Congress is now in recess for the month of August. There was a flurry of activity just before adjourning that included several legislative victories and other positive developments. Recess is a great time to meet with your Members of Congress while they are home and more easily accessible. This issue of Ignite is chock full of information you can use as you meet with your Members. Please also take advantage of the Autism Society’s new online Action Center to easily learn about your congressional delegation, look up bills that the Autism Society is monitoring, and find out how to contact your Members.

Autism Society Conference and Day on the Hill

Nearly four hundred individuals with autism, family members, professionals, and allies participated in the 50th Annual Conference on July 10-12. This year, the Hill Day and Advocacy Track combined with the annual conference. The policy track covered issues related to health and community living, education, employment, and Autism CARES Act reauthorization. Feel free to use the fact sheets as talking points when you visit your Members at home. Just before their Hill visits, participants gathered in the Dirksen Senate Office Building for breakfast where they heard rousing remarks from several autism champions: Senator Bob Menendez (D-NJ), Representative Chris Smith (R-NJ), Senator Bob Casey (D-PA) and Representative Mike Doyle (D-PA), all co-sponsors of the Autism CARES Act. For those participating on the Hill Day, please email Kim Musheno at the national office with any relevant feedback.

ADA Anniversary

July 28 marked the 28th anniversary of the Americans with Disabilities Act (ADA). The Autism Society published a statement celebrating the civil rights law, acknowledging the history and evolution of disability rights, and pledging to continue its mission to support people with autism and other disabilities and their families. This mission includes protecting the ADA and other civil rights laws that promote the vision of full inclusion of people with autism and other disabilities. The US Department of Health and Human Services (HHS) Administration for Community Living (ACL) also published a statement using the ADA anniversary to reaffirm its commitment to the “fundamental principle that older adults and people of all ages with disabilities should be able to live where they choose, with the people they choose and with the ability to participate fully in their communities.”

ABLE Act

The Autism Society and other national disability groups used the ADA anniversary to spur action on the ABLE Age Adjustment Act. In 2014 Congress passed the ABLE Act, which authorized the creation of savings accounts for people to save money for disability-related expenses without jeopardizing their eligibility for public benefits like Supplemental Security Income (SSI) and Medicaid. These accounts are important because people with disabilities can lose their eligibility for public benefits if they accumulated more than $2,000 in assets if they do not have access to an ABLE account. While the ABLE Act performs a valuable service, only those that acquire a disability before age 26 are eligible. The ABLE Age Adjustment Act increases the age cut-off to 46 years of age which would allow an additional 6 million people with disabilities. Autism Society affiliates are encouraged to reach out to their Members of Congress to urge them to co-sponsor this bill. A sample letter is provided in the ASA Action Center.

Electronic Visit Verification
On July 30, President Trump signed H.R. 6042 into law, a victory for the Autism Society and other disability advocates. This law delays the implementation of Electronic Visit Verification (EVV) by one year (to January 2020) to allow states time to set up a system that does not violate individual privacy. The legislation also includes language to express a "sense of Congress" that the Centers for Medicare and Medicaid Services (CMS) should hold at least one public meeting in 2018 to solicit stakeholder feedback on its May 2018 guidance on EVV, and should continue to communicate with stakeholders, including family caregivers, during implementation. Electronic Visit Verification is a telephone and computer-based system used to verify electronically that a personal attendant provides services for a client. The 21st Century CURES Act of 2016 requires that all states implement EVV for Medicaid-funded personal attendant services. The law outlines the requirements that states must meet, but provides little guidance on how states can fulfill the requirement. National disability advocates have been concerned that the system may violate the principles of personal autonomy, privacy, and independence, particularly systems that use GPS, cameras, or other tracking systems. This issue was one of the issues participants took to the Hill during the ASA national conference early in July.

Education

Career and Technical Education

In other good news, during the week of July 23 both the House and Senate passed the bipartisan Strengthening Career and Technical Education for the 21st Century Act (H.R. 2353/S. 3217), a bill supported by the Autism Society. The bill was signed into law last week. The reauthorized law includes many new and improved provisions regarding students with disabilities. In particular, the bipartisan agreement contains a number of provisions designed to promote equity, including multiple references to universal design for learning; a new purpose statement that explicitly mentions serving special populations, including individuals with disabilities; includes individuals with disabilities among the stakeholders that must be consulted in the development of the state plan; a new set aside for the recruitment of individuals with disabilities to Perkins CTE programs that lead to high-wage in-demand careers; additional provisions around reporting on subgroup and special population performance by program of study; and requirements that state plans describe efforts that will be taken to reduce gaps or disparities in performance by subgroup and special population. The CCD Education Task Force, co-chaired by Autism Society’s Kim Musheno, sent a statement supporting the bill. (see also Autism Society’s Education Fact sheet that conference participants took on Hill Visits last month)

