



Federal Issues

Regulatory

MedPAC Highlights Medicare Advantage's Efficiencies in Delivering Benefits

AHIP released a [new article](#) highlighting a recent public meeting where the Medicare Payment Advisory Commission (MedPAC) [reported](#) that MA plans are far more efficient at delivering basic benefits than original Medicare.

For 2023, MedPAC estimates MA plan bids average just 83% of original Medicare costs, down from an [average of 96%](#) a decade ago. Furthermore, payments to MA plans, including bonuses for achieving higher quality ratings in the Medicare stars program, continue to be on par with original Medicare spending.

AHIP President and CEO Matt Eyles stated, "In 2023, MA plans are delivering Medicare's basic benefits even more efficiently, allowing them to offer lower out-of-pocket-costs, important additional benefits, and greater value to enrollees. We continue to believe that any comparison between MA and original Medicare must be ['apples-to-apples'](#) – comparing costs for similar benefits and for similar enrollee populations between the programs. Otherwise, policymakers miss what **over 30 million** seniors and people with disabilities already understand—Medicare Advantage

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provides better services, better access to care, and better value.”

The full AHIP article on this latest report from MedPAC can be found [here](#).

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CMS Releases Informational Bulletin on 2023 Federal Poverty Level Standards

CMS released an informational bulletin with updated 2023 Federal Poverty Level (FPL) standards. The 2023 FPL guidelines reflect the 8.0% price increase between 2021 and 2022. In 2023, the poverty guideline for a family or household of four living in the contiguous 48 states or D.C. is \$30,000 per year. The bulletin also includes the 2023 Dual Eligible Standards chart, which outlines the new monthly income and asset limits for the Medicare Savings Program categories. [Read More](#)

State Issues

Delaware

Legislative

The 152nd Delaware General Assembly Reconvenes

The Delaware legislature welcomed nine new members and got off to a fast start with a flurry of bill introductions. Highlighted below are new health coverage mandate proposals.

House Bill 60: This Act requires that all insurance policies issued or renewed in this State include coverage of supplemental and diagnostic breast examinations on terms that are at least as favorable as the coverage of annual screening mammograms. The Act covers all group, blanket, and individual health insurance policies as well as the State employee healthcare plan and Medicaid. The bill would be effective for all contracts and coverage initiated or renewed after January 1, 2024.

House Bill 54: Currently, all health insurance plans subject to requirements under Delaware law must include at least 1 formulation of epinephrine autoinjectors on the lowest tier of the carrier's drug formulary for individuals who are 18 years of age or younger. This Act expands this requirement to all covered individuals, regardless of age, by January 1, 2024.

Senate Bill 31: This Act corrects a technical error in SB 227 (149th General Assembly) by establishing requirements for group and blanket health insurance plans that align with existing requirements for individual and State employee health insurance plans. As introduced, SB 227 specified that coverage for chronic care management under all 3 of these health insurance plan types cannot be subject to patient deductibles, copayments, or fees. Senate Amendment 1 to SB 227 made various intentional changes to SB 227 but also accidentally deleted the line that applied this chronic care management requirement to group and blanket plans. SB 227, as amended, passed both chambers unanimously. As a result, since January 1, 2019, there has been an unintentional difference in the requirements between the plan types. This Act corrects that divergence. This Act applies to policies, contracts, or certificates issued, renewed, modified, altered, amended, or reissued after December 31, 2023.

State Issues

New York

Legislative

Senate Committee to Act on Women's Health Bills

The Senate Committee on Women's Issues is poised to pass the following bills this week, all of which are unnecessary as current law already requires such coverage:

- **Cytology screening (S.200)** — The legislation would require health plans to cover annual cytology screening for cervical cancer without cost sharing and treatment of osteoporosis.
 - **SEP for pregnant women (S. 201)** — The bill would permit pregnant women to enroll in health insurance during a special enrollment period without a penalty.
 - **Genetic testing for ovarian cancer survivors (S. 1193)** — The bill would ensure ovarian cancer survivors have the right to access genetic testing.
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Regulatory

PBM Emergency Regulation Extended

The Department of Financial Services (DFS) has extended the effective date of the emergency regulation related to regulating pharmacy benefit managers (PBMs) operating in New York until January 1, 2024. According to the Department, the amendment was filed due to the need for additional guidance and regulations with respect to the PBM reporting provisions in order to "maintain the status quo and provide certainty to the industry until fully promulgated regulations are effectuated."

