



## H&K Health Dose March 22, 2022

A weekly dose of healthcare policy news

### Legislative Update

#### **Supreme Court Confirmation Hearings This Week**

Supreme Court nominee Ketanji Brown Jackson appeared before the Senate Judiciary Committee on Monday, as Congress aims to confirm the first Black woman justice. On Monday, Brown and panel members provided opening statements. Today, questions continue, and the Judiciary Committee will hear testimony from outside experts on Thursday. Democrats are pushing for a bipartisan vote on Brown's nomination.

#### **White House Budget Request Expected Next Week**

President Biden is expected to send his budget request for fiscal year (FY) 2023 to Congress on March 28. The annual budget document will outline the Administration's priorities and legislative proposals for the coming year and is meant to guide Congress as appropriators begin negotiations on FY 2023 spending legislation. Policies that can be implemented without Congressional action should receive particular attention as the White House believes these can be enacted through regulation or executive action.

#### **Administration Pushes for COVID Funds**

Congress continues to work on the standalone \$15.6 billion COVID-relief funding ([H.R. 7007](#)), initially included in the omnibus but removed due to concerns of partially offsetting those federal funds with previously allocated yet unspent state and local pandemic relief money. All week, the Administration warned Congress that certain COVID-19 response efforts would stop as early as this week without the funds. (See related story on HRSA uninsured program below). A lack of an agreed-upon pay-for for at least part of the package has slowed progress. Republicans continue to request a complete accounting of how previously allocated COVID-19 funds were used. While interest remains strong in another COVID relief package, this legislation's timing and ultimate scope remain unclear.

#### **COMPETES Bill Expected to Move to Conference**

Senate Majority Leader Chuck Schumer (D-N.Y.) took the first procedural step to establish a conference committee to iron out the differences between the House- and Senate-passed China competition bills (H.R. 4521/S. 1260). The Senate, this week, will go through a series of votes to strike the House text and replace it with the Senate bill, sending it back to the House to unlock the ability to convene a formal conference. The hope is to see a final vote on a bill before Memorial Day weekend.

#### **Pandemic Preparedness Bill Passes HELP Committee**

The Senate Committee on Health, Education, Labor & Pension (HELP) on March 15 held a markup and passed by a vote of 20-2 the PREVENT Pandemics Act ([S. 3799](#)). The bipartisan measure contains 37 bills focused on bolstering public health and pandemic preparedness and authorizing Advanced Research Projects Agency for Health (ARPA-H). The full Senate is likely to consider this bill later this year.

#### **Capitol Hill Reopening Plan**

Details about the reopening of the Capitol building have emerged following a meeting between staff for the Senate Rules Committee, House Administration Committee, Senate and House Sergeants at Arms, and the U.S. Capitol Police. The Capitol would reopen in three phases starting on March 28, when the official visitor limit will be increased from 9 to 15. Staff-led tours will resume that day, and school groups will be allowed back into the building. Notably, proxy voting, which enables members to enlist a colleague to vote for them even though they are not physically present, expires on



March 30. Phase 2 includes the Capitol Visitor Center reopening on May 30, with a full reopening of the Capitol expected around Labor Day. This tentative plan is subject to the U.S. Capitol Police addressing current staff shortage issues.

## Administrative/Regulatory Updates

### **HRSA to Stop Accepting COVID Uninsured Claims as HHS Lobbies Congress for Additional Funding**

Citing a lack of sufficient funds, HRSA will stop accepting claims for COVID tests and treatments for the uninsured at 11:59 pm ET tonight (March 22, 2022) and will stop accepting new claims for vaccine administration for the uninsured at 11:59 pm ET on April 5. As noted above, the Administration is seeking further funding from Congress, but Republicans have called for more transparency into how previous funds have been spent first.

### **HHS Fills in Details About Post-PHE Plans**

HHS Secretary Xavier Becerra warned last week that it would “be tough to give much more than 60 days’ notice” of plans to formally end the COVID-19 Public Health Emergency (PHE), while adding that HHS would provide “as much advance notice as we can.” The PHE is currently set to expire April 16, pending another 90-day extension. At the same time, Secretary Becerra indicated HHS intends to retain certain telehealth provisions post-PHE, including prescribing and dispensing flexibilities. Under the fiscal year 2022 budget deal signed by the President last week, certain provisions will automatically extend for another five months post-PHE. A new OIG report found that 12% of all Medicare services and 43% of behavioral health services were delivered via telehealth in the first year of the pandemic. The report did not address potential fraud, increased expense, or physician-patient continuity, which have all concerned policymakers.

### **Certain Hospitals May Reapply to 340B Program Under New COVID-Related Exception**

Under the budget deal signed into law last week, certain hospitals terminated from the 340B Program due to an inability to meet Disproportionate share adjustment (DSH percentage) requirements for pandemic-related reasons can apply for reinstatement in the Program under a new exception. The exception applies to disproportionate share hospitals, sole community hospitals, rural referral centers, children’s hospitals, or free-standing cancer hospitals. Those interested can call 1-888-340-2787 or email [apexusanswers@340bpvp.com](mailto:apexusanswers@340bpvp.com). More information can be found [here](#).

### **Future CMS Models to Require Health Equity Plan**

CMS Innovation Center Director Liz Fowler announced that moving forward; model applicants will be required to create health equity plans that outline their plan for treating underserved populations, following suit of the ACO REACH model announced last month, for which applications are due April 22.

### **FDA to Return to Pre-Pandemic Cadence for International Inspections**

In April, the FDA plans to return to “normal cadence” for international inspections of drug & device manufacturing facilities, which comprise 75 percent of the U.S. market. In 2021, the FDA inspected just 167 international facilities, compared to 3,100 in a typical year.