

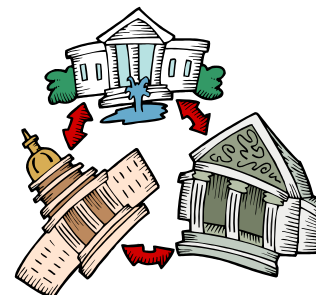
INSIDE WASHINGTON
An Update of Important Events in the Nation's Capital

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I feel a little like a stick figure artist following Van Gogh in an art show as I write this. Kathy McGinley made *Inside Washington* into an exceptionally informative document with insight, commentary, and humor on the workings of the federal government. I will do my best to continue that tradition, and ask for your understanding with this first attempt.

I have held off on writing a new *Inside Washington* with some hope that the outcome on various items would become clearer, or known, as Congress finished up its work and went home for the elections. However, due to a variety of factors that did not come about as quickly as I had hoped. So it has delayed this edition of *Inside Washington*.

Congress has had an exceptionally busy September and early October. Not necessarily the most productive, but very busy. This time has seen the enactment of the Americans with Disabilities Act Amendments into law, a continuing resolution that mostly funds programs (including the P&A / CAP programs) at last year's appropriations levels, and continued work on enactment of mental health parity legislation.

The break for the election will provide you an important opportunity to reconnect with Members you have met with before, and forge new connections with those you have not. Next year could be hectic with many reauthorizations of the P&A/CAP programs, along with other items of importance. So, the better connections you have with Members and Hill staff, both sides of the aisle and both chambers, the better positioned the P&A / CAP system will be when this legislation is considered.

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ADA Act Amendments Become Law

On September 25th in a small ceremony, President Bush signed into law (Public Law 110-325) the ADA Amendments Act (S. 3406). Some pictures from the ceremony:

http://www.whitehouse.gov/news/releases/2008/09/images/20080925-1_p092508jb-0306-748v.html

http://www.whitehouse.gov/news/releases/2008/09/images/20080925-1_p092508jb-0238-515h.html

This law specifically overturns Supreme Court decisions that have caused too many people with disabilities whom Congress intended the Americans with Disabilities Act (ADA) to cover to lose important protections. The legislation makes it clear that Congress intended the ADA's coverage to be broad, to cover anyone who faces unfair discrimination because of a disability. The legislation also clarifies the current requirement that an impairment must substantially limit a major life activity in order to be considered a disability. The bill prohibits consideration of mitigating measures in the determination of whether an individual has a disability, with the exception of ordinary eyeglasses and contact lenses. Finally, the law affords broad coverage for individuals regarded as having a disability under the ADA, but includes a provision to make it clear that accommodations need not be made to someone who is disabled solely because he or she is regarded as having a disability.

While it had been originally hoped that the Senate would take the bill (H.R. 3195) that passed the House of Representatives on June 25th by a vote of 402-17 and quickly pass it and send it to the President to become law, that was not to be. Lead supporters of amending the ADA in the Senate wanted to introduce their own legislation to accomplish the goal of restoring the original intent of the ADA. They introduced this

new version (S. 3406) with more than 60 Senators as cosponsors shortly before the August recess. While achieving the same goal of the House-passed legislation, S. 3406 took a slightly different approach to get there.

Shortly following the Senate's return from the August recess, S. 3406 passed the Senate by unanimous consent. Almost one week later, the House also passed the legislation unanimously sending it to the President to sign into law. Which he did on September 25th. While enactment of this law may have seemed to occur quickly, years of behind the scenes work went in to making it possible to enact this important legislation. Enactment of this legislation was also an enlightening study in the legislative process as the business and disability communities worked collaboratively together to produce this legislation and then presented it to Congress with the backing of both communities. It is hoped that the relationships formed in crafting this legislation can help create a similar collaboration on other legislative items of importance.

The actual text of the law in its public law format is not yet up on the Internet, but the bill that was sent to the President for his signature (essentially the same thing) can be found at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:s3406enr.txt.pdf

Final Appropriations Action Put On Hold

On September 30th, shortly before the beginning of the new Fiscal Year, President Bush signed a stopgap spending bill to fund the federal government. While the legislation contained the so-called "national security" appropriations bills (homeland, defense, military construction and veterans) all other appropriations (including the P&A / CAP programs) were funded through a Continuing Resolution (CR) at the 2008 Fiscal Year levels until March 6, 2009. The next Congress and President will have to decide how to complete the appropriations process for the remaining bills.

