



## Federal Issues

### Legislative

#### House Committee Chairs Probe ACA Tax Credits

House Ways and Means Committee Chairman Jason Smith (R-MO) and House Budget Committee Chairman Jodey Arrington (R-TX) sent a [letter](#) to the Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) requesting an analysis of the budgetary effects of making permanent the enhanced Affordable Care Act (ACA) tax credits in President Biden's proposed budget.

**Why this matters:** A number of key Republicans in Congress have [expressed concerns](#) about the growing cost of ACA premium tax credits, specifically pointing to the benefits provided to higher income earners and inflationary impact on costs for all Americans. With the enhanced tax credits set to expire at the end of next year, the issue is likely to become one of the most contentious issues in the next Congress.

Specifically, the letter requests CBO and JCT analyze the budgetary effects of making the expanded ACA credits permanent, including:

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- The budgetary effects on outlays, revenues, and the deficit for each fiscal year in the 10 year budget window, as well as the cumulative 5 and 10 year estimates.
- The change in Americans' sources of health coverage, including the number of individuals who would no longer have employer-sponsored insurance over the 10 year window.
- The percentage of the new ACA tax credit spending, if the policy was made permanent, that would go to households with incomes above 400% of the federal poverty level for coverage years beginning January 1, 2025 and ending January 1, 2035.
- The average value of the premium tax credits for new marketplace enrollees under the policy and the average tax benefit of the employer-sponsored insurance tax exclusion for a person projected to no longer enroll in employment-based coverage under the policy.

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## House Subcommittee Advances Privacy Legislation

On Thursday, the House Energy and Commerce Subcommittee on Innovation, Data, and Commerce [advanced](#) the [American Privacy Rights Act](#) (APRA) by a unanimous vote. The legislation would establish national consumer data privacy rights and set standards for data security.

Highlights of the bill include:

- **Private Right of Action:** Allowing consumers to sue when companies violate their privacy rights established under the legislation and seek monetary damages.
- **FTC Enforcement:** Authorizing the Federal Trade Commission (FTC) to enforce the legislation's privacy requirements.
- **Data Minimization:** Restricting the data companies can collect, keep, and use about people to what companies need to provide products and services.
- **Algorithm Transparency:** Requiring companies to provide "meaningful information" to consumers about how they use algorithms to make decisions.
- **Cybersecurity:** Mandating data security standards to prevent data from being hacked or stolen.

During the markup many Subcommittee Members voiced support for APRA and praised the discussion draft for ending the current patchwork of privacy laws. Members were also open to additional updates to the draft, including the definition of a small business, protecting biometric data, and ensuring the role of state attorneys general is not restricted.

**Next Steps:** The bill advances to the full Energy and Commerce Committee for further consideration.

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## Ways and Means Examines Independent Practices

The House Ways and Means Subcommittee on Health held a [hearing](#) entitled "The Collapse of Private Practice: Examining the Challenges Facing Independent Medicine."

**Why this matters:** Medicare Advantage (MA) plans were called out as a particular challenge, with witness Ashish Jha, M.D. claiming MA has complicated physicians' jobs and rural health care, particularly over prior auth requirements. Subcommittee Ranking Member Lloyd Doggett (D-TX) also targeted Medicare Advantage plans over prior authorization, stating that small practices are struggling to fill all of the prior authorization requests that MA plans are requiring.

**Other takeaways:**

- Members and witnesses highlighted the administrative burden independent practices face, noting that it hurts the workforce.
- Site-neutral payment reform was often raised as one way in which Congress could help improve physician reimbursement.
- Several members highlighted the significant challenges rural independent practices face.

**Related:** The House Budget Committee held a [hearing](#) last week examining the budgetary effects of health care consolidation.

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## Federal Issues

Regulatory

### **Biden Administration Launches New Option to Report Potential Violations**

On May 21, CMS [launched](#) a new option on CMS.gov to allow individuals to more easily file Emergency Medical Treatment and Labor Act (EMTALA) complaints.

**Why this matters:** The new resource comes as a part of the Administration's comprehensive [plan](#), released in January, to educate the public and promote patient access to the emergency medical care to which they are entitled under federal law.

