



H&K Health Dose December 7, 2021 A weekly dose of healthcare policy news

Legislative Update

Congress This Week:

Government Funding, Debt Limit, Year-End Health Provisions and Build Back Better Act

President Biden signed legislation (H.R. 6119) passed by Congress last week to fund the federal government through February 18 ahead of the December 3 expiration of the prior stopgap spending bill. The continuing resolution (CR) extends current program funding levels with few exceptions. It also extends the temporary scheduling of fentanyl-like substances as Schedule 1 under the Controlled Substances Act. Lawmakers hope the February 18 deadline provides enough time to negotiate the 12 annual appropriations bills for the fiscal year that started on October 1, though little progress appears to have been made.

This week, House Majority Leader Steny Hoyer (D-Md.) highlighted possible consideration of legislation related to the debt limit and legislation related to end-of-the-year health care provisions that were not addressed in the aforementioned CR. The *Protecting Medicare and American Farmers from Sequester Cuts Act* bill text was released today. The bill, among other things, would provide a three-month delay of the Medicare sequester payment reductions. It would then phase back in with a 1% sequester cut from April through June 2022 before the 2% cut goes back into effect. However, for fiscal 2030, the legislation would raise the sequester cut to 2.25% for the first six months and 3% for the next six months of that year.

It also provides a one-year increase (through December 31, 2022) in the Medicare physician fee schedule of 3 percent. This is applied across the board and without distinction to all payments under the Medicare physician payment schedule. This is a slight decrease from the 3.75 percent provided by Congress last year for FY 2021 under the Consolidated Appropriations Act of 2021. The bill also delays for one-year implementation of the Radiation Oncology (RO) Model. The House is poised to vote on this legislation tonight at 9:30 p.m.

Regarding the Build Back Better Act, the Senate parliamentarian met with Democrats on Monday to review the health care provisions in the Build Back Better reconciliation package. Soon, the parliamentarian will hold a meeting with lawmakers of both parties. At this point in which Republicans are expected to challenge specific provisions of the bill, including the plan's drug pricing proposal to penalize manufacturers who raise prices faster than inflation. While many Democrats push to send the bill to the President's desk this month, many expect action on the reconciliation bill to drag into next year.

House Passes a Slate of Health Bills

The House of Representatives passed a slate of healthcare-related bills last week. The Immunization Infrastructure Modernization Act (H.R. 550) aims to support public health surveillance by improving data sharing for records of vaccination. The bill would provide \$400 million in grants to help state and local governments update their immunization information systems and assess gaps among healthcare providers in using vaccination data. H.R. 550 was one of several bills to pass the House, including The PREVENT HPV Cancers Act (H.R. 1550), which would authorize a public education campaign to raise awareness of human papillomavirus (HPV) vaccination. Finally, the Social Determinants of Health Data Analysis Act (H.R. 4026) would require the Comptroller General to submit a report to Congress on actions taken by the U.S. Department of Health and Human Services (HHS) to address social determinants of health.



Additional health bills are included on the list of bills for possible consideration by the House this week, including the Accelerating Access to Critical Therapies for ALS Act (H.R. 3537), Dr. Lorna Breen Health Care Provider Protection Act (H.R. 1667), Oral Health Literacy and Awareness Act (H.R. 4555), Opioid Prescription Verification Act (H.R. 2355), and the CARING for Social Determinants Act (H.R. 3894).

Administrative Updates

HHS Report Shows Drastic Increase in Telehealth Utilization

A new HHS [report](#) on telehealth use found that Medicare telehealth visits increased 63-fold from 2019 to 2020 due to flexibilities put into place during the COVID-19 public health emergency. Notably, the vast majority (92%) received telehealth visits from their home, with the highest rates of telehealth usage occurring amongst white and urban beneficiaries, particularly those in the Northeast and West. Despite increased telehealth use, total Medicare visits declined about 11% in 2020, suggesting that telehealth did not drive an overall increase in Medicare or spending. The increase was most pronounced for primary care visits, for which telehealth comprises around 8% of all visits.

CMS Requests Information on Organ Transplantation

On Dec. 3, the Centers for Medicare & Medicaid Services (CMS) and the U.S. Department of Health and Human Services (HHS) released a [request for information \(RFI\)](#) on potential changes to the current transplant and organ procurement programs. HHS is seeking ways to (1) improve care for patients in need of transplants, (2) increase the number of solid organs available for transplantation, (3) encourage dialysis in alternative settings or modalities over in-center hemodialysis, when appropriate and advantageous (4) support HHS and CMS policies to incentivize the creation and use of new treatments and technologies, and (5) strengthen coordination across government agencies to reduce inequity and inefficiency. CMS is asking stakeholders specific questions on how these five goals can be applied to the following components of the transplant ecosystem. Comments are due February 1, 2022.

Private Sector Moves

According to a new [report](#), pharmacy benefit managers (PBMs) are profiting from vertical integration in the industry between PBMs, insurers, and pharmacies. PBM profits grew 12% from 2017 to 2019 largely due to increased sales through PBM-owned mail-order and specialty pharmacies along with increased administrative fees, which grew 51% over the two-year timeframe.

In the Courts

Vaccine Mandates Run into More Roadblocks

Earlier today (12/7), a federal judge in Georgia [granted](#) a nationwide injunction blocking the COVID-19 vaccine mandate for federal contractors from going into effect.

No determination yet on the separate injunction for healthcare workers, which were supposed to be required to receive at least one dose of a vaccine by Dec. 6.

COVID Update

Early indications suggest that though highly contagious, the Omicron variant may be less severe than Delta, though government officials maintain it is still too early to draw conclusive findings. It is also unclear whether current vaccines



are effective against the omicron variant, prompting vaccine manufacturers to race to issue a new vaccine that is targeted for it while also igniting calls for increased investment in a universal vaccine that would protect against future variants.