



H&K Health Dose: October 24, 2023

A weekly dose of healthcare policy news

LEGISLATIVE UPDATES

This Week: Unclear Path to Speaker

The U.S. House of Representatives has been waiting for a speaker for 21 days. Republicans, in a closed-room speaker candidates' forum, voted Majority Whip Tom Emmer (R-Minn.) as their new speaker-designee. After several rounds of secret ballots, the final vote was 117-97. Emmer, who currently serves as the No. 3 Republican in the House, secured the nomination after five rounds of voting. If Emmer takes his candidacy to the floor and fails to get 217 Republican votes, some Democrats have suggested that they would be willing to offer him the support that they declined to show Reps. Jim Jordan (R-Ohio) and Kevin McCarthy (R-Calif.), sitting out the speaker vote to lower the threshold Emmer would need to win.

Despite the uncertainty with the appointment of the next speaker, the question remains whether the next speaker of the House will cut a deal to avoid a government shutdown on Nov. 17, 2023, and negotiate a solution to fiscal year (FY) 2024 appropriations. Also looming is the \$106 billion emergency supplemental spending package for Israel and Ukraine, which President Joe Biden sent to U.S. Congress late last week. Biden plans to send another supplemental request covering natural disasters, access to high-speed internet, childcare and wildland firefighter pay.

Senators Launch Mental Health Caucus

U.S. Sens. Alex Padilla (D-Calif.), Thom Tillis (R-N.C.), Tina Smith (D-Minn.) and Joni Ernst (R-Iowa) announced the launch of a new bipartisan Mental Health Caucus last week. The 10-member caucus will focus on addressing healthcare workforce issues, raising awareness of the 988-crisis hotline and effectively implementing the Bipartisan Safer Communities Act (BSCA). The other members of the caucus include Sens. Cory Booker (D-N.J.), Shelley Moore Capito (R-W.Va.), Susan Collins (R-Maine), John Fetterman (D-Pa.), Amy Klobuchar (D-Minn.) and Lisa Murkowski (R-Alaska).

Energy and Commerce Hearing on Physician Payment

The House Committee on Energy and Commerce's Subcommittee on Health held a hearing on Oct. 19, 2023, "[What's the Prognosis?: Examining Medicare Proposals to Improve Patient Access to Care and Minimize Red Tape for Doctors](#)," to examine physician payment policies, including legislative policies aimed at furthering the objectives of the Medicare Access and CHIP Reauthorization Act of 2015. During the hearing, Democrats noted concern over the fact that more than half the bills included in the hearing were either in discussion draft form or introduced only a week ago, with little time for review. Democrats and Republicans shared different views on reimbursement cuts and their impact on healthcare. Democrats expressed concerns about the effects of such cuts on physician practices and access to care. Some Republicans raised doubts about data accuracy and the potential for cost-saving measures. Representatives discussed several bills and legislative proposals, including clinical laboratory reimbursement cuts and support for specialty office-based providers, as part of ongoing efforts to tackle Medicare providers' challenges. Representatives emphasized the importance of collaboration across party lines for finding viable solutions to these complex issues. Holland & Knight provided a [detailed summary](#) of the hearing.



Senate Committee on Finance Examines Medicare Advantage

The Senate Committee on Finance held a hearing on Oct. 18, 2023, "[Medicare Advantage Annual Enrollment: Cracking Down on Deceptive Practices and Improving Senior Experiences](#)." The hearing identified and addressed concerns related to misleading or aggressive marketing practices and the influence of brokers and other third-party entities that can lead Medicare beneficiaries to sign up for health plans that don't meet their particular health needs. It also included a discussion on potential reforms and solutions to enhance consumer protection, ensure fair competition and improve transparency in marketing and compensation practices. Many senators underscored the growing importance of the Medicare Advantage (MA) program – highlighting the significant and increasing number of seniors choosing MA – and noting that the program plays a vital role in providing healthcare coverage to about 50 percent of Medicare beneficiaries.

REGULATORY UPDATES

Medicare PFS and OPFS Rules Forthcoming

The Centers for Medicare & Medicaid Services (CMS) is close to releasing the final calendar year (CY) 2024 Medicare payment regulations. CMS is expected to issue the CY 2024 Physician Fee Schedule (PFS) final regulation and the Outpatient Prospective Payment System (OPPS) final regulation by Nov. 1, 2023.

HHS OCR Issues Resources to Help Educate Patients about Telehealth and the Privacy and Security of Protected Health Information

The U.S. Department of Health and Human Services (HHS) issued two resource documents on Oct. 18, 2023, to help explain to patients the privacy and security risks to their protected health information (PHI) when using telehealth services and ways to reduce these risks. The first resource is for healthcare providers, "Educating Patients about Privacy and Security Risks to Protected Health Information when Using Remote Communication Technologies for Telehealth." Although healthcare providers are not required under the Health Insurance Portability and Accountability Act (HIPAA) to provide this education, the resource supports the continued and increased use of telehealth by providing information to help healthcare providers who choose to discuss telehealth privacy and security with patients. The Office for Civil Rights (OCR) also issued a resource for patients, "Telehealth Privacy and Security Tips for Patients." This resource provides recommendations that patients can implement to protect and secure their health information. A press release with more information is available on the [HHS website](#).