



H&K Health Dose: January 17, 2023

A weekly dose of healthcare policy news

LEGISLATIVE UPDATES

Congress In Recess, Members Named to Committees with Healthcare Jurisdiction

The House and Senate are in recess next week, returning to session the week of Jan. 23, 2023. Last week, the House moved ahead with organizing activities for the new Congress and began to undertake legislative business. Also, as shared, last week the House announced committee rosters, beginning with the so-called exclusive committees. Once committee rosters are set, subcommittee determinations are made.

New Republican members on committees with healthcare jurisdiction include the following:

- **Ways and Means Committee** – Reps. Mike Carey (R-Ohio), Randy Feenstra (R-Iowa), Michelle Fischbach (R-Minn.), Brian Fitzpatrick (R-Pa.), Nicole Malliotakis (R-N.Y.), Blake Moore (R-Utah), Michelle Steel (R-Calif.), Greg Steube (R-Fla.), Claudia Tenney (R-N.Y.) and Beth Van Duyne (R-Texas)
- **Energy and Commerce Committee** – Reps. Rick Allen (R-Ga.), Troy Balderson (R-Ohio), Kat Cammack (R-Fla.), Russ Fulcher (R-Idaho), Diana Harshbarger (R-Tenn.), Mariannette Miller-Meeks (R-Iowa), Jay Obernolte (R-Calif.), August Pfluger (R-Texas) and Randy Weber (R-Texas)
- **Appropriations Committee** – Reps. Stephanie Bice (R-Okla.), Jerry Carl (R-Ala.), Juan Ciscomani (R-Ariz.), Michael Cloud (R-Texas), Andrew Clyde (R-Ga.), Jake Ellzey (R-Texas), Scott Franklin (R-Fla.), Michael Guest (R-Miss.), Jake LaTurner (R-Kan.) and Ryan Zinke (R-Mont.).

Over the weekend, an agreement was announced on exclusive committee ratios. The Appropriations Committee will see one seat added to the majority and minority side, while Energy and Commerce Committee will be reduced by three seats each for the majority and minority, and Financial Services Committee reduced by one seat. The Ways and Means Committee ratio will stay the same. Thus, this announcement could mean no new Democratic appointments on Energy and Commerce and Appropriations committees and a potential loss of several Democrats on the Ways and Means Committee.

The ratios for exclusive committees are as follows:

- 34 majority seats and 27 minority seats on the House Committee on Appropriations
- 29 majority seats and 23 minority seats on the House Committee on Energy and Commerce
- 29 majority seats and 23 minority seats on the House Committee on Financial Services
- 25 majority seats and 18 minority seats on the House Committee on Ways and Means

President to Deliver State of the Union on Feb. 7

President Joe Biden will deliver his State of the Union address to a joint session of Congress on Feb. 7, 2023. The annual address offers the president an opportunity to lay out his legislative goals midway through his four-year term and possibly tease out broader themes for an expected 2024 reelection bid.



Quick Hits:

- Former Nebraska Gov. Pete Ricketts (R) has been appointed by Gov. Jim Pillen (R) to fill the seat vacated by the retirement of Sen. Ben Sasse (R). Sasse officially resigned from Congress this week to return to academia as president of the University of Florida. Ricketts will serve through at least November 2024, when a special election will be held to fill the remaining two years of Sasse's term.
- On Jan. 12, 2023, the Congressional Budget Office released a cost report entitled, [CBO Estimate for Divisions O Through MM of H.R. 2617, the Consolidated Appropriations Act, 2023, Enacted as Public Law 117-328 on December 29, 2022](#). CBO estimates Divisions O through MM, which authorize various programs and activities, will decrease the deficit by \$3.9 billion over the 2023-2032 period.
- The Senate Telehealth Working Group and House Telehealth Caucus indicated their interest in reintroducing the CONNECT for Health Act of 2021 (S. 1512/H.R. 2903) for the 118th Congress. As the issue of telehealth evolves, these groups are looking to introduce an updated version of the CONNECT for Health Act. They are seeking stakeholder comment through Jan. 30, 2023.

REGULATORY UPDATES

HHS Extends COVID-19 Public Health Emergency to April

U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra on Jan. 11, 2023, extended the COVID-19 public health emergency (PHE) for an additional 90 days, until mid-April. The HHS Secretary has maintained a commitment to provide 60-days' advance notice if the agency is planning to end the PHE. With this latest renewal, the next 60-day deadline will occur in mid-February. It could be the last renewal, but the Biden Administration may still issue additional short-term extensions as needed. Congress untied some PHE-related flexibilities from the PHE, including telehealth and hospital at home provisions, which were extended through the end of 2024, and detached the PHE from Medicaid redeterminations. Starting in April, states will begin redetermining who is – and is not – eligible for Medicaid, a process that could leave up to 18 million people without health coverage, according to estimates from the Urban Institute and Robert Wood Johnson Foundation.

