

Federal Issues

Legislative

U.S. Senate Votes to Extend Medicare Sequester Relief

On Thursday, the U.S. Senate passed [legislation](#) by a 90-2 vote that would prevent the Medicare sequester from taking effect until 2022 due to the pandemic. The House previously passed similar legislation and is expected to concur with the Senate version.

Next Steps: The legislation now moves to the House for consideration when it returns from recess on April 12. Because the moratorium expires on March 31 and the extension will not be completed until mid-April, the Centers for Medicare & Medicaid Services (CMS) said April Medicare Advantage (MA) capitation payments to plans will be delivered on time (April 1) with the sequester cut reflected. Assuming legislation becomes law, CMS intends to do a retroactive “true up” in the May payment (April 30) to make plans whole.

If signed by President Biden, the legislation will avert cuts, which have an annual impact of nearly \$200 million for Pennsylvania hospitals.

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Consistent with prior precedent, it is expected that CMS will hold Medicare claims until the bill is signed into law.

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Senate Confirms More Biden Nominees

In a 57-43 vote, the Senate on Tuesday confirmed Dr. Vivek Murthy as Surgeon General — President Biden's second health care advisor to be approved by the chamber this month. Dr. Murthy is reprising a role he held during the Obama Administration, where he served as Surgeon General from 2014 to 2017. A former co-chair of President Biden's COVID-19 transition Advisory Board, Dr. Murthy indicated in his confirmation hearing last month that his focus as Surgeon General would be on issues relating to the COVID-19 pandemic, mental health, and substance use disorders.

On Wednesday, the Senate also voted 52-48 to confirm Dr. Rachel Levine as Assistant Secretary for Health at HHS. Dr. Levine most recently served as the Pennsylvania Secretary of Health and spoke at length about her past experience as a pediatrician during her confirmation hearing last month.

Next Up: After recess, the Senate will hold confirmation hearings for President Biden's nominees for Centers for Medicare & Medicaid Services (CMS) Administrator, Chiquita Brooks-LaSure, and HHS Deputy Secretary, Andrea Palm.

Elsewhere on the Hill

- The [Ensuring Parity in MA and PACE for Audio-Only Telehealth Act of 2021](#) was introduced in the House of Representatives by Reps. Terri Sewell (D-AL) and Gus Bilirakis (R-FL). The bipartisan bill would allow for audio-only telehealth services to count toward Medicare Advantage risk adjustment purposes. A [companion bill](#) in the Senate was introduced by Sens. Catherine Cortez Masto (D-NV) and Tim Scott (R-SC) last month.

- **Matt Eyles, president and CEO of America’s Health Insurance Plans (AHIP)**, issued this statement following the introduction of the legislation: “The bipartisan legislation is another example of how the public and private sector can work together to improve health care affordability and access for all Americans. **We urge members of Congress to work together swiftly to pass this important legislation that will promote stability in premiums and benefits and improve access to care for Medicare beneficiaries.**”
 - The House Energy and Commerce Subcommittee on Health held a [hearing](#) titled “Building on the ACA: Legislation to Expand Health Coverage and Lower Costs.” Witnesses testified before the panel on a range of health care topics, including the challenges and benefits of short-term health plans, price transparency in hospitals, Medicaid expansion, and ACA enhancements in the American Rescue Plan Act (ARPA). At the hearing, Democrats focused on building on the ARPA ACA coverage expansions, while Republicans cautioned against moving towards a government-run health care system, supported the ability to continue to offer short-term limited duration plans, and highlighted the need to reduce health care costs. Additionally, lawmakers used the hearing to discuss [18 health care bills](#) introduced before the Subcommittee.
 - The House Appropriations Subcommittee, The Departments of Labor, Health and Human Services, Education and Related Agencies held a [hearing](#) on “Addressing the Maternal Health Crisis.” Lawmakers heard from several health care policy experts on the state of maternal health in the U.S., which possesses the highest maternal death rate of any developed country, and their recommendations to improve health outcomes for moms and babies. Witnesses testified about maternal health through the lens of health equity, recommending that lawmakers support programs that address racial disparities and structural racism in health care and promote a diverse health care workforce.
 - The Senate Health, Education, Labor and Pensions (HELP) Committee held a subcommittee [hearing](#) on the high cost of prescription drugs in the United States. Witnesses -physicians, policy experts, and patient advocates – testified on the factors that lead to high drug prices, including expensive brand name drugs and patent “thickets” around lucrative medicines.
 - The Senate HELP Committee held a full committee [hearing](#) on “Examining Our COVID-19 Response: Improving Health Equity and Outcomes by Addressing Health Disparities.” The hearing examined ways in which the COVID-19 pandemic exacerbated longstanding racial disparities in healthcare and recommendations to improve health equity. Specifically, the hearing featured a discussion on the importance of addressing vaccine hesitancy in communities of color and the need to collect data with greater detail on demographics, ethnicity, and other social determinants of health.
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Federal Issues