Higher Education

Representative Bobby Scott (D-VA), along with 49 other co-sponsors introduced the AIM Higher Act (H.R. 6543) on July 26. The bill reauthorizes the Higher Education Act of 1965 and includes most of the recommendations provided by the Autism Society and other members of the CCD Education Task Force (see CCD statement in support of the bill). In particular, the Aim Higher Act includes grants to train faculty to deliver accessible, inclusive instruction; establishes an office of accessibility in every institution to facilitate access; provides grants to expand and implement universal design for learning campus-wide; increases access to accessible instructional materials and technologies (found in Title IX); improves data collection efforts to gain a better understanding of the success of students with disabilities in higher education; and reauthorizes the TPSID program that supports students with intellectual disabilities. Unfortunately, the bill is not bipartisan. Education Committee Chairwoman Foxx introduced the PROSPER Act (H.R. 4508), a bill with which the Autism Society and most other disability and education groups has serious concerns. Since neither bill is bipartisan, neither has a good chance of moving forward at this point. The Autism Society is encouraging the House and Senate to work together in a bipartisan fashion to move the reauthorization forward that benefits all students, including those with disabilities.

Equity in IDEA Rule

Late on Friday, June 29, the U.S. Department of Education announced in the Federal Register a final rule concerning the Department’s significant disproportionality regulations published December 19, 2016. The final rule postpones the compliance date for implementing the regulations by two years, from July 1, 2018 to July 1, 2020. For children ages 3 through 5, the date is postponed to July 1, 2022. Rule states the reason for postponing is to ensure that they effectively address the issue of significant disproportionality and best serve children with disabilities. It also states that the review is part of the Department’s regulatory reform agenda pursuant to Executive Order 13777, intended to reduce the number of regulations in general. The Autism Society is very disappointed in this delay. In May, the Autism Society sent comments in response to a notice of proposed rulemaking urging the Department to not delay these regulations and instead, to support robust enforcement of the regulation.
Employment

Employment Incentives Bill Introduced

On July 24, in conjunction with the celebration of the ADA anniversary, Senators Bob Casey (D-PA), Maggie Hassan (D-NH), Chris Van Hollen (D-MD), Amy Klobuchar (D-MN), and Tammy Duckworth (D-IL introduced the Disability Employment Incentive Act of 2018 (S. 3260). The Disability Employment Incentives Act (DEIA) encourages employers to hire and retain people with autism and other disabilities by increasing the impact of three existing tax credits currently available to employers. There are millions of people with disabilities who want to work and are fully qualified for many jobs. Unfortunately, in spite of the ADA being in existence for almost three decades, employers continue to discriminate or underestimate the abilities of people with disabilities. In addition, many businesses are afraid the costs of removing physical barriers or other accommodations for individuals with disabilities will be too high. The combination of increasing tax credits and providing incentives for hiring and retaining individuals who receive Social Security benefits will truly go a long way to encourage businesses to employ more individuals with autism and other disabilities. These tax incentives are very much in line with the Autism Society’s legislative goals related to employment.

Autism Society Senate Testimony

The Autism Society provided written testimony submitted to the U.S. Senate Special Aging Committee on July 18 for the hearing entitled “Supporting Economic Stability and Self-Sufficiency as Americans with Disabilities and their Families Age.” The testimony was written by Chairman Joe Joyce on behalf of the Society. In the testimony, Joyce shares his family’s personal story raising two children with developmental disabilities who are now transitioning to adulthood, tying their story to barriers that continue to exist in the system of supports for people with disabilities. The testimony also provides substantive policy recommendations that would help people with developmental disabilities be able to more fully participate in our society. Please see the full testimony linked to the ASA policy site.

Legislation to Provide Disability Impact Analyses

On the same day, July 24, Senator Casey, along with Hassan and Duckworth, introduced the Office of Disability Policy Act of 2018 (S. 3261). The Office of Disability Policy Act would provide analyses on the impact of policies on people with disabilities and their families as they are in development. People with disabilities are impacted by almost every law and public policy. However, policymakers do not always consider their impact on people with disabilities. If federal policy governing the construction of buildings before the ADA had considered the needs of people with disabilities, millions of people would not currently be locked out of businesses, restaurants, courthouses, and private homes of friends.

Health

Regulations Expanding Weaker Health Plans

On August 1, the Internal Revenue Service, Department of the Treasury, Department of Labor, and Department of Health and Human Services (HHS) issued a final rule on "short-term, limited-duration" insurance (STLDI) plans (see HHS press release). The plans “limit” on these types of plans have been extended from three months to three years. While the premiums will likely be less expensive than many ACA-covered plans, they will also not be required to have the protections provided under the ACA, such as guaranteed coverage for those with pre-existing conditions, coverage for essential benefits (including behavioral health), and annual and lifetime limits. People who are generally younger and healthy are expected to be attracted to these plans, further destabilizing ACA marketplaces. See CCD comments for more details about the impact of this Rule.