HHS Releases Key Dates and Information on Medicare Drug Price Negotiation Program

Last week, U.S. Department of Health and Human Services (HHS) announced key dates for the first year of the Inflation Reduction Act's (IRA) Medicare Drug Price Negotiation Program. Centers for Medicare & Medicaid Services (CMS) also intends to hold public comment periods throughout the process for continual feedback.

A [full timeline of key dates](#) is available, and highlights include the following:

- By Sept. 1, 2023, CMS will publish the first 10 Medicare Part D drugs selected for the Medicare drug price negotiation program.
- The negotiated maximum fair prices for these drugs will be announced by Sept. 1, 2024, and prices will be in effect starting Jan. 1, 2026.
- In future years, CMS will select for negotiation 15 more Part D drugs for 2027, 15 more Part B or Part D drugs for 2028, and 20 more Part B or Part D drugs for each year after that, as outlined in the IRA.

CMS also released an [implementation memo](#) for the Medicare Drug Price Negotiation Program, laying out the opportunities for engagement and public feedback throughout the implementation process, providing details on program guidance and data collection, and offering a timeline for these implementation activities.



CMS Announces Distribution of First Tranche of New Graduate Medical Education Slots

The Centers for Medicare & Medicaid Services (CMS) has [awarded](#) the first 200 of 1,000 medical residency slots created as a part of the Consolidated Appropriations Act, 2021. Of these slots, 125 of the residency slots are being allocated for primary care (including obstetrics/gynecology), and 20 slots are being allocated for psychiatry. The CMS [posted a list](#) of awards to the website under the Section 126 tab, along with an updated FAQ document. The application period for the 200 fiscal year 2024 slots will open later this month and close on March 31, 2023.

MedPAC Update

The Medicare Payment Advisory Commission (MedPAC), a nonpartisan agency that advises Congress on Medicare policy, held a two-day [public meeting](#) on Jan. 12-13, 2023, with presentations about payments to physicians, hospitals, skilled nursing facility services, home health agency services and inpatient rehabilitation facility services. MedPAC also received status reports on Medicare Advantage and Medicare Part D, and discussed issues related to Medicare clinician and outpatient behavioral health services, telehealth use and Medicare Part B drug prices.

Notably, MedPAC has recommended Congress increase payments for physicians and hospitals in 2024. MedPAC's 2024 pay recommendation says that Congress should update the 2023 Medicare pay rate for physicians and others by 50 percent of the projected increase in the Medicare Economic Index (MEI). For hospitals, the commission's final recommendation says that for 2024, Congress should update the 2023 pay rate for hospitals by the amount determined by current law plus an additional 1 percent.

A second hospital recommendation says that in fiscal year 2024, Congress should begin a transition to redistribute Medicare Disproportionate Share Hospital and uncompensated care pay through the commission's Medicare Safety Net Index (MSNI). Congress should also add \$2 billion to the MSNI pool; scale fee-for-service MSNI payments in proportion to each hospital's MSNI and distribute the money through a percentage add-on to pay under the inpatient and outpatient pay systems; and pay MSNI amounts for services provided to Medicare Advantage beneficiaries directly to hospitals while excluding those payments from MA benchmarks.

Commissioners also discussed alternative approaches for Medicare to address high prices for new Part B drugs with limited clinical evidence, lack of price competition for drugs with similar health effects and financial incentives associated with the percentage add-on to Medicare Part B's payment rate. Commissioners reviewed and discussed the three policy approaches to address the high prices of Part B drugs. The commissioners discussed setting a cap on the payment of accelerated approval drugs for the first policy approach. Under this policy, particular attention was focused on whether to impose a price cap at launch and the degree of discretion and flexibility given to the Secretary. MedPAC will continue reviewing the three policy approaches to addressing high Part B drug prices this spring. The next MedPAC meeting is March 2-3, 2023.

Also, of note, the U.S. Government Accountability Office (GAO) [released a request](#) for MedPAC nominations. Letters of nomination and resumes are due by Feb. 10, 2023.



MACPAC Update

Medicaid and CHIP Payment and Access Commission (MACPAC) next meets on Jan. 26-27, 2023. At the meeting, commissioners will discuss whether to send a recommendation to Congress that would urge them to grant states flexibility to restrict coverage of doctor-administered drugs that are subject to national coverage policies under Medicare. State Medicaid directors have been pondering ways to obtain flexibility to restrict coverage of drugs for which there are outstanding questions regarding their safety and efficacy regardless of their approval status, an authority that Medicare currently possesses.

Also, as a reminder, U.S. Government Accountability Office (GAO) [released a request](#) for nominations for appointments to MACPAC. Letters of nomination and resumes are due by Jan. 26, 2023.