



Issues for the week ending February 11, 2022

## Federal Issues

### Legislative

#### House Passes Postal Reform Bill with FEHBP Changes

On Wednesday, by a 342-92 margin, the U.S. House passed the [Postal Service Reform Act](#), which includes provisions related to the Federal Employees Health Benefits Program (FEHBP). The legislation would create a new U.S. Postal Service Health Benefits Program (PSHBP) for postal workers and annuitants separate from FEHBP, but still administered by the Office of Personnel Management (OPM).

#### Key provisions of the legislation include:

- Starting in 2025, the legislation would create a new risk pool and program for all postal employees and annuitants, including those eligible for but not enrolled in Medicare Part B.
- Under the new PSHBP, postal annuitants will receive their prescription drug coverage through Employer Group Waiver Plans, resulting in savings for the U.S. Postal Service and lower premiums for postal enrollees.
- Future postal annuitants will be required to enroll in Medicare Part B.

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- The USPS is no longer required to pre-fund the future liability of their retiree health care benefits, which will have a significant positive impact on their financials in the near term.
- Auto-enrollment for postal enrollees who do not enroll in PSHBP during the initial open enrollment will be assigned to a similar plan from the same issuer as opposed to the lowest cost plan.
- The bill codifies the ability of national carriers to offer more than two plan options in both FEHBP and PSHBP.

**Next steps:** The bill is likely to be taken up by the Senate this week.

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## Federal Issues

### Regulatory

#### **CMS Makes Nursing Home COVID-19 Booster Vaccination Data Available Online, Increasing Transparency**

The Centers for Medicare & Medicaid Services (CMS) will now [post data](#) on COVID-19 vaccine booster shots administered to nursing home residents and staff. The data will be available online and will show the rates of booster shots, along with state and national averages. This effort comes as CMS works to improve its transparency and help families navigate the process of finding the best care for their loved ones.

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#### **HHS Provides \$66.5M to Expand Community-Based Efforts to Increase COVID-19 Vaccinations**

On February 8, the Health and Human Services (HHS) [announced](#) that it is providing \$66.5M in American Rescue Plan funding to eight grantees to expand outreach efforts in 38 states and DC to increase COVID-19 vaccine confidence and vaccinations. By leveraging mobile pop-ups and providing accessible transportation to vaccination sites, awardees have already begun to narrow the gaps that communities with access issues face. With the addition of today's awards, HHS has provided a total of nearly \$390 million from the Community-based Workforce for COVID-19 Vaccine Program to 158 organizations. Local partnerships and activities the program has supported to date include deploying community outreach

workers fluent in multiple languages, organizing mobile vaccination clinics for farmworkers, partnering with Black churches to build vaccine confidence, and implementing culturally and linguistically appropriate outreach campaigns.

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## COVID-19 Update

- The U.S. Department of Health and Human Services (HHS) Health Resources and Services Administration (HRSA) [announced](#) it was providing \$66.5 million in American Rescue Plan funding to community-based organizations in an effort to increase COVID-19 vaccine confidence and vaccinations.
- The Food and Drug Administration [issued](#) an emergency use authorization (EUA) for a new monoclonal antibody for the treatment of COVID-19 that retains activity against the omicron variant. The treatment, bebtelovimab, is manufactured by Eli Lilly. The U.S. Department of Health and Human Services (HHS) [announced](#) it will make the treatment available to states “free of charge.”
- The FDA also [announced](#) the agency was postponing a Vaccines and Related Biological Products Advisory Committee meeting originally scheduled for February 15 that was to make a recommendation on whether to authorize two doses of the Pfizer-BioNTech COVID-19 vaccine in children 6 months through 4 years of age. The FDA said they would wait for data on whether three doses of the vaccine are effective before deciding whether to recommend authorization of the vaccine to that age group.
- The Centers for Disease Control and Prevention (CDC) released the findings of a [study](#) examining COVID-19 hospitalizations in adults from August 2021 to January 2022. The study found adults with mRNA boosters were less likely to be hospitalized for COVID-19 during the Omicron variant, even as some protection wanes after four months.

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## State Issues

### Delaware

#### Legislative

#### **Legislation Reintroduced to Mandate Coverage for Annual Behavioral Health Checkups**

[House Bill 303](#) would mandate coverage for annual behavioral health well checkups delivered by masters-level and above BH practitioners by way of billing specific preventive care CPT codes. It also mandates the formation of an advisory committee of health professionals tasked with creating recommendations for implementation of the Act.

