

Are We There Yet?: Destinations, Pitfalls Mark Long Road for Congress in 2003

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by Don Asmonga, MBA

The French playwright Molière once said, “Long is the road from conception to completion.” This could also describe the first session of the 108th Congress. In 2003, Congress, and those of us who worked with it, took a long and tumultuous ride filled with notable successes, disappointing failures, and unfinished business.

Completing the Trip

In 2003, Congress completed several significant legislative items, most notably the Medicare Prescription Drug, Improvement, and Modernization Act (PL 108-173). The president signed this landmark legislation into law in December.

AHIMA worked on a number of items in this legislation, most importantly language providing the Department of Health and Human Services (HHS) secretary the ability to adopt ICD-10-PCS and ICD-10-CM within one year of enactment of the Medicare bill if the National Committee on Vital and Health Statistics (NCVHS) failed to provide HHS with a recommendation. The language was ultimately dropped from the bill, but it did encourage the NCVHS to produce a positive and unanimous recommendation in November. Congressional language encouraging HHS to act quickly to produce a notice of proposed rulemaking and final rule for ICD-10-PCS and ICD-10-CM was included in the Medicare Conference Report (H Rept. 108-391).

AHIMA published an analysis of provisions of interest in the Medicare bill online at www.ahima.org/dc/.

All in all, the first session of the 108th Congress produced 198 new public laws. Of these, 13 were health-related, including Medicare (but not including legislation related to veterans’ benefits). Issues ranged from international AIDS funding, the banning of “partial-birth” abortion, birth-defect prevention, and smallpox protection to mosquito abatement, contact lens prescriptions, and poison control center awareness.

In total, 7,014 measures were introduced during this session—2,398 in the Senate and 4,616 in the House. This led to 16,215 pages of Senate proceedings and 12,293 pages of House proceedings in the *Congressional Record*.

Dead Ends, Bumpy Roads, and a New Map

Enactment of the Medicare prescription drug legislation was a historic achievement. However, Congress may not be done with this issue. There has been some discussion about developing a technical corrections bill, but this is more likely to happen in 2005 or beyond. Incidentally, since enactment, several staff members who have worked on this issue have left Capitol Hill, depleting available expertise on this issue.

Congress ran into some massive potholes with medical liability reform (HR 5), genetic nondiscrimination (S 1053), energy (HR 6), class action lawsuit reform (HR 1115), and completion of the annual appropriations process.

Completing the annual appropriations process was the most prominent of the problematic items. By law, Congress must complete the 13 required appropriations bills by the beginning of the new fiscal year (October 1) to ensure funding of government agencies, programs, and initiatives. Congress failed to complete this process and was forced to draft an omnibus appropriations package (HR 2673) that contained \$820 billion in funding from seven appropriations bills, including the Departments of Labor, Health and Human Services, and Education appropriations (HR 2660).

In the meantime, to keep the government operating, Congress passed five continuing resolutions at the previous fiscal year’s (2003) funding levels. Though the House passed the omnibus in December, the Senate finally passed the omnibus 65-28 on

January 22, 2004, and the president signed the measure on the following day (PL 108-199).

Although the omnibus bill needed some curbside assistance, the legislation does contain funding for one of AHIMA's priority issues: work force. The HHS appropriations measure contains \$11.9 million for education of allied health and other disciplines. On the down side, since the passage of the Health Insurance Portability and Accountability Act in 1996, Congress has included language in the HHS appropriations bill to prohibit the adoption of a unique health identifier for individuals unless Congress first approves the standard. This legislation is no different.

On another front, genetic nondiscrimination legislation has run into a roadblock in the House of Representatives. After years of discussion and various legislative proposals, the Senate was able to pass genetic legislation, the Genetic Information Nondiscrimination Act (S 1053), in October.

The legislation was forwarded to the House for further consideration, where all roads appear blocked. Currently, the House has no plans to consider S 1053, nor the leading House proposal, the Genetic Nondiscrimination in Health Insurance and Employment Act (HR 1910). AHIMA supports both of these bills and remains hopeful that the strength of the Senate passage and the expressed support of the White House will be sufficient encouragement for House leaders to initiate action on either bill. AHIMA will continue to work with supporters of the legislation to ensure future passage.

Congress may also attempt a different approach on medical liability reform (HR 5). Historically, the House has been able to deal with this legislation in a comprehensive manner, while in the Senate, trouble seems omnipresent. The House passed the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003 (HR 5) in March 2003. Opposition has prohibited the Senate from even bringing this legislation to the floor. New approaches are being discussed to navigate this bill through the Senate. One option may be to break it into smaller parts.

Two of AHIMA's priority issues are gaining momentum: the national health information infrastructure (NHII) and work force. AHIMA is involved in discussions on various legislative options for addressing NHII. This legislation may include provisions on interoperability and health information standards, creation of an NHII office, medical errors and patient safety, data quality, electronic health records, and more. AHIMA has supported various legislative proposals over the past year that deal with these issues, namely, the National Health Information Infrastructure Act (HR 2915), which is pending before the Health Subcommittee of the House Energy and Commerce Committee, and the Patient Safety and Quality Improvement Act (HR 663), which passed the House in March and was referred to the Senate. This legislation remains active and is integral to the NHII discussions.

AHIMA is also pursuing work force-related legislation and is working with other allied health organizations to put the final touches on a draft Allied Health Reinvestment Act. At press time, the proposal was expected to be introduced in the House of Representatives in early 2004.

The Last Mile

In 2003 AHIMA introduced a number of new tools for members to use to join in our advocacy efforts, such as the online AHIMA Advocacy Assistant (www.ahima.org/dc/aa). The Advocacy Assistant enables members to go online to write letters to Congress, find and contact local media on HIM issues, learn about the legislative and regulatory process, and obtain important advocacy and policy resources.

AHIMA also provided its key CSA advocacy contacts access to NetScan, an online legislative and regulatory search tool. Key contacts receive notices of legislative and regulatory activity in their states and can use the system to search for legislative and regulatory items. These tools represent only the beginning of our effort to further enable AHIMA members to participate in advocacy efforts.

As the 2004 elections approach, Congress is unlikely to address even potentially controversial issues. But AHIMA will ensure that our policy makers are aware of our agenda and key policy issues such as NHII, work force, consistency of coding, and privacy and security. AHIMA will approach this challenge by working with members to educate elected officials and policy makers about the issues that we believe are critical to moving healthcare into the twenty-first century.

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Article citation:

Asmonga, Don. "Are We There Yet?: Destinations, Pitfalls Mark Long Road for Congress in 2003." *Journal of AHIMA* 75, no.3 (March 2004): 16-17.

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