



# H&K Health Dose: March 12, 2024

A weekly dose of healthcare policy news

## LEGISLATIVE UPDATES

The U.S. House of Representatives and U.S. Senate are in session, with healthcare activity at the committee level, including a House Committee on Ways and Means (W&M) hearing on access to care at home in rural and underserved communities, a House Committee on Energy and Commerce (E&C) public health legislation markup on March 12, 2024, and a Senate Committee on Finance hearing on March 12, 2024, to examine the President's Budget request for the U.S. Department of Health and Human Services (HHS) in fiscal year (FY) 2025. HHS Secretary Xavier Becerra will testify at the Senate Finance Committee hearing.

### FY 2025 President's Budget

The FY 2025 President's Budget was released on March 11, 2024. In addition to increased topline funding levels at HHS, the Budget includes a number of legislative proposals that President Joe Biden previewed at his State of the Union address on March 7, 2024 – specifically, proposals to expand several Inflation Reduction Act (IRA) drug pricing provisions. The Budget would expand Medicare drug cost negotiations by increasing the pace of negotiations, bringing more drugs into negotiation sooner and expanding negotiation into the commercial market. It would also cap out-of-pocket costs for prescription drugs in private insurance at \$2,000 and expand the \$35 cost-sharing cap for a month's supply of insulin to the commercial market, as well as limit Part D cost-sharing for "high-value" generic drugs to no more than \$2 for Medicare beneficiaries. Other Medicare provisions would extend solvency of the Medicare Hospital Insurance (HI) trust fund by increasing taxes on high-income individuals and directing savings from the Budget's Medicare drug reforms into the HI trust fund; ensure coverage parity between behavioral and physical conditions and expand access to a broader range of behavioral health provider types for Medicare beneficiaries; extend incentive payment programs for Medicare providers in areas with clinician shortages to a broader set of clinicians; and expand support for living organ donors to help facilitate and encourage transplants for Medicare beneficiaries.

Medicaid policy proposals in the President's Budget would permanently extend the Affordable Care Act (ACA) premium tax credits; provide Medicaid-like coverage to individuals in states that have not adopted Medicaid expansion; extend the existing 12-month continuous eligibility for all children to 36 months; and prohibit enrollment fees and premiums in the Children's Health Insurance Program (CHIP). It would authorize HHS to negotiate supplemental drug rebates on behalf of interested states. Additionally, the Budget would expand Medicaid maternal health support services during pregnancy and postpartum periods by incentivizing states to reimburse a broader range of providers, including doulas, community health workers, peer support initiatives and nurse home visiting programs; eliminate barriers to accessing pre-exposure prophylaxis (PrEP) for Medicaid beneficiaries; and expand the Vaccines for Children program to include all children under age 19 enrolled in CHIP. It includes \$150 billion to improve and expand Medicaid home and community-based services over 10 years.

With tight margins in the House and Senate, these policies are not expected to be enacted anytime soon. However, some policies could be explored as a regulatory exercise.

### FY 2024 Appropriations

President Joe Biden signed into law a legislative package on March 9, 2024, to fund certain federal agencies for 2024, including the U.S. Food and Drug Administration (FDA) and U.S. Department of Veterans Affairs (VA). Now, legislators will turn to the next six, which include more challenging subject areas like the U.S.



Department of Labor (DOL), HHS and U.S. Department of Education. Appropriators are continuing to negotiate the second package, which has a deadline of March 22, 2024.

The March 9 funding package includes healthcare extenders through the end of the calendar year (CY) such as funding for community health centers (CHCs), National Health Service Corps (NHSC), the Teaching Health Centers Graduate Medical Education (THCGME) program, the Medicare-dependent hospital program, the low-volume hospital payment adjustment and the Special Diabetes Programs, as well as funding to avert pending Medicaid Disproportionate Share Hospital (DSH) cuts. It includes a reauthorization of certain SUPPORT Act substance use disorder (SUD) programs, as well as a provision to permanently define Certified Community Behavioral Health Clinic (CCBHC) services as an optional Medicaid benefit.

