



H&K Health Dose: April 9, 2024

A weekly dose of healthcare policy news

LEGISLATIVE UPDATES

After a two-week recess, both chambers are back in session, with significant activity at the committee level. On the regulatory front, the Inpatient Prospective Payment System (IPPS) Proposed Rule cleared the Office of Management and Budget (OMB), signaling imminent release.

In a [Dear Colleague letter](#) publicly released on April 5, 2024, Senate Majority Leader Chuck Schumer (D-N.Y.) outlined a lengthy list of Senate Democrats' priorities for the remainder of the year, including considering legislation to "enhance our national security, advance online safety for kids and promote innovation, expand the Child Tax Credit, work on a path forward on TikTok legislation, combat the fentanyl crisis, hold failed bank executives accountable, address rail safety, ensure internet affordability, safeguard cannabis banking, outcompete the Chinese government, lower the cost of prescription drugs like insulin." Additionally, Sen. Bernie Sanders (I-Vt.) [plans to introduce](#) legislation that would reportedly cap prescription drug costs for all Americans at \$2,000 and aim to "substantially increase the number of drugs that can be negotiated with the pharmaceutical industry."

Numerous Upcoming Senate and House Health Hearings

The U.S. Senate Committee on Finance will convene April 11, 2024, for a hearing to consider Medicare reimbursement for chronic care. Medicare payment reform will continue to be a top healthcare priority for members in both chambers and both sides of the aisle, following unsuccessful efforts to move related legislation in the fiscal year (FY) 2024 appropriations package passed by U.S. Congress in March 2024. The committee is accepting statements for the record [via email](#).

The Senate Finance Committee will also convene to consider federal substance use disorder programs at a hearing, "[Closing Gaps in the Care Continuum: Opportunities to Improve Substance Use Disorder Care in the Federal Health Programs](#)." The hearing, scheduled for April 9, 2024, will feature statements from Sens. Ben Cardin (D-Md.) and Steve Daines (R-Mont.). Interested parties may submit a statement for the record [via email](#) through April 23, 2024.

Additionally, U.S. Food and Drug Administration (FDA) Commissioner Robert Califf will testify before the U.S. House of Representatives [Committee on Oversight and Accountability](#) on April 11, 2024, regarding the agency's handling of tobacco and nicotine products regulation, among other issues, according to a press release.

Congress Examines Proposals to Address Expiring Telehealth Flexibilities

The House Committee on Energy and Commerce (E&C) Subcommittee on Health will convene April 10, 2024, for a legislative hearing, "[Legislative Proposals to Support Patient Access to Telehealth Services](#)." Legislation under consideration – more than a dozen bills – would remove geographic requirements and originating-site restrictions first implemented during the COVID-19 pandemic. Notable measures include the Telemental Health Care Access Act (H.R. 3432); Expanded Telehealth Access Act (H.R. 3875); CONNECT for Health Act of 2023 (H.R. 4189); and The Telehealth Modernization Act of 2024 (H.R. 7623).

Bipartisan Privacy Rights Discussion Draft Legislation Released

Retiring House E&C Committee Chair Cathy McMorris Rodgers (R-Wash.) and Senate Committee on Commerce, Science and Transportation Chair Maria Cantwell (D-Wash.) have reached a compromise on



legislation addressing data privacy. The two released a discussion draft – the [American Privacy Rights Act \(APRA\)](#) – after several years of unsuccessful negotiations. The draft legislation would impose relatively stringent requirements for companies' use of consumer data. Under the discussion draft legislation, companies would be required to allow users to opt-out of targeted advertising and prohibit certain unauthorized data sales and transfers.

Further details, including the [legislative text](#) and a [section-by-section](#) of the discussion draft, are available in a [press release](#) published on the E&C Committee website on April 8, 2024.

Democrat Healthcare Professionals Running in 2024

A number of healthcare professionals are running to serve in the House in the upcoming 2024 election.

- Kelly Morrison, an OB-GYN and Minnesota state senator, is running for the seat currently held by retiring Rep. Dean Phillips (D-Minn.).
- Amish Shah, an emergency physician and Arizona state representative, is challenging incumbent Rep. David Schweikert's (R-Ariz.).
- Maxine Dexter, a pulmonary and critical care specialist, is one of several Democrats running for the seat currently held by retiring Rep. Earl Blumenauer (D-Ore.).
- Tim Peck, an emergency physician, is challenging Rep. Erin Houchin (R-Ind.).
- Bob Lorinser, a family physician, is among the Democratic primary candidates running for incumbent Rep. Jack Bergman's (R-Mich.) seat.
- Kristin Lyerly, an OB-GYN, is running unopposed in the Democratic primary to fill retiring Rep. Mike Gallagher's (R-Wis.) seat.