Regulatory

States Ask Agencies for Additional State Reinsurance Program Funds

In a [letter](#) led by New Hampshire and signed by 13 other states – including Delaware and Pennsylvania – with current state reinsurance programs in place, states asked for potentially billions in new federal funding to support their programs. The reason for the request is due to the billions appropriated in the most recently passed COVID-19 relief package to increase the generosity of premium subsidies for Exchange plans. Because more individuals in each state are expected to be enrolled and eligible for enhanced subsidies, the states argue that the baseline assumptions for their reinsurance programs have changed fundamentally, necessitating a recalculation of the tax credit amounts that “pass through” to the states to support reinsurance programs that in turn, lower premiums for plans in the state’s individual market (inside and outside of the Exchange).

The letter comes after the federal agencies recently recalculated increases to many states’ pass-through funding amounts due to updated modeling assumptions that consider the macroeconomic effects of the pandemic.

Coronavirus Updates

- According to [recent data](#) published by the U.S. Centers for Disease Control and Prevention, about one in four people in the U.S. – nearly 83 million people – have received at least one dose of vaccine, and more than one in eight – about 45 million people – have been fully vaccinated.
- AstraZeneca released updated vaccine data on the efficacy of its COVID-19 vaccine, AZ1222. The updated data show that the AstraZeneca vaccine is 76 percent effective against symptomatic COVID-19, 100 percent effective against severe or critical disease and hospitalization, and 85 percent effective against symptomatic COVID-19 in participants aged 65 years and over.
- Biden administration officials announced they were not confident that Johnson & Johnson would be able to meet its [self-imposed deadline](#) to deliver 20 million coronavirus vaccines by the end of March. Johnson & Johnson has said it is on target to meet that goal. Johnson & Johnson only had four million doses ready to ship when it was authorized by the FDA at the end of February. An additional 1.2 million doses have gone out since, meaning the company must have another 14.8 million ready in the next week to meet its goal. White House officials said Tuesday, four million more J&J doses would be allocated this week.
- The Biden Administration announced a \$10 billion investment to expand access to COVID-19 vaccines and build vaccine confidence in hard-hit and high-risk communities. With funding in large part from the American Rescue Plan, the U.S. Department of Health and Human Services (HHS) will invest nearly \$10 billion to expand access to vaccines and better serve communities of color, rural

areas, low-income populations, and other underserved communities in the COVID-19 response. This funding will expand access to vaccines for vulnerable populations and increase vaccine confidence across the country. For further details, please see [this fact sheet](#).

- President Biden also announced during a news conference his administration was doubling the vaccine goal for the first 100 days of his presidency. The Biden Administration is now aiming to distribute 200 million doses of COVID-19 vaccines within the first 100 days.
- The Centers for Medicare & Medicaid Services (CMS) released an updated data [snapshot](#) on the impact of Medicare beneficiaries, particularly among underserved populations – including racial and ethnic minorities, adults 85 years old and older, and individuals with certain pre-existing conditions. The updated data show that certain populations continue to be impacted disproportionately by COVID-19.

State Issues

Pennsylvania

Legislative

In Harrisburg, Workforce Legislation Moves through State Legislative Process

The state Senate Consumer Protection and Professional Licensure Committee last week considered [Senate Bill 115](#), sponsored by Senator Lisa Boscola (D-Northampton), which authorizes Pennsylvania to join 35 other states as a participant in the Nurse Licensure Compact. The bill was reported out of committee by a vote of 10–3.