How the elections turn out will be a large factor in determining the fate of the \$1 million increases we were able to obtain in both the House and Senate appropriations bills for the PADD, PAIR, and PAIMI programs. If a President and Congress who support the budget the Congress passed earlier this year (\$24 billion above President Bush's budget) are elected, then it is likely that the final action on appropriations next year will contain these increases. If a President and/ or Congress are elected that wish to adhere to a smaller overall budget, it makes it less likely that any of those increases will make it into the final appropriations bill. So, for now we will have to wait until early next year for the completion of the appropriations process.

Mental Health Parity To Become Law

After a long, arduous, and sometimes very confusing journey, mental health parity legislation will finally become law in the very near future.

While the House and Senate had earlier this year agreed upon the language of the legislation, a wide gap had developed between them on how to “pay for” the new law. Early in September, the Senate included the mental health parity agreement in its version of the tax extenders bill, but because the entire cost of the package was not paid for, the House would not support that legislation. The House then passed the mental health parity agreement with a “pay for” that the Senate did not support, and the Senate would not take up and consider that legislation.

Things looked grim indeed for enactment of this important legislation as the session was coming to a close and neither side appeared to be backing down. Then in a shocking development, the House of Representatives voted down the Economic Stabilization Act designed to address the growing credit crisis the first time it was considered. Given that opportunity, the Senate bundled the Stabilization Act, the tax extenders bill, and the mental health parity legislation together and passed it on October 1, 2008 by a vote of 74-25. The House then voted on this new package and passed it on October 3rd by a vote of 263-171. President Bush is expected to sign this legislation as soon as it reaches him.

This legislation will close loopholes from the 1996 mental health parity law that has allowed mental health and substance abuse benefits in some insurance plans to be different than physical health benefits. This new law will end insurance discrimination for over 100 million Americans by requiring full parity of coverage between physical health benefits and mental health and substance use disorder benefits.

This webpage from the Mental Health Liaison Group contains a good summary of the final legislation, section-by-section analysis, and comparison to both the House and Senate passed bills:

<http://www.mhlg.org/page18.html>

Loan Repayment Program Signed Into Law

On August 18, 2008, President Bush signed into law (Public Law 110-315) the Higher Education Act Reauthorization (H.R. 4137). As mentioned in the last edition of *Inside Washington*, part of this reauthorization is the creation of a loan repayment program for civil legal assistance attorneys which includes all P&A/CAP attorneys. However, since the appropriations process has been put on hold until early 2009, funding for the loan

repayment program has not been achieved. Given that the champion of the program, Senator Tom Harkin, is the Chairman of the Senate Education, Labor, and Health and Human Services Appropriations subcommittee, it would be fair to expect some level of funding for this loan repayment program to be in the final appropriations bill for 2009. For those of you that are interested, the language creating the program can be found starting on page 3242 (or 166 of 432) of: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ315.110.pdf.

New DD Act Regulations Comments filed by NDRN

In April, the Administration on Developmental Disabilities (ADD) asked for public comments on its proposed regulations to implement the Developmental Disabilities Act. There was a 60 day comment period which was supposed to end on June 9th. On July 29th, ADD announced that it had re-opened the comment period because of the problems faced by people trying to submit comments electronically. The new deadline was September 29th.

Given the opportunity to do so, NDRN filed some additional comments to respond to the issues raised in the comments that were reviewed by NDRN's summer interns. You can review the additional NDRN comments at:

<http://www.ndrn.org/regs/NDRNCommentsRIN0970AB11.pdf>

Because the comment period on the regulations was extended, it is expected that ADD will not be releasing final regulations for the DD Act until sometime next year.

Barney Frank Bill Loses A Co-Sponsor

A big hurrah to Richard Cohen and the Disability Rights Center for all the work they did to achieve the exciting news at the bottom of the list of cosponsors for the Frank Bill, H.R. 3995. I was doing some work for an updated set of talking points, and fact sheets when I noticed that the number of cosponsors of the Frank Bill had gone down by 1. Frankly, I am surprised that this late in the session a Member would do that, but it was a wonderful sight to see.