2024 Rate Setting Meeting Set for January 30

DFS has scheduled a meeting with plan actuaries to begin discussions on the 2024 Individual and Small Group rate filing process. This first meeting of the group is being held January 30 at 2 p.m. and will be virtual.

State Issues

Pennsylvania

Legislative

How Rising Energy Costs Challenge Pennsylvania Hospitals

Rising energy costs add another layer of pressure on hospitals' already-slim margins, hospital leaders told the Senate Majority Policy Committee on Friday.

On January 20, the committee hosted a public hearing in Allegheny County focused on energy access and affordability. During the hearing, the lawmakers heard from Chuck DiBello, vice president of facilities and real estate, Allegheny Health Network, and John Krolicki, vice president of facilities and support services, UPMC.

The hospital leaders discussed the ways rising energy prices affect hospitals and their efforts to improve sustainability across their health systems.

"As hospitals across the United States grapple with inflation, staffing shortages, and continuing fallout from the coronavirus pandemic, health care leaders warn that the energy crisis could also spell trouble for the entire health care system," DiBello said in submitted remarks.

Among the key takeaways from the hearing:

- **High energy burden:** Hospitals and their affiliated facilities are "large square foot environments," providing high-quality care 24 hours a day, 365 days a year. They require energy for lighting, security systems, operating room equipment, and other necessities, creating a significant financial burden when energy costs rise.
- **Unsustainable balance:** Hospitals pay more to provide care than they receive in payments. Negotiated rates with insurers allow no room for real-time flexibility to address sudden increases in the costs of care. Beyond energy, hospitals have navigated elevated expenses across the board, especially for staffing, supply chain costs, prescription drugs, and other operational expenses.
- **Potential solutions:** The lawmakers called for a review of Pennsylvania's energy policies and infrastructure to address concerns related to access and affordability.

Why this matters: Hospitals continue to communicate with lawmakers and the general public about hospitals' financial strain and the importance of supporting high-quality care in Pennsylvania. Any rate increases for utility costs would represent a significant hardship for health systems to manage.

The prepared remarks from the policy committee's hearing are available [online](#).

Special Elections Set for Next Month

The state will host special elections on February 7 to fill three vacant Allegheny County House seats. A special election for a Senate seat in the 27th Senate District will be held January 31.

The special election date follows a decision from the [Pennsylvania Supreme Court](#), which ruled in favor of House Democrat leaders who requested to hold the special elections on that date. House Republican leaders had said two of the special elections should take place during the May primary.

The special election will determine who will fill the Allegheny County seat that became vacant after the death of Rep. Tony DeLuca (D). It also will determine replacements for former Reps. Summer Lee (D) and Austin Davis. Lee was elected to Congress in November, while Davis began his post as lieutenant governor on January 17.

Today is the last day to register to vote in Allegheny County's special election, and January 31 is the last day to apply for absentee and mail-in ballots.

In the 27th Senate District, State Senator John Gordner resigned from office during November for another role in the Senate. The last day to request absentee and mail-in ballots in the district's special election is January 24.

Additional information about the upcoming special elections is available [online](#).

Regulatory

DOH Updates OED Guidance for Rural Hospitals and Critical Access Hospitals

Last week, the Pennsylvania Department of Health issued updated [Criteria and Guidance to Implement an Outpatient Emergency Department \(OED\)](#). The update removes the 35-mile catchment area provision for critical access hospitals (CAH) or small rural hospitals transitioning to OEDs.

This update comes on the heels of the release of the [final rule](#) for rural emergency hospitals (REH) by the Centers for Medicare & Medicaid Services (CMS). While Pennsylvania does not currently have a health care facility type for REHs, this updated guidance authorizes hospitals that would be eligible for the REH certification to transition to an OED without a catchment area.

The initial guidance was issued during March 2022 and updated during September 2022. In that update, OEDs were no longer limited to rural areas but could not be located within 35 miles of an existing emergency department.