The no votes can be attributed to opposition by the nursing unions—SEIU and PASNAP—which are pushing for hospital nurse staffing reporting requirements to be included in the legislation. They also continue to push messaging that hospitals would use the compact to hire a temporary, less-trained, and less-expensive nursing workforce. The bill now goes to the full Senate.

Additionally, two other hospital-supported workforce bills moved through the legislature and were unanimously approved by the state House. The following bills await state Senate consideration:

- [House Bill 192](#), sponsored by Representative Jesse Topper (R-Bedford), provides for clarification of the sharing of information under the Interstate Medical Licensure Act to address issues raised by the Federal Bureau of Investigation. This fix enables Pennsylvania to fully participate in the Interstate Medical Licensure Compact.
- [House Bill 245](#), sponsored by Representative Aaron Kaufer (R-Luzerne), will ensure that graduates of international medical schools are held to the same educational standards as graduates of U.S.

and Canadian medical schools when seeking licensure in Pennsylvania. Passage of House Bill 245 will provide for more access to physicians and, in turn, greater access to care.

Why this matters: All three bills fall in line with the hospital community's call to make policy changes to support Pennsylvania's health care workforce now and in the future.

PA House Health Committee Advances Bill to Expand Eligible COVID-19 Vaccinators

The Pennsylvania House Health Committee recently advanced a bill that would expand the list of medical professionals who can administer the COVID-19 vaccine to include dentists, emergency medical technicians (EMT), and paramedics, among others.

[House Bill 63](#), sponsored by Representative John A. Lawrence (R-Chester), would ensure that any professionals approved by the federal government to administer the COVID-19 vaccine through the Public Readiness and Emergency Preparedness Act (PREP) act are able to administer the vaccine in Pennsylvania.

The Biden Administration [updated](#) its list of eligible COVID-19 vaccinators to include the following professionals with proper training as outlined in the PREP Act: Dentists, EMTs, Midwives, Optometrists, Paramedics, Physician assistants, Podiatrists, Respiratory therapists, Veterinarians, and retired medical professionals whose licenses are in good standing and medical students working in eligible professions with proper training and professional supervision.

Why this matters: Lawmakers said the measure would bolster the vaccine provider workforce and help ensure there are enough medical professionals to administer the vaccine once the COVID-19 vaccine supply increases. The committee approved the measure 25-0, and it will now head to the House for consideration.

House Insurance Committee Holds Hearing on Transparency in Prescription Drug Pricing

The House Insurance Committee held an informational hearing on the issue of transparency in prescription drug pricing. The Committee heard from Shirley Girouard, Ph.D., a health policy consultant with the Council of State Governments (CSG) and a former State legislator from New Hampshire.

Ms. Girouard noted that transparency in drug pricing should be considered only one step for states to meet their policy goals of providing access to prescription drugs, assuring value, and reducing prescription drug costs and spending. She further noted that CSG research identified 166 state laws that were enacted between 2015-2018 that intended to force manufacturers to lower prices by reporting more data to states. Those legislative efforts have focused on identifying the cost of producing a prescription drug and the actual price that health plans and individuals pay for the drug.

Contrary to the position of some of the members on the Committee, Ms. Girourard stated that the traditional market forces do not apply well to the prescription drug market because there is a lack of transparency in pricing data.

While the informational hearing was not intended to focus on any specific legislative proposal, Democratic Committee Chair Tony DeLuca (D-Allegheny) noted that it's time to dive into his legislation, [House Bill 209](#). Representative DeLuca opined that too much time had been spent exploring problems that touch on the edges of the problem but fails to make prescription drugs affordable to individuals. However, the Republican Committee Chair, Tina Pickett (R-Bradford), noted that great strides have been made in prescription medications, but she pointed out that there is much more work that can be done to educate the public on purchasing their prescription drugs and the options that are available to them.