The legislation also includes several notable healthcare policies such as a partial fix to the Medicare Physician Fee Schedule (PFS) conversion factor cut via a 1.68 percent offset to the 3.37 percent cut, effective from March 9 through the end of 2024. Additionally, it provides a one-year extension of advanced Alternative Payment Model (APM) incentive payments at 1.88 percent, lower than the 3.5 percent level provided through 2023, and the 1.0 physician work Geographic Practice Cost Indices (GPCI) floor extension.

The legislation does not address many other healthcare policies that will likely not be addressed until the post-election lame-duck session. However, the March 22, 2024, package could serve as a vehicle for telehealth and pharmacy benefit manager (PBM) reforms.

## House E&C Committee's Subcommittee on Health Marks Up Public Health Legislation

The House E&C Committee's Subcommittee on Health will convene on March 12, 2024, for a markup of [19 public health bills](#), including a number of measures that were considered at a legislative hearing last month.

Legislative proposals to be considered include:

- [NAPA Reauthorization Act \(H.R. 619\)](#): Reps. Paul Tonko (D-N.Y.), Chris Smith (R-N.J.) and Maxine Waters (D-Calif.)
- [Alzheimer's Accountability and Investment Act \(H.R. 620\)](#): Reps. Smith, Tonko and Waters
- [Building Our Largest Dementia \(BOLD\) Infrastructure for Alzheimer's Act of 2024 \(H.R. 7218\)](#): Reps. Brett Guthrie (R-Ky.), Tonko, Smith and Waters
- [SHINE for Autumn Act of 2023 \(H.R. 5012\)](#): Reps. Young Kim (R-Calif.) and Kathy Castor (D-Fla.)
- [Maternal and Child Health Stillbirth Prevention Act of 2023 \(H.R. 4581\)](#): Reps. Ashley Hinson (R-Iowa) and Alma Adams (D-N.C.)
- [Charlotte Woodward Organ Transplant Discrimination Prevention Act \(H.R. 2706\)](#): Reps. Kat Cammack (R-Fla.) and Debbie Dingell (D-Minn)
- [SIREN Reauthorization Act \(H.R. 4646\)](#): Reps. David Joyce (R-Ohio) and Dingell
- [To Amend the Public Health Service Act to Reauthorize a Lifespan Respite Care Program \(H.R. 6160\)](#): Reps. Marcus Molinaro (R-N.Y.) and Tony Cárdenas (D-Calif.)
- [Emergency Medical Services for Children Reauthorization Act of 2024 \(H.R. 6960\)](#): Reps. Buddy Carter (R-Ga.) and Castor
- [Dr. Lorna Breen Health Care Provider Protection Reauthorization Act \(H.R. 7153\)](#): Reps. Susan Wild (D-Pa.) and Jen Kiggans (R-Va.)
- [Poison Control Centers Reauthorization Act of 2024 \(H.R. 7251\)](#): Reps. Lori Chavez-DeRemer (R-Ore.), Joyce, Danny Davis (D-Ill.) and Sheila Cherfilus-McCormick (D-Fla.)
- [To Amend the Public Health Service Act to Reauthorize the Stop, Observe, Ask, and Respond to Health and Wellness Training Program \(H.R. 7224\)](#): Reps. Steve Cohen (D-Tenn.), Anne Wagner (R-Mo.), Cárdenas and Carter
- [Traumatic Brain Injury Program Reauthorization Act of 2024 \(H.R. 7208\)](#): Reps. Bill Pascrell (D-N.J.) and Don Bacon (R-Neb.)