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## State Issues

Delaware

Legislative

### **Legislation Advances Creating Hospital Review Board to Address Rising Health Care Costs**

Legislation ([HS 2 for HB 350 w/ HA 1 + SA 1](#)) creating the Diamond State Hospital Review Board is headed to the Governor's desk and he has indicated he will sign the bill into law. The legislation requires hospitals to annually submit spending and revenue data to a seven-member publicly appointed board for approval.

- **Approved budgets shall:**
  - Adhere to the spending benchmark
  - Promote efficient and economic operations of the hospital
  - Maintain the hospital's ability to meet its financial obligation
- Hospital may request adjustments based on exceptional or unforeseen circumstances

- For calendar years 2025 and 2026, a hospital may not charge any payer, purchaser, insurer, or public program an amount that exceeds the greater of 2% or Core CPI plus 1% over rates from the previous year

#### **Key Components of Negotiated Legislation:**

- Significantly modifies the medical services price caps
- Provides more flexibility in setting the healthcare spending growth benchmark
- It adds a performance improvement plan process as an interim step prior to requiring a hospital to submit a proposed budget for approval or modification by the Board
- Eliminates the board's ability to seize hospital assets

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## **State Issues**

### **Pennsylvania**

Legislative

#### **House Insurance Committee Agenda: Biomarker & Telemedicine Coverage Mandates**

Both the House and the Senate return to session next week as they continue to negotiate the budget bills as well as the fiscal and tax codes.

#### **The House Insurance Committee will meet on Monday to consider three pieces of legislation:**

- House Bill 1754, Co-Sponsored by Representatives Mullins and Cutler, requires insurers, Medicaid, or CHIP managed care plans provide coverage for biomarker testing for the purpose of diagnosis, treatment, management and ongoing monitoring of an enrollee's disease or condition, where testing is necessary and supported by medical evidence and best practices.
  - Senate Bill 739, sponsored by Senator Vogel, requires insurers, Medicaid, or CHIP managed care plans provide coverage of telemedicine services when provided in a medically appropriate manner.
  - Senate Bill 1092, sponsored by Senator DiSanto, allows insurers and insurance agents to offer \$125 in non-cash promotional inducements. This bill also allows insurers and insurance agents to offer free or discounted value-added products or services to current customers.
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## Industry Trends

Policy / Market Trends

### **New Study: Three-Quarters of Drug Patents Filed After FDA Approval**

A new JAMA Network study found the top 10 brand name drugs in terms of “US net sales revenue in 2021” had a total of **1,429 patents or pending patents**, according to an [update](#) from the Campaign for Sustainable Rx Pricing (CSRxP).

- **72% were filed** after the U.S. Food and Drug Administration (FDA) initially approved these drugs.
- The study found “patent thicket density peaked 13 years after initial FDA approval, at which time these 10 drugs were protected by a median of **42 active patents**, 66% of which were filed after FDA approval.”

Read the full study [here](#). Learn more about pharmaceutical company’s patent thickening practices [here](#).

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### **MACPAC Releases Report on Medicaid Base and Supplemental Payments to Hospitals**

MACPAC released an updated issue brief that reviews the types and purposes of Medicaid payments to hospitals, emphasizing the distinction between base and supplemental payments. Base payments cover specific services provided to Medicaid enrollees, while supplemental payments, typically made in lump sums, address broader financial needs and goals. States have significant flexibility in designing these payments, leading to substantial variation in payment methods and amounts across the country. In 2022, Medicaid spent \$262.6 billion on hospital care, with 61% of payments through managed care systems and 39% through fee-for-service (FFS). Supplemental payments, which include disproportionate share hospital (DSH) payments, upper payment limit (UPL) payments, graduate medical education (GME) payments, and uncompensated care pool payments, serve various purposes such as covering Medicaid shortfalls and supporting care for uninsured patients. The brief also corrected an earlier error, reducing the reported FY 2022 directed payments from \$47.8 billion to \$42.6 billion.

**Why this matters:** It highlights the complexity and variability of Medicaid hospital financing, noting how state methods for financing Medicaid payments, including provider taxes and local government funds, impact net hospital payments. [Read More](#)

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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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