

Federal Issues

Legislative

Activity on Capitol Hill

- **HELP moves Pandemic Preparedness Bill:** On Tuesday, the Senate Health, Education, Labor, and Pensions (HELP) Committee held a [markup](#) of S. 3799, the Prepare for and Respond to Existing Viruses, Emerging New Threats, and Pandemics Act (PREVENT Pandemics Act). During this roundtable, Senators discussed a variety of amendments including concerns related to the drug supply chain, the Strategic National Stockpile, country of origin sourcing for active pharmaceutical ingredients, increased funding for the nurse corps, and many others. Ultimately, eight amendments were included and the Committee voted 20-2 to advance the bill to the Senate floor.
- **Finance Looks at Rx Drugs:** The Senate Finance Committee held a [hearing](#) on Wednesday centered on the role of the federal government controlling drug prices and whether efforts to control process would stifle innovation. All Senators agreed that drug prices have been increasing and are heavily

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burdening Americans every day. There was group consensus that innovation and competition are important factors in reducing the price of medications in the market. There was a lack of consensus among senators, some of whom strongly urged Medicare price negotiation as a solution, while others disagreed over concerns about the federal government instituting de facto price controls that could deter market innovation.

Industry Trends

Policy / Market Trends

- Information on State Medicaid Redetermination Plans

- **E&C Tackles Innovation:** On Thursday, the House Energy and Commerce Subcommittee on Health, held a [hearing](#) on legislation to encourage innovation, focused largely on bills related to establishing President Biden's proposed [Advanced Research Projects Agency for Health](#) (ARPA-H). The committee also discussed the need for diversity in clinical trials, and pathways to accelerate drug approval for new medications. The subcommittee examined [22 bills](#) that could be ultimately be taken up by the committee and possibly lead to a vote in the House.
- **COVID Funding On Ice:** After lawmakers pulled the \$15.6 billion COVID-19 spending measure from consideration alongside the omnibus spending package, discussions have returned to passing the \$22 billion COVID-19 spending measure originally requested by the White House. The measure still faces significant difficulties, however, with no clear resolution to the funding disputes that forced the pandemic funding to be pulled from the omnibus bill. Senate and House leadership had proposed to repurpose unused COVID funds from states with a surplus, however, several Democratic House members opposed the idea on the grounds that their states would bear an undo burden for the new spending.

Federal Issues

Regulatory

MedPAC Releases Annual Report to Congress on Medicare Payment Policy

Last week, the Medicare Payment Advisory Commission (MedPAC) [submitted a report](#) to Congress titled "March 2022 Report to the Congress: Medicare Payment Policy." MedPAC is required by law to report to Congress each March and June on the Medicare fee-for-service (FFS) payment systems, the Medicare Advantage (MA) program, and the Medicare prescription drug program (Medicare Part D). The report included a number of issues important to our industry, including provisions pertaining to Medicare Advantage (MA) and telehealth.

Why This Matters: MedPAC recommends payment rate updates for eight **Medicare fee-for-service (FFS) payment systems** for 2023. The commissioners explain 2020 is the most recent and complete data year available due to the COVID-19 pandemic and the report discusses some of the effects of the pandemic and impacts to Medicare policies. The eight payment rate updates the Commissioners recommend for 2023 are:

- Freezing pay for hospitals' inpatient and outpatient services as laid out under current law.
- Continue to recommend the Secretary of Health and Human Services (HHS) collect cost data from ambulatory surgical centers (ASCs). For calendar year 2023, Congress should eliminate the update to the 2022 Medicare conversion factor for ASCs.
- Keep the pay bump in the end-stage renal disease prospective pay system planned for 2023.
- Reduce the 2022 Medicare base payment rates for skilled nursing facilities by 5%.
- Reduce the 2022 home health base payment rate by 5%.
- Reduce the in-patient rehabilitation facilities base payment rate by 5%.
- Increase the 2022 Medicare base payment rate for long-term care hospitals by the market basket minus the applicable productivity adjustment.
- Hospice payment rates for 2023 be held at their 2022 levels and that the aggregate cap be wage adjusted and reduced by 20%.