- [Cardiomyopathy Health Education, Awareness, Research, and Training in the Schools \(HEARTS\) Act of 2023 \(H.R. 6829\)](#): Reps. Frank Pallone (D-N.J.) and Andy Kim (D-N.J.)
- [Congenital Heart Futures Reauthorization Act of 2024 \(H.R. 7189\)](#): Reps. Gus Bilirakis (R-Fla.), Darren Soto (D-Fla.), Carter, Adam Schiff (D-Calif.), Maria Elvira Salazar (R-Fla.) and Cárdenas
- [DeOndra Dixon INCLUDE Project Act of 2024 \(H.R. 7406\)](#): Reps. Cathy McMorris Rodgers (R-Wash.), Diana DeGette (D-Colo.), Tom Cole (R-Okla.) and Eleanor Holmes Norton (D-D.C.)
- [SCREENS for Cancer Act of 2023 \(H.R. 3916\)](#): Reps. Joe Morelle (D-N.Y.) and Brian Fitzpatrick (R-Pa.)
- [Kidney PATIENT Act \(H.R. 5074\)](#): Reps. Carter and Annie Kuster (D-N.H.)
- [Seniors' Access to Critical Medications Act of 2023 \(H.R. 5526\)](#): Reps. Diana Harshbarger (R-Tenn.), Debbie Wasserman Schultz (D-Fla.) and Davis

## House W&M Committee Holds Healthcare Markup

The House W&M Committee advanced three healthcare bills and a letter to the House Budget Committee. The Protecting America's Seniors' Access to Care Act (H.R. 7513) blocks the Biden Administration's proposed nursing home staffing mandate. The Kidney PATIENT Act (H.R.5074) would allow end-stage renal disease patients to access oral-only drugs using Medicare Part D. The Real Time Benefit Tool Implementation Act (H.R. 7512) would require Centers for Medicare & Medicaid Services (CMS) to implement a prescriber real-time benefit tool by Jan. 1, 2027.

## Senate Budget Committee Holds Hearing on Primary Care

The Senate Committee on Budget met on March 6, 2024, to discuss the functionality of the Medicare physician payment system and showed bipartisan critique of the specialist/primary care imbalance of representation of the American Medical Association (AMA)/Specialty Society Relative Value Scale Update Committee (RUC), the committee which presents overwhelmingly accepted (90 percent-plus) healthcare service valuations to CMS. In the hearing, Amol Navathe, associate professor at Perelman School of Medicine and The Wharton School at University of Pennsylvania and vice chair and commissioner of MedPAC, praised hybrid payment models for bolstering the primary care workforce, reducing administrative burden and improving delivery of care through telehealth.

## Senate HELP Committee Holds Hearing on the Older Americans Act, Releases RFI

At a hearing last week, the Senate Committee on Health, Education, Labor and Pensions (HELP) members discussed reauthorization of the Older Americans Act. Witnesses highlighted the need to increase funding for the Older Americans Act programs, and the committee released a [request for information \(RFI\)](#) seeking feedback on the effectiveness of pandemic-era flexibilities, as well as policies enacted by the 2020 reauthorization, in responding to the needs of older adults across the United States. The Older Americans Act was last reauthorized in 2020 and will expire on Sept. 30, 2024. Written responses must be submitted to [OAA@help.senate.gov](mailto:OAA@help.senate.gov) by March 21, 2024.

## MedPAC Hosts March 2024 Meeting

The Medicare Payment Advisory Commission (MedPAC) [hosted its two-day March meeting](#), during which it discussed rural hospital and clinician payment policy, assessment of data sources for measuring healthcare utilization by Medicare Advantage (MA) enrollees, MA quality, the Medicare Acute Hospital Care at Home program and Medicare inpatient psychiatric services.

## MACPAC Hosts March 2024 Meeting

The Medicaid and CHIP Payment and Access Commission (MACPAC) [hosted its two-day March meeting](#), during which it discussed Medicaid financing, Medicaid home- and community-based services, state Medicaid



agency contracts, physician-administered drugs, transitions of coverage and care for children and youth with special health needs, the Medicare Savings Program and state Medicaid approaches for covering health-related social needs.

## **Senate Democrats Comment on Medicare Advantage Program**

A group of Senate Democrats have [sent a letter](#) to the Biden Administration highlighting challenges and proposed reforms to strengthen the MA program.

