Whither the Overhaul Law’s Prevention Fund?
By John Reichard, CQ HealthBeat Editor

To critics, it’s a waste of taxpayer money, a “slush fund” politicians can tap into to throw precious taxpayer dollars at ill-defined local projects. To public health officials, however, the $15 billion the overhaul law allots over 10 years to ward off disease is an essential investment in maintaining basic public health functions and in improving the physical and mental well-being of an increasingly sickly population.

Public health lobbyists are determined to protect the fund — and it looks like they’ll have their work cut out for them. Senate Republicans already have attempted to zero the fund out and use the savings to offset the legislative costs of repealing the controversial “1099” provisions of the overhaul law (PL 111-148, PL 111-152) that small businesses say will crush them with paperwork.

That effort failed, but there are likely to be more attempts in the new Congress. Lawmakers are under heavy pressure not only to reduce deficit spending, but also to offset the costs of meeting other chronic funding needs, such as averting Medicare payment cuts next year to physicians.

The prevention initiative has a big plus in its favor — the health law requires that it be funded, freeing it from annual appropriations battles. But advocates acknowledge they also have a big education job on their hands to counter criticism that the fund is a waste of taxpayer money.

Critics like Oklahoma’s Republican Sen. Tom Coburn helped stop Senate passage in December of legislation to fully fund the federal government in fiscal 2011 by, among other things, calling the prevention program a “slush fund” that wastes taxpayer money for paying for such things as building jungle gyms.

Inaction on the spending bill won’t derail the fund, however. If Congress doesn’t pass legislation specifying how money in the fund should be spent, the executive branch can make those funding decisions on its own. Public health activists hope that the Obama administration will take steps soon to get the fund’s 2011 allotment of $750 million flowing.

If there is no new legislation addressing the uses of the fund, chances are the way the administration decides to spend that money will be based on the provisions in the failed spending bill that Coburn helped block.

The administration drew criticism from Capitol Hill for not consulting lawmakers sufficiently in deciding how to spend the fund’s 2010 allotment of $500 million. Half of that money went to help train more primary care clinicians to address an expected shortage of such caregivers as more uninsured Americans gain coverage under the health law.
Jeffrey Levi, executive director of Trust for America’s Health, said that in his view it would be prudent both on political and policy grounds for the administration to move forward in line with the provisions of the spending bill. He says Sen. Tom Harkin, D-Iowa, and David Obey, the House Democrat from Wisconsin who retired at the end of the last session, led the effort to draft that measure.

WHAT THE FUND DOES

Established under section 4002 of the overhaul law, the “Prevention and Public Health Fund” is funded in perpetuity, according to a Congressional Research Service analysis. The amounts ramp up over time. Next year, the funding level rises to $1 billion, in fiscal 2012 to $1.25 billion, in fiscal 2013 to $1.5 billion, and in fiscal 2012 to $2 billion. It stays at that annual amount thereafter.

The spending bill would have allocated $530 million of the $750 million for fiscal 2011 to community-based programs to prevent chronic disease.

Of the $530 million, $145 million would go for “community transformation grants,” in which business, medical groups, community organizations, and local government officials join together to develop programs targeting particular problems in their local areas. A total of $140 million would go for state grants to prevent chronic disease. Fifty million would go the Office of Smoking and Health at the Centers for Disease Control and Prevention. The Substance Abuse and Mental Health Services Administration (SAMSHA) would receive $35 million to combine primary care and mental health care services to more fully meet the needs of the mentally ill. And $25 million would pay for approaches to improving the health of communities that focus on specific racial and ethnic groups.

Also included in the $530 million would be $100 million for immunizing the children of low-income parents and $35 million for SAMSHA screening and suicide prevention programs.

In addition to the $530 million for community-based prevention programs, $85 million would be used to address an under supply of public health workers and public health labs to track diseases. A total of $83 million would go for other disease surveillance programs. The remaining $52 million would fund activities such as research into better preventive care and a National Prevention, Health Promotion, and Public Health Council.

Public health lobbyists say that local and state health departments are chronically underfunded, understaffed, and under equipped. The fund is a necessity to build up a dangerously weakened system, they say. And it seems to be a little bit of a sore point that the Obama administration directed half of last year’s allotment — $253 million — to build up the cadre of primary care professionals.

“There’s certainly a substantial need for the public health workforce — different from the primary care workforce — the public workforce itself,” said Georges C. Benjamin, executive director of the American Public Health Association. “We need to begin doing that now, because obviously it’s going to take a while to build.”
Benjamin said there aren’t enough “sanitarians,” who perform functions such as assuring safe drinking water supplies for houses, closing beaches when bodies of water aren’t safe for swimming and inspecting milk on dairy farms. And there’s a need for statisticians, lab workers, and epidemiologists who track disease, as well as for computer systems that link to the offices of doctors that health departments rely on to report emerging illnesses. Many workers in the public health field are nearing retirement age, he added.

“What’s happened over the years is we really haven’t had sustained, reliable funding,” he said. “Just when you think you’ve got your hands around the problem, the funding gets pulled.”

Rather than taking a comprehensive approach to prepare for a variety of diseases, budgeting has taken a “silo” approach in which dollars are allotted for individual diseases that emerge as threats and cause public alarm. “We did smallpox, and then we did pandemic flu, and when West Nile Virus came out, we did West Nile Virus,” Benjamin said. And then a disease comes along like tuberculosis “where funding for that is totally inadequate at a national level.”

What the fund is supposed to do is ramp up to “build a stable funding stream for the national public health infrastructure to begin addressing some of these really critical” issues.

But lack of specificity in the language of the overhaul law about the uses of the fund is a challenge for the public health community and leaves it fending off criticisms that the money won’t be spent in a disciplined way.

“I don’t think jungle gyms are a bad thing,” Benjamin said. “Let me tell you, in communities where kids do well, and are physically active, and there are lots of jungle gyms, they don’t get in trouble, they stay off the streets.”

Benjamin added that the “transformation” grants that would fund things like jungle gyms are meant to be awarded after a multidisciplinary process in which businesses, medical providers, local officials, churches and others join together to develop evidence-based strategies to meet the particular needs of their communities. The grants also can be part of a strategy to renew business growth in a community, he said.

“It’s a big pot of money, and legislators often don’t like a big pot of undesignated money,” Benjamin observed. But during the development of the health law there was much more detail in the House bill about how the money would be spent. “We all thought that had they gone to reconciliation [of the House and Senate bill], you would have had much more detail” about uses of the fund.

But “it’s not like people don’t know what the needs are. We know what the needs are.” Just ask state and local health departments, he urged.

But lawmakers will be buffeted by other concerns. They recently passed legislation that would forestall Medicare payment cuts to doctors through the end of 2011. But the hunt will be on for pay-fors to prevent those cuts in 2012.
Levi said though that doctors themselves do not want to kill off the fund to cover the costs of another payment patch. At a Dec. 13 meeting of administration officials and various health groups about ways to pay for preventing cuts to doctors, an American Medical Association lobbyist made it very clear that the physicians’ lobby wanted no part of erasing the fund, Levi said.

That kind of coalition building is part of the strategy for keeping the fund going in the face of attempts by critics to cancel it. “Our hope is that they recognize that there is enough support for the fund that they won’t try to use it as a pay for,” Levi said.

“My concern is that they will go after it,” Benjamin said. “I am pretty confident that we will be able to maintain it. But it will take some effort and we will have to continue to explain to members of Congress as well as to the public how those dollars benefit everyone.”

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Same-day coverage of the people and events shaping health care policy from Washington.