

Federal Issues

Legislative

House Lawmakers Unveil Competing Drug Pricing Bills

Last week, both Democrats and Republicans in the U.S. House of Representatives unveiled drug pricing reform proposals. On Thursday, House Democrats [reintroduced](#) their [bill](#) to empower the federal government to negotiate prescription drug costs, known as the Elijah E. Cummings Lower Drug Costs Now Act. The announcement comes after Republican committee leaders in the House on Tuesday [unveiled](#) their own drug pricing reform [plan](#), called the Lower Costs, More Cures Act.

Why this matters: Democrats in both the House and Senate intend to make drug pricing reform a key component – and revenue raiser – of their next major legislative package, expected to come together later in the year. While similar reforms passed the House in the last Congress they were not taken up by the Republican controlled Senate.

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Highlights:

- The Lower Drug Costs Now Act, largely in line with Democrats' legislation from the last Congress, would empower the Secretary of Health and Human Services (HHS) to negotiate drug prices in the Medicare, commercial, and Medicaid markets and institute a Part D cap on Medicare beneficiaries' out-of-pocket spending on prescription drugs at \$2,000 per year, among other provisions. Notably, provisions from the last Congress that would use savings generated by the drug reforms to add dental and vision benefits in fee-for-service Medicare have been excluded.
- The Lower Costs, More Cures Act is also similar to legislation introduced by Republicans in the prior Congress, with a special focus on [addressing insulin costs](#). It [largely consists](#) of bipartisan proposals that have been previously considered by Congress but not signed into law. Like the Democrats' proposal, the GOP bill institutes an out-of-pocket cap for Part D, but at a higher \$3100 figure. House Republican leaders sent a [letter](#) to their members criticizing the Democrats' proposal and highlighting the benefits of their own plan.

The [Campaign for Sustainable Rx Pricing](#) (CSRxP), to promote bipartisan, market-based solutions to lower drug prices. The CSRxP issued a [statement](#) on the introduction of the legislation, urging Congress to advance meaningful reforms that have bipartisan support.

Federal Issues

Regulatory

Administration to Award \$80m to Health Insurance Navigators

As expected, the Biden administration aims to re-energize funding for the Navigator program, which is required in all states to provide impartial enrollment assistance to consumers shopping for health insurance.

Background:

- The Navigator program is administered by CMS in almost three dozen states as part of the federally-facilitated Exchange.
- Navigators often handle complex cases such as households with mixed eligibility status (e.g., Medicaid and/or CHIP and Exchange enrollees in same household), and households with limited English proficient speakers. Awardee announcements are expected later this summer.

- When CMS initially rolled out the Navigator program in 2014 and in the initial Exchange years, funding generally hovered around \$60 million; this number plummeted during the Trump administration, which cited poor enrollment numbers relative to the monetary spend.

Why this matters: With the new injection of \$80 million in funding, the Biden administration is emphasizing the role of Navigators to advance health equity and serve underserved communities, as Navigators are charged through regulations and their cooperative agreements with CMS to serve hard-to-reach populations. This funding level is an eight-fold increase over last year's funding level, as well as the largest allocation that CMS has made for Navigator grants to date.