## **Retirements**

Rep. Ken Buck (R-Colo.) announced on March 12, 2024 that he would not finish out the rest of his term before stepping down from Congress. Instead, Rep. Buck will step down next week, further narrowing House Republicans' already-slim majority. His departure will leave the chamber with 218 Republicans and 213 Democrats.

Additionally, Rep. Matt Rosendale (R-Mont.) – who briefly campaigned for a Senate seat last month – announced on March 8, 2024, he would not seek reelection for his House seat. Rep. Jerry Carl (R-Ala.) lost the primary for his seat on March 5, 2024.

## **REGULATORY UPDATES**

### **Reps. Frank Pallone and Ron Wyden Send Letter to CMS on State Medicaid Compliance**

Democratic congressional health leaders Reps. Frank Pallone (D-N.J.) and Ron Wyden (D-Ore.) sent a letter to CMS indicating that the agency should demand that states immediately detail how they plan to come into full compliance with Medicaid/CHIP enrollment and eligibility requirements after the unwinding revealed wide-ranging problems. In the letter to CMS Administrator Chiquita Brooks-LaSure, lawmakers urged the agency to require states to commit to a concrete plan for coming into full compliance with Medicaid and CHIP eligibility and enrollment requirements going forward.

### **CMS Responds to Cyberattack**

Given the size of the impacted entity and the breadth of services it provides to physician groups and the larger healthcare sector, the consequences of this malicious cyberattack have been significant and far-reaching. The CMS had previously announced that it would consider applications for accelerated payments from Medicare Part A providers; CMS [expanded their notice](#) on March 9, 2024, to include Part B providers as well.

Affected providers can apply to receive 30 days of relief to be repaid at a later date. For more information, please see the [CMS Fact Sheet](#). However, it remains unclear how much money is available for accelerated payments. CMS is also instructing Medicare contractors to accept paper claims and expedite provider requests to switch to a different processing platform. In addition, CMS is encouraging MA and Medicaid managed care plans to make prospective payments to impacted providers, as well as relax their prior authorization requirements.

### **FTC, DOJ and HHS Jointly Issue RFI on Private Equity in Healthcare**

The [RFI requests public comment](#) on deals conducted by health systems, private payers, private equity funds and other alternative asset managers that involve healthcare providers, facilities, or ancillary products and services. In a [press release](#), the Federal Trade Commission (FTC), HHS and the U.S. Department of Justice



(DOJ) stated that feedback will inform the agencies' enforcement priorities and future action, including rulemaking to promote and protect competition in healthcare markets. Comments are due on May 6, 2024.

## **CMS Announces Release of the Manufacturer RFA for the CGT Access Model**

The Manufacturer Request for Applications (RFA) for the Cell and Gene Therapy (CGT) Access Model, which was originally announced in January 2024, is [now available](#). CGT will initially focus on gene therapies for sickle cell disease. The CGT Access Model aims to improve the lives of people with Medicaid living with rare and severe diseases by increasing their access to potentially life-changing treatments.

## **In Push For Coverage, Gene Therapy Organizations Cite Long-Term Benefits**

A number of cell and gene therapy stakeholders recommend various improvements to coverage, including reducing utilization management barriers, reducing cost-sharing and ensuring therapies are covered for the FDA-approved indications, as well as increased Congressional action to increase funding and staffing for Center for Biologics Evaluation and Research (CBER) and work closely with CMS on minimum national credentialing standard for providers looking to administer CGTs to out-of-state beneficiaries. Lawmakers are deliberating between approaches on how to support and pay for the transformative but expensive therapies.

## **Judges Appear Poised To Strike ACA Preventive Coverage Mandate**

Oral arguments were held March 6, 2024, for a case on the preventive care coverage mandate of the ACA. A panel of judges from the U.S. Court of Appeals for the Fifth Circuit seems likely to affirm the lower court ruling, which affirmed the requirement for ACA plans to cover preventative care services recommended by the U.S. Preventive Services Task Force (USPSTF) violates the Constitution's Appointments Clause, setting up a likely appeal to the U.S. Supreme Court.