



H&K Health Dose: April 25, 2023

A weekly dose of healthcare policy news

LEGISLATIVE UPDATES

This Week: House and Senate Hold Hearings to Discuss Healthcare Costs

The U.S. House of Representatives and U.S. Senate are both in session for what is shaping up to be a busy healthcare week. The House Energy and Commerce Health Subcommittee scheduled a [legislative hearing](#) for April 26, 2023. Three additional health-related hearings will also be held on April 26, 2023. The House Committee on Ways and Means and Committee on Oversight and Accountability will hold a [hearing](#) to discuss tax-exempt hospitals and the community benefit standard. The House Committee on Education and Labor, and the Subcommittee on Health, Employment, Labor and Pensions is scheduled to hold a [hearing](#) on reducing healthcare costs that is anticipated to include a review of excepted benefits for telehealth services and association health plans. The Subcommittee on Labor, Health and Human Services (HHS) and Education is scheduled to hold an [oversight hearing](#) on the provider relief fund and healthcare workforce shortages.

Additionally, the House is set to take up legislation on a debt limit proposal this week with floor action to come as soon as April 26, 2023. First, the package must make it through the Rules Committee, and two members of the Committee have indicated that they might be no votes on the debt limit bill. Passage of the proposal on the House floor is seen as the first step to opening up negotiations with democratic leaders and the Biden Administration.

From a healthcare perspective, the plan includes a provision that would instate work requirements for Medicaid recipients. A Congressional Budget Office report estimated that Medicaid work requirements would cause two million people to lose health coverage. Notably, the work requirements are a nonstarter for Democrats controlling the Senate and the White House.

House E&C Turns its Attention to Transparency and Competition

The House Committee on Energy and Commerce (House E&C) is pushing to advance a bipartisan package of legislative proposals focused on transparency and competition. Committee Chair Cathy McMorris Rodgers (R-Wash.) and Subcommittee on Health Chair Brett Guthrie (R-Ky.) recently announced a bipartisan subcommittee [hearing](#) on April 26, 2023, titled "Lowering Unaffordable Costs: Legislative Solutions to Increase Transparency and Competition in Health Care." The hearing will center around 17 healthcare bills and discussion drafts taking up site neutral payment reform, Pharmacy Benefit Manager (PBM) spread pricing and transparency, 340B transparency, the in-patient-only list and other issues of consequence to hospitals, physicians, plans and PBMs. The policies under consideration include both introduced legislation (all of which is bipartisan) and unIntroduced discussion drafts (for which sponsors are unknown). The hearing marks the first appearance of Centers for Medicare & Medicaid Services Administrator Chiquita Brooks-LaSure, who is scheduled to testify at before Congress since confirmation.



Senate Committee on HELP Sets Sights on PBMs and Insulin Pricing

The Senate Committee on Health, Education, Labor and Pensions (HELP) will consider bipartisan healthcare legislation related to improving access to generic medication, increasing competition for rare disease medications and reforming PBMs on May 2, 2023. Chair Bernie Sanders (I-Vt.) and Bill Cassidy (R-La.) recently announced the bipartisan bills that will be considered include the Ensuring Timely Access to Generics Act, Expanding Access to Low-Cost Generics Act, RARE Act and the [Pharmacy Benefit Manager Reform Act](#).

Several senators were hoping that the markup would include legislation on healthcare workforce and insulin prices. The markup comes after Sen. Sanders pushed back the original date in order to receive insights from experts in the related fields. The Committee hosted a private roundtable last week with biosimilar experts and are hosting another with genetics industry experts this week.

The Senate Committee on HELP also recently announced a [hearing](#) scheduled for May 10, 2023. At the hearing, senators will hear testimony from the CEOs of the three largest PBMs with a focus on insulin prices. The hearing comes after several drug manufacturers have announced plans to cut the cost of insulin for consumers.

Senate Finance Also Charging Ahead on PBMs

The Senate Committee on Finance remains focused on taking action related to PBMs following last month's hearing on pharmacy middlemen and the prescription drug supply chain's impact on Medicare consumers. The Committee recently released its [legislative framework](#), which Chair Ron Wyden (D-Ore.) and Mike Crapo (R-Idaho), plan to use as the basis for proposed legislation that delinks PBMs compensation from drug prices. The bipartisan framework builds on the principle that transparency from the PBM industry is needed. Wyden has indicated that he plans to introduce legislation on PBMs this summer.