Coronavirus Updates

- Secretary of Health and Human Services (HHS) Xavier Becerra [extended](#) the public health emergency (PHE) declaration for the COVID-19 pandemic 90 days, beginning on April 21 and extending through July 20, 2021. Several policy provisions are linked to the expiration of the PHE, including cost-sharing waivers for COVID-19 tests and out-of-network vaccinations.
- HHS [announced](#) that it will allocate nearly \$150 million of funding from the American Rescue Plan to community-based health care providers that predominately serve low-income and minority communities in order to aid their response to the COVID-19 pandemic.
- The Department of Health and Human Services (HHS) [announced](#) the launch of a new public education campaign to increase public confidence in COVID-19 vaccines. Key to the campaign will be direct engagement between public health officials with the public and prominent influencers in order to answer any questions they might have about the authorized COVID-19 vaccines.
- The HHS Office of Civil Rights released [guidance](#) on the legal standards that prohibit disability discrimination in COVID-19 vaccination programs. The guidance links to best practices to implement these legal standards and additional information about protections prohibiting discrimination based on race, color, national origin, or English proficiency.
- President Biden [announced](#) his Administration will offer a paid leave tax credit through the American Rescue Plan for businesses to provide full pay for any time their employees need to get a COVID-19 vaccination or recover from that vaccination. The tax credit will offset the cost for small- and medium-sized businesses (defined as fewer than 500 employees) for up to 80 hours (i.e., ten workdays) up to \$511 per day of paid sick leave offered between April 1 and September 30, 2021.
- All 50 U.S. states, plus Washington, D.C., and Puerto Rico, have made U.S. adults over the age of 16 eligible for COVID-19 vaccines, successfully meeting the April 19 deadline set by President Biden.
- The Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) recommended that the pause on the use of the Johnson & Johnson (Janssen) COVID-19 vaccine be lifted and vaccine use resume.

State Issues

Delaware Legislative

Senate Introduces Legislation to Increase Primary Care Reimbursement

[Senate Bill 120](#) requires an insurance carriers to spend a certain percentage of its total cost on primary care over the next four years, from 4.5% in 2022 to 11.5% by 2025. In addition, it requires insurance carrier rate filings to limit aggregate unit price growth for inpatient, outpatient, and other medical services, to certain percentage increases over the next four years.

State Issues

New York Legislative

Committees Focused on Health Care Legislation

With seven weeks left until the scheduled end of the legislative session, activity on health care bills is picking up. Several bills are scheduled for committee action this week:

Senate Health

- **S.4532/A.4667** – The bill would require plans to cover the substitution of abuse-deterrent opioid drug products for certain opioids. The Assembly bill is in the Insurance Committee.

Senate Finance

- **S.5560-A/A.5339** – This is the early intervention proposal that was struck from the final 2022 state budget, which would increase the covered lives assessment by \$40 million dollars to pay for EI services. The Assembly bill is in the Ways and Means Committee.

Assembly Health Committee

- **A.155/S.4965** – Provides for automatic enrollment and recertification simplification for Medicaid managed care plans and long-term care plans. The Senate bill is in the Health Committee.
- **A.985/S.886** – The bill requires information on Medicaid consumer assistance programs be included within all adverse grievances and appeals determinations. The Senate bill is in the Health Committee.
- **A.6883/S.5954** – The bill relates to the general hospital indigent care pool and funding for safety net and enhanced safety net hospitals. The Senate bill is in the Health Committee. We are monitoring this measure.

Assembly Insurance Committee

- **A.1741/S.5299** – This proposal relates to how an insured individual's overall contribution to any out-of-pocket maximum or any cost-sharing requirement is calculated. The bill is in the Senate Health Committee.

- **A.2519** – The measure requires health insurers to provide victims of domestic violence with the option of providing alternative contact information. There is no Senate sponsor for this bill.
 - **A.4668/S.4111** – This bill prohibits plans from making mid-year changes to their drug formularies. The bill is currently on third reading in the Senate.
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State Issues

Pennsylvania

Legislative

Senate Committee Moves Important Informed Consent Legislation

Last Monday, the Senate Banking and Insurance Committee took up Senate Bill 425, sponsored by Senator John Gordner (R-Columbia), which addresses workflow issues impacting patient care and the process of obtaining informed consent. These issues were brought about by a 2017 Pennsylvania Supreme Court's interpretation of the Medical Care Availability and Reduction of Error (MCare) Act, under the *Shinal v. Toms* case, regarding a physician's ability to delegate the duty to obtain the informed consent of a patient prior to specified procedures.

Why this matters: The interpretation of the Supreme Court impacts patient care by ruling that only a physician can obtain informed consent. This ruling does not reflect how health care is delivered today, as it ignores the importance and reality of team-based care.

