



## H&K Health Dose May 31, 2022

A weekly dose of healthcare policy news

### Legislative Updates

#### **Senate Finance Committee Releases Telehealth Policies for Mental Health**

The Senate Finance Committee released a discussion draft on May 26, 2022, that outlined the legislative priorities for telehealth services to address mental health. The discussion draft is expected to be part of a larger package that the committee is working on to address mental health reforms. The draft signals that lawmakers are ready to consider broader legislation to address COVID-19 pandemic telehealth flexibilities before the end of the 151-day extension of waivers in the omnibus funding package. The draft would eliminate the in-person requirement for behavioral health services under Medicare, support the use of audio-only care when clinically appropriate (with safeguards) and mandate studies on telehealth usage. Regarding audio-only, the bill requires documentation of audio-only appointments via a code or modifier, a regular review of data on relevant topics associated with audio-only telehealth and periodic updates to coverage to ensure that audio-only services are reasonable and necessary. The draft would also task the National Academy of Medicine to complete a report on audio-only telehealth no later than five years after the enactment of the bill.

The draft would also establish benefit transparency for telemental health services to inform Medicare enrollees about their options and incentivize states to use Children's Health Insurance Program (CHIP) to develop local solutions to meeting school behavioral health needs via telehealth. Also, under the draft, Centers for Medicare & Medicaid Services (CMS) would provide information on licensure requirements for furnishing telehealth services under Medicare and Medicaid to telemental providers. This would include regular updates that clarify which licenses can qualify as valid and meet federal requirements through the interstate licensure compact. A report would also be compiled on the frequency of telehealth services furnished when the provider is in a different state than their patient. The draft bill would also facilitate a report that would explore how the changes in broadband access impact audio-visual telehealth visits for telemental health services with consultation from the Federal Communications Commission as more communities will gain access to broadband in the coming years.

The [press release](#), which includes links to the discussion draft, is available. Both the Senate Finance and Senate Health, Education, Labor and Pensions (HELP) Committees are working to develop broader bipartisan mental health bills. The House Energy and Commerce Committee approved a bipartisan mental health package last week.

#### **Senate HELP Committee Releases User-Fee Package**

Senate Health, Education, Labor and Pensions (HELP) Committee Chair Patty Murray (D-Wash.) and Ranking Member Richard Burr (R-N.C.), on May 27, 2022, introduced the *FDA Safety and Landmark Advancements Act (FDASLA Act)* — legislation reauthorizing the U.S. Food and Drug Administration's (FDA) prescription drug, generic drug, biosimilar and medical device user-fee agreements. Notably, the package includes accelerated approval reforms that mirror the House user-fee bill, except for a new measure in the Senate bill to create an "intra-agency coordinating council" to ensure uniform usage of accelerated approvals. A [section-by-section](#) description and the [full text](#) are available.



## **PBM Transparency Legislation Introduced in the Senate**

Senate Commerce Committee Chair Maria Cantwell (D-Wash.) and Senate Judiciary Committee Ranking Member Chuck Grassley (R-Iowa) [introduced](#) the *Pharmacy Benefit Manager Transparency Act*, legislation that would increase oversight of pharmacy benefit management companies (PBMs). The bill would prohibit PBMs from engaging in "spread pricing" (the difference between the payment the PBM receives from the state or managed care organization and the reimbursement amount it pays to the pharmacy); incentivize transparency practices; improve competition by requiring PBMs to report on the amount of money that they make from spread pricing, and enhance Federal Trade Commission (FTC) enforcement. A [summary](#) and the [full bill text](#) are available.

## **Regulatory Updates**

### **CMS to Look at Hospitals with High COVID-19 Infection Rates; Publish Staff Vaccination Rates this Fall**

As part of hospital inspections, CMS will look into hospitals with high rates of COVID-19 infections and will take into account patient and health workers' safety complaints. John Blum, the agency's principal deputy administrator and chief operating officer, said that while COVID-19 transmission rates won't be publicized, staff vaccination rates will be released this fall to help give consumers a sense of relative COVID-19 safety protocols.

### **CMS to Lower Medicare Part B Premiums Next Year Due to Lower Spending**

CMS on May 31, 2022, released a [report](#) that found that Medicare Part B spending was lower than expected this year thanks in large part to lower spending on the expensive new Alzheimer's disease treatment Aduhelm. After the 2022 premiums were set, the manufacturer cut the price nearly in half and CMS finalized a limited Medicare coverage determination that required users to be enrolled in a qualifying clinical trial. Rather than a mid-year rate change, the report recommends that calendar year (CY) 2023 rates be reduced, which will be announced this fall.

### **Administration Aims to Expand Access to COVID-19 Antiviral Treatments**

The White House on May 26, 2022, [announced](#) measures to make the COVID-19 antiviral treatment Paxlovid more accessible, including expanding federally supported test-to-treat sites and providing additional guidance around interactions with other medications.