Insurer and Provider Perspective: [The Campaign for Sustainable Rx Pricing](#) is an advocacy group that promotes greater transparency and competition to make prescription drugs more affordable. "Patients deserve open and honest drug pricing – clear and transparent information about the true costs of treatment, how manufacturers set prices and the actual cost of bringing drugs to market, particularly for high-cost drugs," a statement by the campaign reads. Specifically, the Campaign for Sustainable Rx Pricing proposals around transparency include:

- Apply price transparency parity by requiring manufacturers to publicly disclose pricing information and justify price increases for their high-priced drugs;
- Guarantee a better return on taxpayer investments by requiring manufacturers to disclose research and development costs for drugs, including identifying which portion of research they alone funded versus how much was funded by other entities;
- Issue pricing transparency reports based on pricing data submitted by drug manufacturers;
- Scrutinize direct-to-consumer (DTC) advertising by requiring list prices and list price increases in ads so that consumers have a more transparent understanding of the actual price of a drug; and
- Limit third-party patient assistance schemes primarily paid for by drug manufacturers that mask actual drug prices and raise costs.

Regulatory

DOH Issues COVID-19 Vaccination Outreach Coordination Order

Last week, Acting Secretary of Health Alison Beam issued an amended [order](#) requiring certain vaccine providers to work with local Area Agencies on Aging (AAA) and Medical Assistance Managed Care Organizations (MCO) to schedule adults eligible in Phase 1A of the state's COVID-19 vaccination plan.

When requested by the Department of Health or its representative, providers must coordinate with the applicable local AAAs and MCOs to schedule appointments for adults eligible under Phase 1A. The order also requires these providers to have the ability to schedule appointments for individuals into the future.

Under this order, a vaccine provider that informs a Phase 1A individual that no appointments are available may be subject to enforcement. The order also requires providers to continue to ensure that appointments can be scheduled both by phone and online scheduling systems.

This amended order became effective at 12:01 a.m. on Friday, March 26, 2021, and will remain in effect until further notice.

Why this matters: Hospitals should review the order and the clarifying [FAQs](#) with internal stakeholders and evaluate the impact on vaccination operations. Hospitals should also develop a strategy to effectively work and collaborate with local AAAs and MCOs.

State Issues

West Virginia

Legislative

Tax Reform and Health Care Issues in Focus as Legislature Nears End of Session

The 2021 Regular Session of the West Virginia Legislature picked up in intensity this week as the “crossover” point on the 50th day when a bill must pass at least one of the two houses in order to be considered over the final ten days. As such, the final day for getting bills out of committees and to the floor of the Senate or House in time to meet the deadline was Friday.

Tax Reform

Of most significance in the rush to meet the deadline is the issue of how Governor Justice’s proposed plan to enact a 60% reduction in the state’s personal income tax—largely financed by a wide variety of sales tax and industry-specific tax shifts. This issue will certainly dominate the last ten days of the legislative session and likely beyond, as the House of Delegates Finance Committee has developed a dramatically different 12-year phased in approach to the elimination of the tax—exclusively financed with projected growth in tax revenues over the period and budget cuts.

While it seems improbable that there will be a personal income tax reduction/repeal bill to pass in final form over the final ten days of the session, Governor Justice is intense and serious about his plan and is determined to make it a reality—presumably at a special legislative session timed to the governor’s best advantage later in the spring or summer.

PBM Legislation

HB 2263, proposing new regulations on PBMs and health plans regarding pharmaceutical rebates and dispensing fees, among other issues, has now moved toward completion and final passage with the

conclusion of a conference committee agreement between the House and the Senate on Friday afternoon. The final conference agreement reflected a concession on the part of the Senate to accept the House's point of sale rebate pass through language and the House's acceptance of the Senate's proposed effective date of January 1, 2022.

There are numerous other significant elements to HB 2263, including:

- A mandated dispensing fees of \$10.49 per script;
- A mandate that any pharmacy be permitted in a pharmacy network; and
- The extension of the provisions of the bill to ERISA employers based on an interpretation of a recent U.S. Supreme Court decision.

Telehealth Payment Parity

HB 2024 concerning licensure of telehealth providers was amended by the Senate to include the provisions of its own SB 1. The new bill, which has been agreed to by both houses in a slightly amended form to clarify definitions, includes a requirement for in-person and telehealth payment parity for existing patients and will also allow prescribers to write prescriptions for Class II drugs to patients with whom they have an existing relationship.

Association Health Plan Expansion

The House Health Committee advanced a modified version of HB 2876 at its Friday morning meeting. This bill proposes to lower the standards in West Virginia for the formation and operation of association health plans. It will now certainly be passed by the House and placed within the Senate for consideration over the final two weeks of the session.

