

## Federal Issues

### Legislative

#### Senate Inches Closer to Infrastructure Package Passage

The Senate continues to push forward discussion and debate of the latest bipartisan infrastructure package, which includes:

- \$110 billion in new spending for roads and bridges;
- \$73 billion for electric grid upgrades;
- \$66 billion for rail and Amtrak, and, importantly for health care access and digital health;
- \$65 billion for broadband expansion;
- \$55 billion for clean drinking water; and
- \$39 billion for transit.

Despite opposition from health care providers, the bill will be partially paid for by implementing a 4% sequester payment reduction for Medicare providers until the first half of 2031. The Congressional Budget Office estimates the \$1 trillion package will nonetheless add approximately \$256 billion to the federal budget deficit by 2031. The Biden administration has stated that the additional debt is manageable due to low interest rates.

## In this Issue:

### Federal Issues

#### *Legislative*

- Senate Inches Closer to Infrastructure Package Passage

#### *Regulatory*

- Coalition Against Surprise Medical Billing Sends Recommendations for Implementation of the No Surprises Act
- CMS Proposes to Rescind Medicare Part B Drug Most Favored Nation Model
- CMS Issues 2022 IPPS and LTCH Rule
- COVID-19 Updates

### Industry Trends

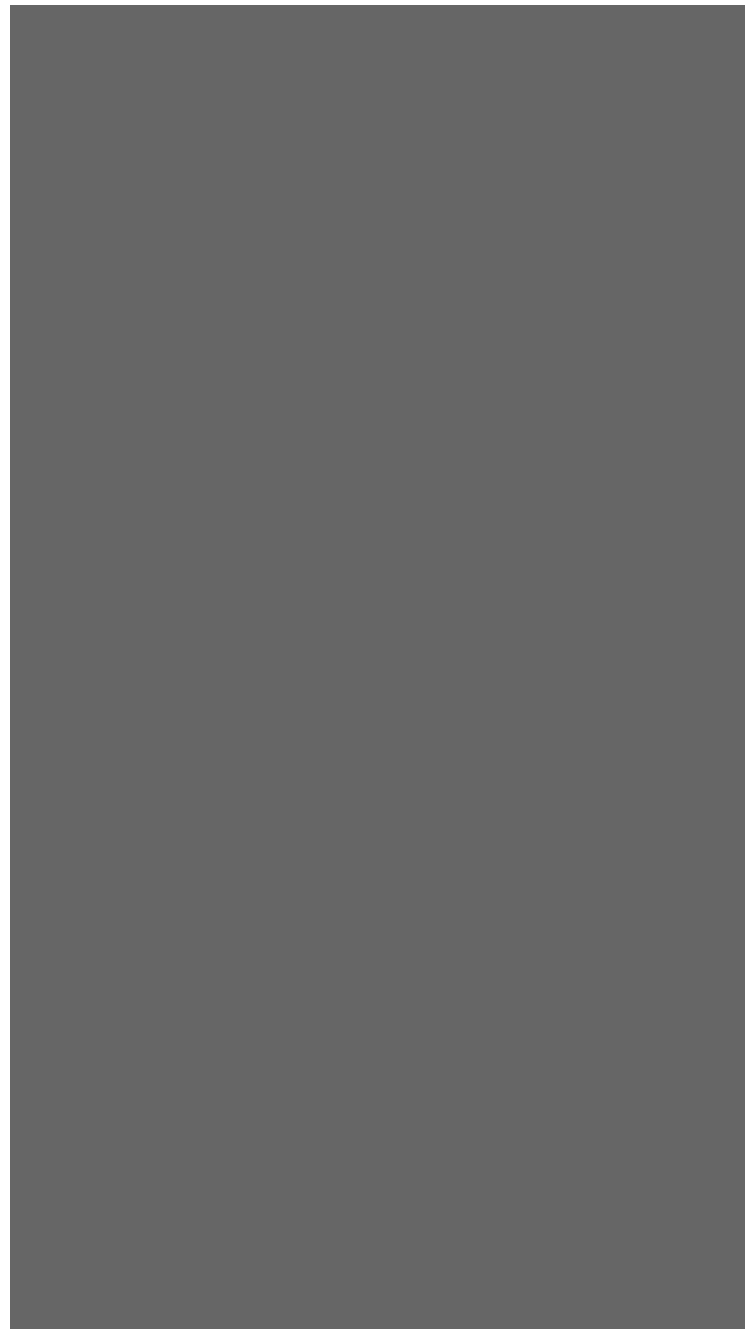
#### Policy / Market Trends

- New CMS Data Shows Positive Impact of ARPA Tax Credits on Premiums

**Next steps & Health Care Priorities:** The Senate is expected to begin work on a budget reconciliation framework that Democrats will use to pass a \$3.5 trillion “human infrastructure” package that may include a number of health-related items.