The **Medicare Advantage** program is addressed in Chapter 12 where the Commissioners provide a status update stating that in 2022, the average Medicare beneficiary had a choice of 36 plans and the average MA plan enrollee has access to nearly \$2,000 in extra benefits annually that Medicare FFS enrollees cannot access without purchasing additional coverage. The report adds Medicare payments for MA extra benefits have increased by 53% since 2019. The report discusses and provides recommendations related to risk adjustment and coding intensity, quality in MA, and dual-eligible special needs plans (D-SNPs) performance.

The report also includes a review of **Dual-eligible special needs plans** (D-SNPs); however, the Commission shared the performance data available provided limited insight on these plans' performance, including the overall difficulties of assessing quality and performance of MA plans.

MedPAC also issued recommendations on telehealth. They reported that 89 percent of beneficiaries are "very or somewhat satisfied" with their telehealth appointments. MedPAC recommended that health care organizations report more information on telehealth. "As the use of telehealth in home health care grows, the lack of information about telehealth visits could also compromise CMS's ability to accurately set payments," MedPAC stated.

HHS Announces Funding for Substance Use Treatment and Prevention Programs

On Tuesday, March 15, the Department of Health and Human Services (HHS), through the Substance Abuse and Mental Health Services Administration (SAMHSA), [announced](#) two grant programs totaling \$25.6 million that will expand access to medication-assisted treatment for opioid use disorder and prevent misuse of prescription drugs. This additional funding is aligned with the administration's Overdose Prevention Strategy released in the fall of 2021. The two grants are:

- The Strategic Prevention Framework for Prescription Drugs (SPF Rx) grant program provides funds for state agencies, territories, and tribal entities that have completed a Strategic Prevention Framework State Incentive Grant plan or a similar state plan to target prescription drug misuse. The grant program will raise awareness about the dangers of sharing medications, fake or counterfeit pills sold online, and over prescribing. The grant will fund a total of \$3 million over five years for up to six grantees.

The Medication-Assisted Treatment – Prescription Drug and Opioid Addiction (MAT-PDOA) grant program provides resources to help expand and enhance access to Medications for Opioid Use Disorder (MOUD). It will help increase the number of individuals with Opioid Use Disorder (OUD) receiving MOUD and decrease illicit opioid use and prescription opioid misuse. The grant will fund a total of \$22.6 million over 5 years for up to 30 grantees. No less than \$11 million will be awarded to Native American tribes, tribal organizations, or consortia.

Medicare Part B Premiums Could Adjust Based on Coverage Policy for Aduhelm

CMS must finish its national coverage policy for the Alzheimer’s drug Aduhelm by April 11. HHS Secretary Becerra told reporters during a press conference last week, “Once we have that determination, we’ll be able to fully assess what impact Aduhelm may have had on premiums for seniors.” In January, CMS released its draft national coverage proposal, and if it were to become final, Medicare would only cover patients enrolled in approved clinical studies. The final coverage determination will have a marked impact on Aduhelm’s market potential, which Biogen estimated to be 50,000 patients if a Medicare reimbursement policy was in place this year. CMS began the Medicare coverage determination process for Aduhelm in July 2021. At the time, one of the primary concerns related to access to care was the high price tag. Medicare Part B premiums saw a record-breaking spike in 2022, and as a result Biogen dropped the drug’s price from \$56,000 to \$28,200. The outcome of the coverage determination could set a precedent of how Medicare addresses expensive, new drugs brought to market moving forward. Experts say an adjustment to premiums in the middle of the year would be unprecedented.

State Issues

Delaware

Legislative

Package of Bills Introduced to Address Maternal and Infant Health

Dubbed “The Momnibus,” a series of bills were introduced to improve maternal and infant health in Delaware. These bills work to reduce adverse experiences that women frequently face during pregnancy, birthing, and postpartum as well as reducing the maternal and infant mortality rates in Delaware. Please note that while HB 234 is part of the series, it was introduced last session and has been released from committee and is now on the House Ready List.

Why This Matters: The United States has one of the highest rates of maternal mortality among high-income countries and wide disparities by race that have been documented since rates separated by race were first published in 1935, with Delaware having one of the highest infant mortality rates in the country.