Hospital Price Transparency/Surprise Billing

HB 2005 remains lodged in the Senate Health Committee and there no indications at this time that the bill will be considered in the Senate. This bill proposes to require hospitals to fully disclose their prices on a granular basis and provide estimates for procedures in advance, as well as provisions exceeding the scope of recent federal action in the field of surprise billing and new requirements for health plan network disclosures that go beyond those changes adopted just last year.

Prior Authorization for Cancer Staging Screening

SB 39, which effectively proposes the elimination of prior authorization for cancer staging radiologic screenings, remains within the jurisdiction of the House Health Committee with a subsequent second reference to the House Judiciary Committee. The bill can still advance and pass but it faces a fairly long path over the final ten days of the legislative session.

Expanded Alternative Opioid Therapy Mandate

HB 2634 proposes to clarify current law to require that up to 20 alternative therapy treatments for physical therapy, occupational therapy, chiropractic, and a range of other therapy modalities can be stacked and

maximized at 20 visits for each therapy type rather than a simple total of 20 visits for all types of alternative opioid treatment. This bill died without further consideration in the House Finance Committee.

Expanded Diabetes Coverage Mandates

HB 2708 proposes a significant expansion of the insulin coverage mandate enacted in 2020 by creating a new required treatment model based the law enacted by Connecticut in 2020. This bill and the multiple other bills proposing diabetes coverage expansions have all died in committee in either the House or the Senate.

State Issues

New York

Legislative

Health Care Provisions Considered as Budget Negotiations Continue

New York's new fiscal year starts April 1 and budget negotiations continued throughout the weekend. Issues being monitored by Highmark New York include:

- **“Pay and Pursue”**: A hospital-backed proposal that would require hospital claims to be paid *before* hospitals submit information needed to determine whether the service or treatment was medically necessary.
 - **Covered Lives Assessment (CLA) increase**: A proposed \$40 million increase in the CLA that is included in health insurance premiums to fund Early Intervention services for infants and toddlers with disabilities.
 - **Pharmacy carve-out**: A proposal to delay or repeal the carve-out of pharmacy benefits from Medicaid managed care plans passed last year and due to be implemented on May 1.
 - **Medicaid rates**: A proposal to restore funding for the quality pools for Medicaid managed care plans and a \$1.5 billion COVID-19 “adjustment” in Medicaid rates.
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Industry Trends

Policy / Market Trends

AHIP Releases Findings of Fast PATH Initiative on Prior Authorization

AHIP released the [findings](#) of the Fast Prior Authorization Technology Highway (Fast PATH) Initiative, a 12-month effort to better understand how electronic prior authorization (ePA) could impact the process for patients and providers. AHIP debuted the analysis during a briefing for Congressional staff.

Why this matters: The Fast PATH initiative began in early 2020 with the partnership of six health insurance providers—Blue Shield of California, Cambia Health Solutions, Cigna, Florida Blue, Humana, and WellCare (now Centene)—with Availity and Surescripts serving as the technology partners.

The evaluation of the project, performed by RTI International and Point of Care Partners, found that 71% of experienced providers who implemented ePA reported faster time to patient care. In addition, ePA reduced the time between submitting a prior authorization request and receiving a decision from the health plan by 69%. Other key takeaways from the Fast PATH study include:

- Less burden for providers from prior authorization-related phone calls and faxes after implementation of ePA for experienced users
- Improved transparency of prior authorization requirements for providers who implemented ePA
- Greatest benefit for providers who use technology for most or all their patients

During the briefing, approximately 100 attendees listened to discussion on the role ePA plays in making meaningful improvements to prior authorization, and opportunities for policymakers to foster an environment to make ePA successful.

AHIP also launched a dedicated [webpage](#) where member plans and members of the public can access prior authorization resources, including the findings from the Fast PATH Initiative analysis.

The Pennsylvania General Assembly is in recess. The Pennsylvania House of Representatives returns to session on April 5 and the Pennsylvania Senate returns to session on April 12.

The Delaware Legislature is in session March 30 - April 1.

The West Virginia session runs from February 10 through April 10, 2021.

Congress

The U.S. House and U.S. Senate are in recess until the week of April 12.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

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

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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