Why this matters: The new guidance cites that “allowing small rural hospitals to transition to an OED without a catchment area will give those hospitals who are unable to maintain inpatient beds an alternative to closure and will help preserve access to emergency care in Pennsylvania’s rural communities.”

State Issues

West Virginia Legislative

West Virginia Legislature Ends First Full Week of Session

The 2023 Regular Session of the West Virginia Legislature ended its first full week of work having advanced a significant number of major issues forward in a short period of time—continuing the trend that was established over the first three days of the session last week.

- **Prior Authorization:** The Senate Majority Leader Dr. Tom Takubo and the House Health Committee Chair Amy Summers have introduced major prior authorization bills (SB 267/HB 2535) that both are only referred to the Health Committees—even though they would clearly impact state expenses since the bills apply to both Medicaid and to the Public Employee Insurance Agency.

The hospitals appear intent on achieving a redefinition of “episode of care” that will enable more types of treatment to be undertaken on the basis of one initial health plan decision—followed by multiple other courses of treatment as determined by a provider.

- **White Bagging:** Similarly, the hospitals are keenly interested in gaining passage of the so-called “white bagging” bill (HB 2429) that passed the House but died in the Senate in 2022.
- **Dental Loss Ratio:** The West Virginia Dental Association is supporting SB 290/HB 2604 to require an 85% loss ratio for dental insurance plans.
- **Copay Insulin Cap:** It is very likely that legislation will pass in 2023 that lowers the current statutory co-pay cap of \$100 for insulin and diabetic products and equipment to \$35 to match the recent change made by the federal government in Medicare benefits.
- **DHHR Reorganization:** The DHHR reorganization bill (SB 126/HB 2006) continues to move forward and is now in the House Finance Committee after having been endorsed by the Health Committee this week. The bills are essentially the same in breaking up DHHR into three new departments—Department of Human Services (housing Medicaid), the Department of Health and the Department of Health Facilities (containing all state-owned healthcare facilities).

Industry Trends

Policy / Market Trends

Arbitration System Overwhelmed by Claims

The Coalition Against Surprise Medical Bills (CASMB) published a new [blog](#) explaining how the *No Surprises Act* remains under attack from some specialists who are overwhelming arbitration systems with dispute resolutions.

A [report](#) from the Departments of Health and Human Services, Labor, and Treasury shows a much higher-than-expected number of submissions to the independent dispute resolution (IDR) from providers, including:

- **90,000 out-of-network payment disputes** by health care providers, air ambulance providers, and companies working for them between April 15 and September 30 – **far more than 17,000 anticipated** in a full year.
- **80% of 11,000 disputes** closed by September 30 were found ineligible for the federal dispute resolution process.
- **10 companies submitted 75% of all disputes**, excluding air ambulance cases.

The *No Surprises Act* has already protected patients from 9 million surprise bills in the first 9 months of 2022. CASMB will continue to advocate to protect patients and ensure the act is implemented in the way it was intended. Read the full CASMB blog [here](#).

New Studies Highlight the Value and Benefits of Medicare Advantage Over Original Medicare

- A new [study](#) in *JAMA Health Forum* found that more Americans are switching to MA plans from original Medicare. While a higher share of enrollees switched from MA to original Medicare in 2016, this was reversed from 2017 through 2020, the study found. In 2020, original Medicare to MA switching rates were almost 3.5 times higher overall than switching rates from MA to original Medicare.
 - Another [study](#) conducted by Avalere Health and commissioned by the Better Medicare Alliance highlights how MA tops original Medicare in providing better outcomes with lower costs for individuals with Type 2 diabetes. The study found MA patients with diabetes had higher prescription fill rates, lower rates of inpatient hospitalizations, fewer emergency department visits, and lower overall medical spending than patients with original Medicare. It also found MA patients with pre-diabetes who developed Type 2 diabetes received their diagnosis earlier and had lower diabetes severity scores than those enrolled in original Medicare.
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Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: <http://legis.delaware.gov/>.

New York Legislation: <https://nyassembly.gov/leg/>

Pennsylvania Legislation: www.legis.state.pa.us.

West Virginia Legislation: <http://www.legis.state.wv.us/>

For copies of congressional bills, access the Thomas website – <http://thomas.loc.gov/>.

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