House Committee on Energy and Commerce Holds Hearing on Healthcare Workforce

The House Committee on Energy and Commerce on April 19, 2023, held a [hearing](#) titled "Examining Existing Federal Programs to Build a Stronger Health Workforce and Improve Primary Care." The hearing featured witness Carol Johnson, administrator of the Health Resources and Services Administration (HRSA). Johnson overviewed the current state of the Health Center Program, the National Health Service Corps and the Teaching Health Center Graduate Medical Education Program, whose funding expires at the end of the fiscal year. The hearing also included significant discussion of the 340B program and PBMs. Rep. Buddy Carter (R-Ga.), Morgan Griffith (R-Va.), Michael Burgess (R-Texas) and John Joyce (R-Pa.) pushed for increased transparency and accountability in this space.

Subcommittee members examined the following bills. The subcommittee is expected to take additional action on the bills at a later date.

- [H.R. 2559](#), the "Strengthening Community Care Act of 2023"
- [H.R. _____](#), to extend funding for the Teaching Health Center Graduate Medical Education Program
- [H.R. 2569](#), the "Doctors of Community" (DOC Act)
- [H.R. 2547](#), the "Special Diabetes Program for Indians Reauthorization Act of 2023"
- [H.R. 2550](#), the "Special Diabetes Program Reauthorization Act of 2023"
- [H.R. 2544](#), the "Securing the U.S. Organ Procurement and Transplantation Network Act"
- [H.R. 2411](#), the "National Nursing Workforce Center Act of 2023"
- [H.R. _____](#), to amend the Public Health Service Act with respect to the Covered Countermeasure Process Fund



REGULATORY UPDATES

CMS Issues 2024 Notice of Benefit and Payment Parameters Final Rule

The U.S. Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) on April 17, 2023, issued the [final Notice of Benefit and Payment Parameters for 2024](#). This final rule sets standards for issuers and Marketplaces, as well as requirements for agents, brokers, web-brokers and assisters that help consumers with enrollment through Marketplaces that use the federal platform.

A CMS [fact sheet](#) includes detailed information on the provisions of the final rule, including the following changes:

- Strengthens network adequacy standards by requiring an adequate provider network that meets essential community provider (ECP) standards
- Establishes two additional ECP categories
- Sets standardized plan options for certain metal levels
- Continues using four tiers of prescription drug cost sharing with no changes to generic and brand name tiering
- Recalibrates 2024 benefit year risk adjustment models
- Decreases its user fee for insurers to use the federal platform
- Establishes an Improper Payment Pre-Testing and Assessment (IPPTA) program
- Changes agent, broker and web-broker practices
- Receives feedback on a request for information on a potential payment hierarchical condition category (HCC) for gender dysphoria in HHS-operated risk adjustment models for future benefit years

White House May Nominate Dr. Monica Bertagnolli To Be New NIH Director

The White House is close to nominating Monica Bertagnolli to run the National Institutes of Health (NIH) – more than a year after Francis Collins resigned. Currently, Bertagnolli is serving as the director of the National Cancer Institute (NCI). She is the first woman to lead NCI, since she took over the role in October 2022. If nominated and approved as NIH director, Bertagnolli would be the second woman to lead the agency after Bernadine Healy, who was appointed by President George H.W. Bush in 1991.

Supreme Court Rules on Abortion Drug Access

The U.S. Supreme Court on April 19, 2023, issued a second temporary stay on recent decisions from a U.S. district court and the U.S. Court of Appeals for the Fifth Circuit that would restrict access to the abortion pill mifepristone and reverse the U.S. Food and Drug Administration's (FDA) approval of the generic version of the drug. On April 21, 2023, the Supreme Court [granted a request](#) from the Biden Administration and a drug manufacturer to put on hold a ruling by a federal judge in Texas that suspended the FDA's approval of mifepristone, part of a two-drug protocol used to end pregnancies in their early stages.