Senate Bill 425 provides a physician with the ability to determine when to employ the assistance of other qualified practitioners within a framework that still ensures patients are protected and have access to information they need to make informed decisions about very important health care matters.

Industry position: This legislation is supported by The Hospital and Healthsystem Association of Pennsylvania (HAP) and the Pennsylvania Medical Society.

The bill now moves to the full Senate for consideration.

PA Senate Hearings Provide Update on State Budget, Pandemic Response

Closing out this year's lineup of state budget hearings, agency secretaries with the Department of Health (DOH), General Services, and the state Budget Office answered questions about Governor Wolf's 2021–2022 state budget proposal and outlined their challenges during the COVID-19 pandemic.

Last Thursday, Acting Health Secretary Alison Beam testified before the Senate Appropriations Committee about the state's public health strategy during the pandemic and the need to prepare Pennsylvania for future emergencies.

Among the key items discussed during the DOH budget hearing:

- **Federal vs. state funding:** In her opening statement, Acting Secretary Beam said Pennsylvania must balance the use of one-time federal grant funding to invest in the state's public health

infrastructure with ongoing state investments in public health, particularly focusing on data and reporting systems, the public health workforce, and supporting community engagement.

- **Pennsylvania Rural Health Model:** Acting Secretary Beam said Pennsylvania's Rural Health Model has helped sustain some of the state's rural hospitals during the COVID-19 pandemic, providing consistent upfront revenue for participating hospitals. The state is looking to recruit additional hospitals to join the program.
- **Sustainable funding:** Lawmakers said they looked forward to collaboration with the DOH as the agency evaluates its needs to prepare for future emergencies, stressing the importance of a sustainable approach to funding public health
- **Vaccination among seniors:** Acting Secretary Beam highlighted the state's collaboration with county Area Agencies on Aging to vaccinate Pennsylvania's older adults.

During the afternoon hearing on Thursday, Pennsylvania Budget Secretary Jen Swails and General Services Secretary Curt Topper answered questions from the Senate Appropriations Committee about the following topics:

- Governor Wolf's revenue proposals to legalize recreational cannabis, impose a severance tax on natural gas, and increase the Personal Income Tax;
- Plans to acquire a new location to warehouse the state's personal protective equipment stockpile. Secretary Topper said the Pennsylvania Farm Show Complex is not an ideal location for the stockpile, and the state is pursuing an alternate site; and
- The state's structural deficit, which Secretary Swails estimated at \$3 billion, and how to adjust the budget planning to include additional one-time revenue from the federal government.

Industry Trends

Policy / Market Trends

New AJMC Study Highlights Better Outcomes for MA Enrollees

The American Journal of Managed Care published a [new study](#) that showed Medicare Advantage (MA) enrollees were significantly less likely to be hospitalized following a skilled nursing facility (SNF) stay. The study also found MA enrollees had significantly lower medical costs after leaving a skilled nursing facility and were more likely to have a successful community discharge. The findings provide another proof point of the value and quality of care delivered by MA plans.

Final 2021 Marketplace Open Enrollment Report Provides Details on ACA Open Enrollment

The Department of Health and Human Services (HHS) [released](#) the 2021 Marketplace Open Enrollment Report, which showed over 12 million consumers nationwide selected a Marketplace plan during the 2021 OE period. These data reflect the 36 states using healthcare.gov and the 15 states and District of Columbia that run their own State-based Marketplaces. This represents a 5% increase over the 2020 OE period, indicating continued growth. The enrollment report includes additional findings including:

- 88% of consumers in healthcare.gov states received advance premium tax credit (APTC), a 1% increase from 2020 OE.
- For 2021, average APTC amount covered 85% of total premiums, consistent with the 2020 OE.

- Average net premium after APTC was \$92, compared with \$89 average premium in the 2020 OE.
 - 21% of consumers with a plan selection were new to the Marketplace, this is down from 2020 OE when 25% of plan selections were new.
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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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