

# Sidley Austin’s Quarterly Report to the Cord Blood Association July–August 2023

## Congressional Activities

### *Update on Fiscal Year (FY) 2024 Appropriations Legislation*

The **House Appropriations Committee** had scheduled its markup of the FY 2024 Labor, Health and Human Services, Education, and Related Agencies (Labor-HHS) Appropriations bill for late July. However, the committee postponed consideration of the bill for some time in September.

Prior to adjourning for the August recess, the **Senate Appropriations Committee** completed action on the remaining Fiscal Year 2024 appropriations bills including Labor-HHS. This is the first time the Senate Appropriations Committee has passed all 12 individual spending bills since 2018. A joint statement by Chair Murray and Ranking Member Collins said, “When we said we would return this committee to regular order, we meant it—this is a big deal.” The Labor-HHS Appropriations legislation provides annual funding to the C.W. Bill Young Cell Transplantation Program (the Program) and the National Cord Blood Inventory (NCBI) program. **The Senate numbers (\$33,009,000 for the Program and \$19,266,000 for the NCBI) are the same as the FY 2023 levels.** While the Senate appropriators did not cut funding, many believe that the House version of this legislation may reduce funding for both programs. Below is the relevant committee report language for the Senator Labor-HHS Appropriations bill for FY 2024.

#### HEALTH CARE SYSTEMS

Appropriations, 2023 .....	\$99,009,000
Budget estimate, 2024 .....	135,009,000
Committee recommendation .....	101,009,000

The Committee recommendation for the Health Care Systems Bureau is \$101,009,000.

The Health Care Systems Bureau protects the public health and improves the health of individuals through efforts to support and enhance the systems by which healthcare is delivered in America.

#### *Organ Donation and Transplantation*

The Committee provides \$33,049,000, an increase of \$2,000,000 above the fiscal year 2023 enacted level, for organ donation and transplantation activities that provide financial support for living donors and increase public education and awareness about organ donation.

**OPTN Modernization Initiative.**—HRSA has launched the OPTN Modernization Initiative, which aims to accelerate progress on technology improvements, data transparency and analytics, governance, operations, and quality improvement. The Committee encourages HRSA to implement its stated objectives and requests a briefing within 90 days of enactment that details the actions the Department has or plans to take to improve oversight of the OPTN contractor(s), and the performance of duties and responsibilities under said contract(s); actions the Department will take to increase public and stakeholder trust in the OPTN organ allocation process; and the plan for tracking and evaluating the effectiveness and impact of the Initiative.

#### *National Cord Blood Inventory*

The Committee provides \$19,266,000 for the National Cord Blood Inventory [NCBI]. The purpose of this program is to provide funds to cord blood banks to build an inventory of the highest quality cord blood units for transplantation.

NCBI builds a racially and ethnically diverse inventory of high-quality umbilical cord blood for transplantation. The Committee applauds HRSA for increasing the number of units collected and maintained under NCBI.

#### *C.W. Bill Young Cell Transplantation Program*

The Committee provides \$33,009,000 for the C.W. Bill Young Cell Transplantation Program. The Committee continues to support cell transplantation through the use of bone marrow, peripheral blood stem cells, and cord blood. The Committee appreciates HRSA’s efforts to increase the diversity of the volunteer registry.

At this time, the congressional appropriations process for Fiscal Year 2024 continues to be fluid. It is unclear whether Congress will approve a continuing resolution (CR) to temporarily fund the federal government by September 30, 2023. The CR would fund the federal government until all 12 appropriations bills are passed by both the House and the Senate and signed into law by the President. Sidley will keep CBA up to date on congressional activities related to these negotiations.

*Update on the Federal Aviation Administration (FAA) Reauthorization Legislation*

The House and Senate versions of the FAA Reauthorization Act of 2023 include provisions related to the transport of organs on commercial airlines. However, as currently drafted, blood stem cells including umbilical cord blood units, would not be covered by the current language in either the House or Senate versions of the legislation. The CBA leadership met with the staff of the Senate Commerce, Science, & Transportation Committee and Senator Ron Wyden (D-OR), the Chairman of the Senate Finance Committee to ensure that products utilized for blood stem cell transplantation, including umbilical cord blood units, would also be covered by this language.

Section 737 of S. 1939, the FAA Reauthorization Act of 2023 requires the FAA Administrator to issue rulemaking on the transportation of organs in the cabin of an aircraft. The House passed version of the FAA Reauthorization legislation (H.R. 3935) included a similar provision, Section 834, that directs the Secretary of Transportation to convene a working group to assist in developing best practices for transportation of an organ in the cabin of an aircraft.

CBA recently provided a draft overview of its concerns to the staff for review. Sidley will follow up with staff in early September on this matter.