- Importantly, Democrats will seek to use this reconciliation process to add dental, vision, and hearing coverage to Medicare at a cost of \$358 billion over a decade according to CBO.
- Lowering the eligibility age to 60 could cost \$200 billion over the same time period.
- Higher on the list of priorities are permanent ACA tax credits, a federal stopgap program to provide Medicaid benefits to low-income adults without children in non-expansion states, and potentially expanded Medicaid-covered home and community-based services, which were cut from the bipartisan infrastructure package.

In order to pay for these policies, Democrats will likely include provisions to allow Medicare to negotiate drug prices which could lessen the price tag of the legislation, potentially coupled with more temporary programs that Congress would need to revisit to fund. Reporting this week also indicated cuts to Medicare Advantage plan payment rates are also possible. Republicans will oppose any reconciliation legislation put forward raising concerns of such a large package and its potential effect on inflation. House Majority Leader Nancy Pelosi (D-CA) has indicated that the House will not work on a bipartisan infrastructure package until there is movement on the reconciliation package as well.



---

## Federal Issues

Regulatory

### **Coalition Against Surprise Medical Billing Sends Recommendations for Implementation of the *No Surprises Act***

The Coalition Against Surprise Medical Billing (CASMB) sent a letter to the Departments of Health and Human Services (HHS), Labor, and Treasury regarding implementation of the *No Surprises Act*. The letter encourages the Departments to construct consumer-centric rules that ensure a transparent and cost-effective independent dispute resolution (IDR) process and outlines several policies to achieve that goal.

**Why this matters:** CASMB released an accompanying [blog post](#) on policy recommendations related the payment methodology of the *No Surprises Act*, known as the qualifying payment amount (QPA), and the importance of prioritizing the QPA as the main factor in the IDR process. The QPA is the median of a health plan's in-network, contracted rates for a specific service in a geographic region within the same insurance market. Congress intended in the *No Surprises Act* to use the QPA as the primary and overriding criteria in determining final payments in the arbitration process given patient cost-sharing is ultimately tied to the QPA amount. However, the letter notes "out-of-network providers and private equity firms are pushing for a more expansive and wide-reaching arbitration process where the final payment decisions would be based on a broader set of considerations."

---

### **CMS Proposes to Rescind Medicare Part B Drug Most Favored Nation Model**

The Centers for Medicare & Medicaid Services (CMS) issued a [proposed rule](#) to rescind the [Most Favored Nation \(MFN\) Model Interim Final Rule with Comment \(IFC\)](#). Comments on this proposal are due 60 days from publication.

**Why this matters:** Under the model, the Center for Medicare and Medicaid Innovation (CMMI) would have selected a cohort of 50 single-source drugs and biologicals encompassing the highest percentage of spending by Medicare Part B to test payment under the MFN price. CMMI would then calculate a payment amount for those products reflecting the lowest price of any OECD country whose GDP per capita is at least 60% of the U.S.

The agency states it is proposing to rescind the model "given that the nationwide preliminary injunction precluded implementation of the MFN Model on January 1, 2021, as contemplated, that multiple courts found procedural issues with the November 2020 interim final rule, and that stakeholders expressed concern about the model start date." CMS notes it "will continue to carefully consider the comments we received on the November 2020 interim final rule as we explore all options to incorporate value into payments for Medicare Part B drugs and improve beneficiaries' access to evidence-based care."

---

### **CMS Issues 2022 IPPS and LTCH Rule**

The Centers for Medicare & Medicaid Services (CMS) [issued](#) the fiscal year (FY) 2022 Medicare Hospital Inpatient Prospective Payment System (IPPS) and Long Term Care Hospital (LTCH) final rule, which makes changes to the Medicare rates, payment policies, quality program requirements, and other policies

for these entities. However, the agency notes a second final rule will be issued covering several additional policies that were in the proposed rule but are not contained in this final rule.

The rule will increase hospital payments by about 2.5 percent. It also makes changes to the hospital readmissions, value-based payment and hospital acquired condition reduction programs to suspend evaluation on measures “if the agency determines that circumstances caused by the COVID-19 public health emergency (PHE) have affected those measures and the resulting quality scores significantly.”