What the Package includes:

- [HB 346](#) removes the requirement that a pregnant patient enrolled in the state Medicaid program receive prior authorization for an automated take home blood pressure cuff when the automated take home blood pressure cuff is recommended by their doctor.
- [HB 345](#) ensures pregnant women and women who have given birth within the past six weeks who are subject to the custody of the Department of Corrections have access to midwifery and doula

services by requiring the Department to make reasonable accommodations for provision of available midwifery or doula services.

- [HB 344](#) This Act is intended to provide licensed health care professionals and other health care staff with strategies for understanding and reducing the impact of their biases in order to reduce disparate outcomes and ensure that all patients receive fair treatment and quality health care by requiring annual explicit and implicit bias training for health professionals and staff of hospitals and freestanding birthing centers.
 - [HB 343](#) This Act requires that the Division of Medicaid and Medical Assistance to present a plan to the General Assembly by November 1, 2022 for coverage of doula services by Medicaid providers.
 - [HB 342](#) Delaware law already prohibits the use of restraints on women who are giving birth or in labor except in limited circumstances. This Act expands that protection to include women in the second or third trimester of pregnancy and those in the 13-week immediate post-partum period.
 - [HB 341](#) This Act requires that the state exempt pregnant persons and the parent or other relative primary caregiver of a child six months of age or younger from TANF work requirements.
 - [HB 340](#) This Act changes the name of the Commission, from “Child Death Review Commission” to “Child and Maternal Death Review Commission” to reflect the intended dual focus of the Commission. The definition of “maternal death” is updated to include death during pregnancy or within a year from the end of pregnancy, and related to, or aggravated by, the pregnancy or birth, including death by suicide.
 - [HB 234](#) This Act requires the Department of Health and Social Services, Division of Medicaid and Medical Assistance to take the necessary steps to expand Medicaid coverage to pregnant women from the current coverage of 60-days from the end of pregnancy under federal Medicaid regulations to 12 months from the end of pregnancy.
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State Issues

New York

Regulatory

DFS Issues Final Health Claims Template; First Report Due 5/15/22

The Department of Financial Services (DFS) last week issued the finalized Health Care Claims Report Template, instructions, and Q&A. All are posted on the DFS [website](#). The reporting requirement applies to: Commercial coverage, Medicaid Managed care, Essential Plan, and Child Health Plus lines of business. However, Medicaid Managed Care does not include HARP (Health and Recovery Plans), SNPs (Special Needs Plans), or Medicare Advantage plans. The first quarter reports are due by May 15, 2022.

DFS Releases Draft Circular Letter on Early Intervention Claims Pool

DFS last week shared a draft circular letter that outlines the new process for reimbursing early intervention claims as of January 1, 2022. Under the provisions of legislation adopted last year, claims from municipalities will be paid from the EI pool funded by the \$40 million covered lives assessment rather than by plans. The draft notes that plans may still receive claims for EI services provided on and after January 1,

2022 but adds that plans are not responsible for reimbursing these claims and should contact the state's fiscal agent to initiate a return of payment.

Governor Extends COVID Disaster Emergency Through 4/5/22

Governor Hochul last week renewed the Executive Order ([EO 11.4](#)) declaring a disaster emergency in New York, through April 15, 2022. Additionally, DFS extended the two emergency regulations to June 13, 2022 [Waving cost sharing for coronavirus testing](#) and [Waiving cost sharing for COVID-19 vaccines](#).

Industry Trends

Policy / Market Trends

Information on State Medicaid Redetermination Plans

The Kaiser Family Foundation (KFF) released a new 50 state survey, "Medicaid and CHIP Eligibility and Enrollment Policies as of January 2022," (available [here](#)) that is heavily focused on state plans for unwinding the Medicaid continuous enrollment requirement established under the Families First Coronavirus Response Act (FFCRA). The KFF Survey covers topics important to Medicaid plans' advocacy including:

- How quickly states were planning to complete redeterminations (e.g., 1-3 months or 9-12 months);
 - Whether any states were contemplating starting terminations before the end of the PHE, and giving up the associated FMAP bump; and
 - Whether states had established a prioritization for which populations would be redetermined first.
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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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