Medicaid

The Centers for Medicare & Medicaid Services has reposted the Kentucky 1115 waiver for a 30-day federal comment period as a result of a lawsuit (see full opinion). The lawsuit claimed that the waiver violated Medicaid law and would harm hundreds
of recipients. The original waiver included numerous provisions that concerned the Autism Society and other disability advocates, including work requirements, increased premiums, three types of lockouts, elimination of transportation, and retroactive coverage. Autism Society members are encouraged to provide comments (or re-submit comments). Families USA has developed comment guidance to help advocates frame their input in light of the court decision as they participate in this comment period. The deadline for comments is August 18, 2018. Comments can be submitted on the CMS website.

Also, several other states are currently taking comments on their waiver proposals to establish Medicaid work requirements. Alabama is providing a second comment period.

- Healthy Michigan - comments are due August 12.
- Alabama Medicaid Workforce Initiative - comments are due August 30. (See second paragraph of Public Notice for submission details.)
- Oklahoma Soonercare - comments are due September 3.

Legislation on Health Disparities

On July 26, Representatives Seth Moulton (D-MA) and Gregg Harper (R-MS) introduced the bipartisan Healthcare Extension and Accessibility for Developmentally Disabled and Underserved Population (HEADS UP) Act of 2018 (H.R. 6611). This bill would declare people with developmental disabilities to be a “medically underserved population” (MUP). Populations with this designation are entitled to priority access to certain federal programs, including community health centers and the services of the National Health Service Corps. Currently, MUPs are defined as “specific sub-groups of people living in a defined geographic area with a shortage of primary care health services who face economic, cultural, linguistic, or other barriers to health care.” The Autism Society wrote a letter of support for this legislation.

Tax Legislation

The House Ways and Means Committee Chair Kevin Brady (R-TX) released a two-page listening session framework for Tax Reform 2.0 last week. According to the framework, the plan has three parts: 1) Protecting Middle-Class and Small Business Tax Cuts 2) Promoting family savings 3) Spurring Innovation. While the details are very limited, the first part would make permanent the individual and small business tax cuts that were included in the Tax Cuts and Jobs Act which are set to expire after 2025. While such a proposal may seem like a reasonable attempt to level the playing field for the TCJA which disproportionately benefits wealthy individuals and large corporations, low and middle-income earners are seeing minimal tax relief under the TCJA, according to the Institute on Taxation and Economic Policy. Making these provisions permanent is estimated to add about $1 trillion over 10 years to the deficit, and increase pressure to cut priority disability programs, including Medicaid, Social Security, and SSI. The second part (family savings) is also lacking in detail. It expands 529 education savings accounts to cover home schooling (which is not subject to the IDEA or the Every Student Succeeds Act accountability provision) and “allowing families to access their own retirement accounts penalty-free for expenses when welcoming a new child into the family.” Chairman Brady has indicated his intent to bring a legislative package to the floor in September. See summary from the Center on Budget (CBPP) on the Tax Cuts 2.0 framework for more details.

For individuals and families impacted by a disability, it is important to keep a close eye on tax policies and decisions. Tax reform often is based on the premise that when individuals and companies are given tax relief, individuals and companies invest more and use their money in ways that create a stronger economy and jobs, which we can all support. However, when the tax cuts do not stimulate the economy and lead to greater debt and deficits, the result is often cuts to programs that support people with disabilities. This is why the Autism Society is monitoring fiscal policy and tax legislation.

U.S. Supreme Court Nomination

Senate Judiciary Chairman Chuck Grassley (R-IA) recently announced that the committee will hold confirmation hearings on U.S. Supreme Court nominee Brett Kavanaugh in September, and that a Senate confirmation vote could take place as early as October 1. The Bazelon Center for Mental Health Law reviewed past decisions and analyzed Judge Kavanaugh’s stances as they relate to disability issues. While the Autism Society will not be taking a position on the nominee, we know that the Court is plays an important part in our government by interpreting laws, including disability laws such as the ADA, IDEA, Medicaid, and the Affordable Care Act. How the Supreme Court interprets these laws could have a huge impact on the rights and services of people with disabilities. We encourage our affiliates and allies to become familiar with the nominees’ past
writings and decisions related to disability rights and services. Please see the latest Tuesdays with Liz: Disability Policy for All edition where she interviews David Goldberg and helps us understand how the Supreme Court could impact the Affordable Care Act and other disability rights and programs.

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