REGULATORY UPDATES

The Centers for Medicaid and Medicare Services (CMS) Releases IPPS Psychiatric Proposed Rule, IPPS Proposed Rule Expected Soon

In support of the Biden Administration's continued [focus on behavioral health](#), CMS proposed changes to the rule aim to improve behavioral health coordination, payment and access. Policies targeting access include a proposal to revise patient-level adjustment factors, as well as a proposal to increase the per-treatment amount for Electroconvulsive Therapy (ECT). Additionally, the rule proposes to update the wage index using the Core-Based Statistical Area (CBSA) Labor Market Areas defined in the OMB Bulletin 23-01. The rule, if finalized as proposed, is estimated to increase payments to Inpatient Psychiatric Facilities (IPFs) by 2.6 percent, a \$70 million increase from the prior year. The rule also includes updates to the Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program with the goal of improvements in the assessment of post-discharge acute care, discharge planning and care coordination. For additional details, please refer to the [CMS press release and fact sheet](#).

CMS Releases Calendar Year 2025 MA and Part D Final Rate Notice

[CMS estimates](#) that the policy changes in the final notice will result in a 3.7 percent increase in Medicare Advantage (MA) payments in 2025. This is the same estimate included in the advance notice, and CMS notes that this would increase by more than \$16 billion in MA plan payments from 2024 to 2025. CMS is proceeding with the phase-in of the Part C Risk Adjustment Model by blending 67 percent of the risk score calculated using the updated 2024 MA risk adjustment model with 33 percent of the risk score calculated using the 2020



MA risk adjustment model. This blended MA risk score trend for CY 2025 is 3.86 percent. Overall, the impact of the risk model revisions and normalization policies is estimated to have a net -2.45 percent impact on plans compared to CY 2024. CMS also finalized updates to the Part D risk adjustment model as required by the Inflation Reduction Act (IRA). For additional details, please refer to the [CMS press release and fact sheet](#).

CMS is creating a provider category called outpatient behavioral health that will include Mental Health Counselors (MHCs), Marriage and Family Therapists (MFTs), opioid treatment providers, mental health centers, addiction medicine physicians, nurse practitioners and physician assistants.

CMS Releases CY 2025 MA and Part D Final Rule

The [final rule](#) institutes changes to the MA and the Medicare Prescription Drug (Part D) Programs. CMS noted the rule includes policies to strengthen protections and guardrails and ensure MA and Part D plans best meet the needs of enrollees. Additionally, the agency aims for the policies included in this rule to promote access to behavioral healthcare providers, promote equity in coverage and improve supplemental benefits. For additional details, please refer to the [CMS fact sheet](#).

CMS Issues Notice of Benefit and Payment Parameters for 2025 Final Rule

The [2025 Final Rule](#) finalizes changes to standards that health plans participating on the Affordable Care Act Marketplace must comply with, as well as new requirements for Marketplaces themselves and agents, brokers, web-brokers, direct enrollment entities and assisters that help Marketplace consumers. The rule also includes policies impacting Medicaid and the Children's Health Insurance Program (CHIP). For additional details, please refer to the [CMS press release and fact sheet](#).

HHS Releases Drug Shortages White Paper

The U.S. Department of Health and Human Services (HHS) [released a white paper](#) last week outlining steps the Biden Administration has taken to prevent and mitigate drug shortages and proposing additional solutions for policymakers to consider. The paper focuses specifically on generic sterile injectables used in inpatient settings, though HHS acknowledges that the solutions considered may be applicable to other markets. HHS recommends further collaboration with the private sector to develop and implement a Manufacturer Resiliency Assessment Program and a Hospital Resilient Supply Program. The new programs would be aimed at increasing transparency in the market, linking purchasing and payment decisions to supply chain resilience practices, and incentivizing investments in supply chain resilience and diversification of the supply, including domestic manufacturing, to drive impactful change.

MedPAC and MACPAC Will Hold Monthly Meetings This Week

The Medicare Payment Advisory Commission (MedPAC) will host its monthly public meeting April 11-12, 2024. Sessions include:

- [April 11, 2024](#), Morning Session (10:30 a.m. to 1:00 p.m.): Topics covered: telehealth in Medicare: status report, alternative approaches to lowering Medicare payments for select conditions in inpatient rehabilitation facilities
- [April 11, 2024](#), Afternoon Session (2:15 p.m. to 5:30 p.m.): Topics covered: considering approaches for updating the Medicare physician fee schedule, assessing consistency between plan-submitted data sources for MA enrollees
- [April 12, 2024](#), Morning Session (9:00 a.m. to 11:45 a.m.): Topics covered: generic drug pricing under Part D, initial findings from analysis of Medicare Part B payment rates and 340B ceiling prices



Also on April 11-12, 2024, the Medicaid and CHIP Payment and Access Commission (MACPAC) will host its [monthly public meeting](#). Topics include Medicaid financing transparency, state Medicaid agency contracts (SMACs) and Medicaid unwinding. Please refer to the [meeting agenda](#) for more details.

NEJM Publishes New Quality in Value Based Care Blog

The *New England Journal of Medicine* (NEJM) published "[Elevating Quality, Outcomes, and Patient Experience Through Value-Based Care: CMS Innovation Center's Quality Pathway](#)," written by Susannah Bernheim, MD, MHS, the chief quality officer and acting chief medical officer for the Center for Medicare and Medicaid Innovation (CMMI). The blog highlights CMMI's efforts to align and strengthen quality measurement while improving patient outcomes.