



H&K Health Dose: August 2, 2022 A weekly dose of healthcare policy news

Legislative Updates

Reconciliation Back on the Menu with Possible Senate Action by Week's End

Last week, Senate Majority Leader Chuck Schumer (D-N.Y.) and Sen. Joe Manchin (D-W.Va.) announced that they had reached an agreement that, if passed, will let Medicare negotiate certain drug prices, cap Medicare out-of-pocket drug costs, extend enhanced Affordable Care Act credits for three more years and tackle health-related environmental justice concerns. The Senate parliamentarian is reviewing the updated draft bill to ensure that it complies with budget reconciliation rules. Also expect additional language around insulin pricing protections, and possibly updates to inflation-based drug rebates in the commercial market and modifications to the excise tax, which is critical to leveraging drug companies to negotiate with the government. A vote in the Senate is possible this week. However, exact timing depends on the parliamentarian's review, the health of all 50 Democratic senators, and whether Sen. Kyrsten Sinema (D-Ariz.) will vote for the bill as constructed or impose additional stipulations of her own. Regardless of the exact timing in the Senate, the House of Representatives will be given 24 hours' notice to return from recess to vote on the package.

Ways and Means Advances Prior Authorization Bill

The House Ways and Means Committee advanced the Improving Seniors' Timely Access to Care Act ([H.R. 8487](#)). If enacted, the legislation would establish an electronic prior authorization program for Medicare Advantage (MA) plans, promote increased transparency surrounding which services are subject to prior authorization, as well as the rates of denial and delay, and ultimately lessen the administrative burden placed on providers. The committee advanced the legislation by voice vote, teeing it up for a House floor vote in the fall.

Senate Appropriators Release Fiscal Year 2023 Spending Bills

Senate Democratic appropriators [released all 12 fiscal year \(FY\) 2023 funding bills](#) last week. The nearly \$1.7 trillion appropriations package includes \$653 billion in non-defense discretionary spending, a 10.1 percent increase over FY 2022, and \$850 billion in defense discretionary spending, an 8.7 percent increase over FY 2022 and consistent with the bipartisan National Defense Authorization Act passed by the House. The funding legislation would also decouple money for the U.S. Department of Veterans Affairs (VA) health programs from the broader spending bill, providing \$118.7 billion for VA medical care, a 22 percent increase over FY 2022. The package also includes \$21 billion in emergency supplemental funding to provide the necessary resources to prepare for the next phase of the COVID-19 pandemic. Given Republican opposition to base funding levels, a markup is not expected, increasing the likelihood of lawmakers relying on a continuing resolution (CR) to fund the federal government beyond the end of the fiscal year on Sept. 30, 2022.

Telehealth Bill Passes the House

Last week, the House approved legislation to further extend the Medicare telehealth flexibilities first instituted in response to the COVID-19 pandemic. The Advancing Telehealth Beyond COVID-19 Act ([H.R. 4040](#)) would extend Medicare telehealth waivers through Dec. 31, 2024, including geographic and originating site flexibilities, an expanded list of eligible provider types, waiving of in-person requirements for behavioral health services, allowing for coverage of audio-only telehealth, and allowing qualified health centers and rural health clinics to continue to cover and be reimbursed for telehealth services. Many stakeholders hope that the Senate will take up this bill during the lame-duck session.



Regulatory Updates

CMS Releases Final 2023 Medicare Inpatient and Nursing Home Rules

The Centers for Medicare & Medicaid Services (CMS) issued the [FY 2023 Medicare Hospital Inpatient Prospective Payment System \(IPPS\) and Long-Term Care Hospital Prospective Payment System \(LTCH PPS\) final rule](#). Notably, the rule provides a FY 2023 hospital market basket update of 4.1 percent, which is 1.1 percent higher than the proposed rule because of a revised economic outlook, largely due to higher-than-expected growth in hospital worker compensation. According to the [CMS press release](#), it's the highest increase in the last 25 years. CMS also finalized the new designation of "birthing-friendly" hospitals, finalized changes to Graduate Medical Education (GME) policies and adopted health equity-focused measures in the Inpatient Quality Reporting (IQR) Program. Holland & Knight will review the rule and provide a high-level summary. A [fact sheet](#) is available on the CMS website.

Under a separate [CMS final rule](#), skilled nursing facilities will receive a 2.7 percent boost in Medicare rates in fiscal 2023 for a net increase of \$904 million, which reflects a two-year phase-in of payment rate and parity adjustment factor updates.

3 More States Extend Medicaid Coverage for New Mothers

CMS [approved three additional states](#) – Connecticut, Massachusetts and Kansas – for expanded Medicaid and Children's Health Insurance Program coverage for one year after giving birth, which will expand such coverage to 19,000 additional Americans and bring the total number of states offering it to 18, plus the District of Columbia. In a separate announcement, the U.S. Department of Health and Human Services (HHS) [announced new details on its maternal health crisis strategy](#), along with [\\$6.7 million in new maternal health initiatives](#) aimed at reducing maternal deaths due to substance use disorder and addressing endometriosis, fibroids and/or polycystic ovary syndrome.

CMS Announces Projected 2023 Medicare Part D Premiums

[CMS projects](#) the average monthly premium for standard Medicare Part D coverage to be \$31.50 in 2023, a decrease of 1.8 percent from \$32.08 in 2022. CMS anticipates releasing 2023 premium and cost-sharing information for Medicare Advantage and Part D plans this September ahead of open enrollment, which will run from Oct. 15 to Dec. 7, 2022.

CMS Holds Webinar on Unwinding the COVID-19 PHE

On July 27, 2022, CMS held its third monthly webinar on unwinding the COVID-19 public health emergency (PHE) and its impact on flexibilities for Medicaid and Children's Health Insurance Program (CHIP) eligibility. CMS will post a recording and transcript of the webinar on its [National Stakeholder Calls webpage](#). Additional resources on unwinding the PHE can be found for [states and providers](#) and for [Medicaid and CHIP enrollees](#). The next webinar will be held on Aug. 24, 2022, at 12:00 p.m. EDT.

MACPAC Holds Meeting and Discussion on FMAP

On July 27, 2022, the Medicaid and Children's Health Insurance Program Payment Advisory Commission (MACPAC) held a [public meeting](#) on the status of Medicaid and CHIP coverage during and after the PHE. Topics discussed included fiscal implications of unwinding the PHE, addressing uncertainty for states, and CMS and state preparation for the eventual sunset of the enhanced Federal Medical Assistance Percentage (FMAP) following the conclusion of the PHE, including discussion of a possible phased approach to help smooth the transition to states resuming more financial responsibility for their Medicaid programs.