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## State Issues

### New York

#### Legislative

#### **Bills of Interest in Committees this Week**

The Senate Insurance and Health Committees meet this week and will consider several bills of interest:

- S.1413 (Rivera)/A.2383 (Niou) – The proposal caps cost sharing for insulin at \$30 for a 30-day supply.
  - S.431A (Hoylman)/A.187 (Gottfried) – The bill would allow Medicaid recipients to consolidate their prescription drug refills to a single trip to the retail pharmacy and allow retail pharmacies to collect the full dispensing fee for partial medication fills.
  - S.1573 (Rivera)/A.1316 (Cahill) – The bill would prohibit health plans from requiring providers to participate in all of their product lines.
  - S.2528 (Rivera)/A.4177 (Lavine) – The proposal creates a new process at the termination of a contract between a physician provider and a health plan that could unilaterally extend the contract, and modifies the current process when a physician provider is terminated for cause under the contract.
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#### **Health Plan Testimony on Proposed Health Budget**

HPA President and CEO Eric Linzer testified during the Senate Finance and Assembly Ways and Means committees 9-hour hearing on the health budget last week as part of a panel that included the Community Health Care Association of New York State and the Primary Care Development Corporation.

His [testimony](#) stressed HPA's concerns with the Medicaid procurement proposal, pointing out the disruption it will cause for New York's most vulnerable populations. HPA's testimony also focused on the industry's support for expanding Essential Plan eligibility and removing the \$9 premium for the Child Health Plus program while also encouraging the Administration and the Legislature to go further in the effort to expand coverage in the final budget, and advocating for funding for commercial insurers to cover unanticipated costs related to COVID-19 testing.

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#### Regulatory

#### **COVID-19 Update**

The Department of Health on Friday issued updated policy and billing [guidance](#) regarding Medicaid's coverage criteria for COVID-19 vaccine counseling.

Also last week, DOH updated its Q&A on Child Health Plus coverage of over-the-counter tests, clarifying that CHPlus covers two FDA-authorized COVID-19 "test kits" per week, with no cost-sharing. This is the

same as the required coverage under the Essential Plan, but differs from Medicaid, which covers two OTC “tests” per week and further states that “a test kit may contain two tests and is considered two OTC tests.”

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## State Issues

### Pennsylvania

Legislative

#### House Advances Licensure for Behavioral Analyst Legislation

On Monday, February 7, the House of Representatives advanced [House Bill 19](#) (Mehaffie, R-Dauphin). House Bill 19 proposes to establish licensure of behavior analysts and assistant behavior analysts.

House Bill 19 passed by a vote of 134-66 and now awaits consideration by the Senate Consumer Protection and Professional Licensure Committee.

**Why this matters:** Currently, there are no licensure requirements for behavior analysts or assistant behavior analysts in Pennsylvania.

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## Industry Trends

Policy / Market Trends

#### Coalition Highlights Report Showing Rapid Increases in Hospital and Physician Prices for Consumers and Employers

The Coalition Against Surprise Medical Billing (CASMB) posted a new [blog](#) showcasing a recent [report](#) from the Congressional Budget Office (CBO) on hospital and physician prices.

The featured CBO report shows surprise medical billing by private equity-backed providers is a prime example of provider market exploitation to demand higher prices from health insurance providers, employers and ultimately, consumers. CBO noted, “evidence suggests that concentration in the markets for hospitals’ and physicians’ services has been growing and that, in many areas, those markets are now moderately or highly concentrated.” The rapid take-over by private equity firms has only accelerated this harmful trend, with evidence suggesting “a growing number of health care providers have been acquired by private equity firms, which may leverage providers’ market power to raise prices.”

CASMB posted another [blog](#) last month detailing several amici briefs filed in support of the Administration’s rulemaking process and the protections included as part of the *No Surprises Act*.

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#### AHIP Releases Detailed Privacy Protections Priorities and Roadmap

The AHIP Board of Directors and Chief Medical Officers leadership team released new [core guiding priorities](#) and a [detailed roadmap](#) to further protect the privacy, confidentiality, and cybersecurity of consumer health information.

In the detailed roadmap, AHIP emphasizes that new technologies – including telehealth, apps, and other digital health care services – should be subject to the Health Insurance Portability and Accountability Act (HIPAA) or similar requirements. AHIP also advises that HIPAA and the Health Information Technology for Economic and Clinical Health (HITECH) Act and corresponding regulations should remain the primary legal framework for protecting Americans' health information.

In addition, the following principles to help secure vital patient data are detailed in the core guiding priorities:

- Every person should have access to their data and be able to easily know how their health information may be shared.
- Personal health information should be protected no matter who holds the data.
- Demographic data should be leveraged to improve health equity and outcomes.
- Entities offering digital tools should be required to embed consumer privacy and security protections within those tools.
- The commercial sale of identifiable health information should be prohibited without the agreement of the individual.

AHIP President and CEO Matt Eyles also released a press [statement](#) with the priorities and roadmap. The statement reads, "As new technologies emerge and the health care system continues to evolve, these priorities reaffirm AHIP and our members' commitment to enhancing patients' access to actionable health information while keeping their personal data secure."

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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](http://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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