There will be more on this in the coming weeks, but with the end of the Congress, this bill will have died and need to be reintroduced next year in the new session of Congress. This is a great time to approach the Members listed below and explain to them again why, if the Frank bill is reintroduced, they should not cosponsor the legislation. In addition, also remind those Members that did not cosponsor this year's bill to not do so in the future if it is reintroduced.

COSPONSORS(41), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: [by date](#))

[Rep Barrow, John](#) [GA-12] - 6/24/2008
[Rep Boozman, John](#) [AR-3] - 6/19/2008
[Rep Capuano, Michael E.](#) [MA-8] - 10/31/2007
[Rep Cummings, Elijah E.](#) [MD-7] - 7/8/2008
[Rep Davis, Tom](#) [VA-11] - 5/19/2008
[Rep Etheridge, Bob](#) [NC-2] - 12/11/2007
[Rep Gonzalez, Charles A.](#) [TX-20] - 12/4/2007
[Rep Green, Al](#) [TX-9] - 7/22/2008
[Rep Gutierrez, Luis V.](#) [IL-4] - 6/19/2008
[Rep Johnson, Timothy V.](#) [IL-15] - 6/24/2008
[Rep Larson, John B.](#) [CT-1] - 11/13/2007
[Rep Lungren, Daniel E.](#) [CA-3] - 6/19/2008
[Rep Matsui, Doris O.](#) [CA-5] - 3/14/2008
[Rep Miller, Brad](#) [NC-13] - 1/28/2008
[Rep Moran, James P.](#) [VA-8] - 10/31/2007
[Rep Platts, Todd Russell](#) [PA-19] - 1/28/2008
[Rep Porter, Jon C.](#) [NV-3] - 7/8/2008
[Rep Shays, Christopher](#) [CT-4] - 11/15/2007
[Rep Tsongas, Niki](#) [MA-5] - 6/24/2008
[Rep Wasserman Schultz, Debbie](#) [FL-20] - 3/4/2008
[Rep Woolsey, Lynn C.](#) [CA-6] - 12/11/2007
[Rep Shea-Porter, Carol](#) [NH-1] - 11/6/2007(withdrawn - 9/15/2008)

[Rep Biggert, Judy](#) [IL-13] - 6/5/2008
[Rep Boustany, Charles W., Jr.](#) [LA-7] - 12/19/2007
[Rep Cohen, Steve](#) [TN-9] - 3/5/2008
[Rep Davis, Danny K.](#) [IL-7] - 6/19/2008
[Rep Dreier, David](#) [CA-26] - 7/22/2008
[Rep Filner, Bob](#) [CA-51] - 4/24/2008
[Rep Goodlatte, Bob](#) [VA-6] - 5/19/2008
[Rep Grijalva, Raul M.](#) [AZ-7] - 6/12/2008
[Rep Jackson-Lee, Sheila](#) [TX-18] - 6/11/2008
[Rep Kanjorski, Paul E.](#) [PA-11] - 7/22/2008
[Rep Lewis, John](#) [GA-5] - 6/19/2008
[Rep Lynch, Stephen F.](#) [MA-9] - 11/6/2007
[Rep McGovern, James P.](#) [MA-3] - 12/4/2007
[Rep Miller, Gary G.](#) [CA-42] - 5/15/2008
[Rep Paul, Ron](#) [TX-14] - 11/13/2007
[Rep Poe, Ted](#) [TX-2] - 3/5/2008
[Rep Roskam, Peter J.](#) [IL-6] - 5/21/2008
[Rep Stark, Fortney Pete](#) [CA-13] - 3/4/2008
[Rep Walberg, Timothy](#) [MI-7] - 12/12/2007
[Rep Wolf, Frank R.](#) [VA-10] - 7/8/2008

While this bill did not see Congressional action this year, this will be an issue on the table when Congress begins to reauthorize the Developmental Disabilities Act in 2009. Therefore, it is critical that advocates educate their Members of Congress about the major problems this bill would cause and the fact that it would be a major set-back for disability policy. We are in the process of updating this material, but items specific to this bill are available at <http://www.ndrn.org/policy/civrght/>



All issues of *Inside Washington* are available at www.ndrn.org/policy/updates.