

Report: Limiting medical lawsuits could save \$41B

October 10 2009, By RICARDO ALONSO-ZALDIVAR , Associated Press Writer

(AP) -- Limits on medical malpractice lawsuits would lead doctors to order up fewer unneeded tests and save taxpayers billions more than previously thought, budget umpires for Congress said Friday in a reversal that puts the issue back in the middle of the health care debate.

The latest analysis from the nonpartisan Congressional Budget Office estimates that government [health care](#) programs could save \$41 billion over ten years if nationwide limits on jury awards for pain and suffering and other similar curbs were enacted. Those savings are nearly ten times greater than CBO estimated just last year.

"Recent research has provided additional evidence that lowering the cost of medical malpractice tends to reduce the use of health care services," CBO Director Douglas Elmendorf wrote lawmakers, explaining the agency's shift. Previously, CBO had ruled that any savings would be limited to lower malpractice insurance premiums for doctors, saying there wasn't clear evidence physicians would also change their approach to treatment.

On Friday, Elmendorf essentially acknowledged what doctors have been arguing for years: fear of being sued leads them to practice defensive medicine. Some doctors will order a \$1,500 MRI for a patient with back pain instead of a simple, \$250 X-ray, just to cover themselves against the unlikely chance they'll be accused later of having missed a cancerous tumor.

Republicans immediately called for liability limits to be incorporated in the health care overhaul legislation advancing in Congress. The Senate Finance Committee bill now gives a nod of recognition to doctors' concerns, but little more. Heeding a call from President Barack Obama, the legislation calls for promoting state experiments with programs to resolve cases before they go to court.

"The more federal health care programs spend on unnecessary tests, the less money is available for necessary patient care," said Sen. Charles Grassley of Iowa, the ranking Republican on the Finance Committee. "Cutting medical liability costs would help preserve patients' access to care. "

Tens of billions of dollars in savings is "not chump change," added Grassley. "It's a no-brainer to include tort reform in any health care legislation."

However, Republicans were unable to pass malpractice limits when they controlled Congress and the White House, and it's unlikely that Democrats would do so now.

For one thing, trial lawyers who file malpractice lawsuits have traditionally been heavy contributors to Democratic politicians.

But also, patient advocates argue that fixed limits on jury awards as in California and some states are unfair to those who have suffered the most harm because of a doctor's negligence. A patient who was given the wrong drug and had to spend several days in the hospital recovering from a bad reaction would likely be able to collect adequate compensation. But a family whose youngster was left brain damaged by an anesthesiologist's mistake probably would not be able to offset all the costs of lifelong care.

Obama has tried to straddle the argument, siding with the doctors on defensive medicine and agreeing with the lawyers who say limits on jury awards are the wrong remedy. He wants to promote alternatives to litigation; studies have shown anger over cover-ups by doctors is a principal reason that families sue.

Trial lawyers said Friday the projected malpractice savings have to be viewed in the context of the \$2.5 trillion a year the U.S. spends on health care.

"Medical malpractice claims have almost no effect on overall health care spending," said Anthony Tarricone, president of American Association for Justice, which lobbies for lawyers. "The vast majority of empirical evidence suggests that there are only minuscule savings to be found in reforming our nations civil justice system."

But the CBO report means the malpractice issue will stay alive as the health care debate in Congress builds to a climax this year. The budget scorekeepers estimated the total effect of malpractice curbs could reduce the federal deficit by \$54 billion over 10 years, once \$13 billion in new tax revenues from economic ripple effects are taken into account.

Even in the health care debate, that's real money.

On the Net: <http://www.cbo.gov>

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