**Why this matters:** The final rule is responsive to comments submitted by the hospital community about the following three key issues:

- Repeals the requirement to report the median payor-specific negotiated rates for inpatient services, by Medicare Severity-Diagnosis-Related Group, for Medicare Advantage organizations – an interim step towards a broader Trump administration policy to shift away from a cost-based method of setting Medicare reimbursement rates to one that reflected more private market dynamics. The agency noted this decision in no way indicates a diminution in its commitment to hospital price transparency.
- Indicates CMS will implement policies providing for the distribution of 1,000 new Medicare-funded medical residency positions in future rulemaking given the number and nature of the comments received on the proposed policy.
- Postpones finalization of Medicare organ acquisition payment policies until future rulemaking, in recognition of the number and nature of the comments received on the proposed policies. The organ acquisition payment policies had faced significant scrutiny. In a **bipartisan letter**, members of the U.S. House of Representatives—including six members of the Pennsylvania Congressional Delegation—had urged CMS to delay the implementation of the proposed policy and work with the transplant community to achieve shared public policy goals.

**Additionally, the final IPPS rule:**

- Suppresses certain measures in hospital quality reporting and value programs, applying neutral payment adjustments under hospital value-based purchasing for FY 2022, in recognition that the COVID-19 PHE has resulted in non-representative performance.
- Extends new COVID-19 Treatments Add-on Payments for eligible COVID-19 products through the end of the fiscal year in which the PHE ends.
- Under the Promoting Interoperability Program, finalizes the proposal to continue the 90-day reporting period for calendar year (CY) 2023 and increases the reporting period to 180 days for CY 2024.
- Adopts a new measure reflecting COVID-19 vaccination coverage among health care personnel, and practices to reduce maternal morbidity. CMS noted it received extensive comments on whether the agency should require the collection of a minimum set of demographic data to identify and ameliorate disparities and develop a health equity score measure modeled off the Health Equity Summary Score that has been tested on Medicare Advantage data. CMS will consider these comments in developing future policies.

---

## COVID-19 Updates

- The Centers for Disease Control and Prevention (CDC) released [new data](#) indicating some vaccinated individuals may spread the virus in similar rates to the unvaccinated. The study comes after the CDC updated [guidance](#) recommending vaccinated people wear masks indoors in areas with high levels of COVID-19 transmission. According to the study, 74% of the 469 cases that CDC investigated occurred in fully vaccinated individuals. Genomic sequencing of samples from 119 of 133 individuals in the study showed they had contracted the Delta variant. The study also found evidence that viral loads, or likelihood of transmission, were similar among 127 fully vaccinated people and 84 others who were unvaccinated, partially vaccinated or whose vaccination status was unknown. According to CDC Director Rochelle Walensky, this finding "was a pivotal discovery leading to CDC's updated mask recommendation."
- Seventy percent of American adults have received at least one COVID-19 vaccine dose according to [new CDC data](#), marking the Biden Administration's goal to vaccinate 70% of American adults one month late.
- CMS updated the [Toolkit on COVID-19 Vaccine](#)—Health Insurance Issuers and Medicare Advantage Plans. CMS issued this toolkit to help health insurance issuers and Medicare Advantage plans identify issues to consider and address when providing coverage and reimbursement for COVID-19 vaccine administration.

---

## Industry Trends

Policy / Market Trends

### New CMS Data Shows Positive Impact of ARPA Tax Credits on Premiums

The Centers for Medicare & Medicaid Services (CMS) [released](#) new data further showing the positive impact of the enhanced tax credits authorized under the American Rescue Plan Act (ARPA) on returning enrollees' monthly premiums.

**Why this matters:** Since April 1, when enhanced ARPA tax credits became available through Healthcare.gov, current enrollees who returned to the Marketplace to update their subsidies saved, on average, 40% on their monthly premiums. Thirty-four percent of new and returning consumers have obtained coverage for premiums of \$10 or less on healthcare.gov. CMS released state-by-state [data](#) on premium savings due to ARPA for the 36 states using Healthcare.gov.

Since the beginning of the 2021 Marketplace special enrollment period (SEP) on February 15, 1.5 million Americans have signed up for coverage through Healthcare.gov and 2.5 million current enrollees returned to get more savings, on average over \$40 per month. The 2021 Marketplace SEP ends on August 15.

---

The Pennsylvania General Assembly returns to session in September.

The Delaware Legislature concluded session on June 30.

The New York Legislature concluded session on June 10.

The West Virginia Legislature concluded session on April 10.

### Congress

The U.S. Senate is in session. The U.S. House is scheduled to return on Sept. 20.

**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/>.

The content of this email is confidential and intended for the recipient specified only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.