauling the nation's patent laws.

**INTRO:** House Democrats and interest groups are pressing to include Medicare provisions in legislation to reauthorize the State Children's Health Insurance Program (SCHIP). President Bush has named Kerry Weems as acting director for the Center for Medicare and Medicaid Services (CMS). Meanwhile, the House has passed legislation to revamp the nation's patent laws.

**SCHIP**

Question 1: Just weeks away from a Sept. 30 deadline, Congress has yet to reconcile differences between House and Senate versions of legislation to reauthorize the State Children's Health Insurance Program (SCHIP). Could you bring us up to date on that?

Answer: As you note, there are many differences between the two bills that must be reconciled before the Sept. 30 deadline. To name just a few, both measures differ in size – the House bill includes an additional \$50 billion for SCHIP over the next five years, while the Senate measure would add \$35 billion to the program. Both packages are larger than the approximately \$5 billion addition the administration proposed in its budget. In addition, the House measure includes an array of Medicare provisions not in the Senate package – including a reduction in payments to Medicare Advantage plans -- and the Senate bill has a higher increase in the federal tobacco tax than the House measure.

Question 2: So what's next?

Answer: Lawmakers in both chambers and parties could certainly agree to a short-term extension of the program so negotiations could continue beyond Sept. 30. But taking such a step could delay items such as preventing a scheduled 10 percent cut in Medicare physician payments – a provision in the House package -- until much later in the year.

AARP and American Medical Association sent a letter to Congress on Friday asking lawmakers to take action the physician payment issue and others, such as raising the asset limit that allows seniors to qualify for the low-income Medicare drug subsidy, now rather than wait until later in this session.

Question 3: Have House and Senate lawmakers formally begun to resolve differences between their SCHIP bills?

Answer: Senate Republicans have blocked the appointment of House and Senate conferees to negotiate a compromise package, seeking assurances that the conference package will resemble the Senate SCHIP bill rather than the House version. But leading House Democrats have said they will negotiate an SCHIP package informally with their Senate counterparts if Republicans continue to block the conference.

## **CMS**

Question 4: President Bush has named Kerry Weems, his nominee to head the Centers for Medicare and Medicaid Services (CMS), as the agency's acting administrator. Could you tell us about that?

Answer: While Weems's nomination is currently pending in the Senate, the administration said CMS needed need leadership in place now while his nomination continues through the Senate process. In a statement, Department of Health and Human Services Secretary Michael O. Leavitt said Weems is needed to help CMS deal with a variety of issues, including the fiscal challenges facing Medicare and Medicaid.

Question 5: Is it unusual for the administration to move ahead of the congressional nomination process?

Answer: The president has certainly done this before. For example, before Andrew C. von Eschenbach – the current commissioner of the Food and Drug Administration – was confirmed, the president named von Eschenbach as the agency's acting commissioner. A spokeswoman for the Senate Finance Committee – which has jurisdiction over Weems's nomination – said the panel had been informed of the appointment and said the panel is expected to continue with the nomination process.

## **PATENT LAW**

Question 6: The House has approved legislation dealing with patent laws. Could you update us?

Answer: The measure, approved on a vote of 220 to 175, would overhaul the system for awarding patents and for awarding damages for patent infringement. Those who file first

for patents are given priority, rather than those found to have first invented a product or process. The bill also emphasizes apportioning damages according to the patent's contribution to an invention, which critics of the bill contend would make it difficult to determine damages and would probably result in lower royalty rates for their patents. The White House has announced its opposition to the bill based on the apportionment provision.

Question 7: What's next?

Answer: Backers of the bill say this year represents their best chance to end a multi-year logjam that has pitted the biotechnology and pharmaceutical industries against technology firms. Backers of the bill say that it would help ensure the quality of patents issued by the Patent and Trademark Office, align the U.S. patent system more closely with those in other countries and curb disruptive lawsuits challenging patent validity. But critics charge the measure would make it easier to challenge patents after they are granted.

Question 8: Is Senate action expected as well?

Answer: Senate Majority Leader Harry Reid, D-Nev., has said he intends to bring the Senate version of the bill to the floor this fall, and negotiations are continuing between Senate staff and stakeholders to modify some of the more contentious provisions. Sponsors of the measure hope that after three years of hearings, meetings and negotiations they will be able to move the measure this year.