



## Federal Issues

### Legislative

#### White House Releases “Framework” of Final Reconciliation Agreement

On Thursday, the White House [announced](#) a deal on the framework for the “Build Back Better” budget reconciliation package. The legislation has been scaled back significantly from the original \$3.5 trillion package passed by several House committees in September. While the framework is intended to form the basis for the [legislative language](#) of the reconciliation bill, it is not final and other provisions could make their way into the final package before it is voted on.

Key health provisions in the framework include:

- Extending the expanded Affordable Care Act (ACA) premium tax credits through 2025
- Making ACA premium tax credits available through 2025 to 4 million uninsured people in uncovered states (to address the Medicaid Coverage Gap)
- Establishing a hearing benefit in original Medicare starting in 2024
- Strengthening Medicaid Home and Community Based Services (HCBS)
- Repeal of Trump Administration drug rebate rule

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Items removed from the larger package include dental and vision coverage in traditional Medicare, creation of a new federal Medicaid program in non-expansion states, and a longer extension of enhanced ACA tax credits. Notably, the framework did not address prescription drug pricing or reforms to Medicare Part D. Negotiations continued over the weekend on drug provisions, which may still be added to the package if consensus is reached among Democrats.

- **New Report Finds Medicaid and Marketplace Coverage Helped Offset Uninsured Rate During COVID-19**

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## Federal Issues

Regulatory

### HHS Releases Risk Adjustment White Paper

The Department of Health and Human Services (HHS) released a [white paper](#) outlining possible changes to the HHS-operated risk adjustment model applicable to the individual and small group markets. The white paper provides additional detail and analysis on several updates to the risk adjustment model which HHS proposed but did not finalize in the [2022 Proposed Payment Notice](#). Comments on the white paper are due November 26.

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## COVID-19 Updates

- The Centers for Medicare & Medicaid Services (CMS) issued a [reminder](#) that consumers eligible for the COVID-19 booster shot that coverage is available under Medicare, Medicaid, the Children’s Health Insurance Program (CHIP), and commercial marketplace plans without cost-sharing.
- Moderna [announced](#) today the results of a study that shows its COVID-19 vaccine induced a “robust neutralizing antibody response” in children ages 6 to 11. Moderna said that they plan to submit these data to the Food and Drug Administration (FDA) for review in the near term.
- The Food and Drug Administration's (FDA) independent vaccine advisers voted in favor of authorizing Pfizer’s COVID vaccine for children ages 5-11. Panel members voted 17-0 to

recommend the shot, with one abstention. Data presented by the Centers for Disease Control and Prevention (CDC) at the panel's meeting showed that children ages 5-11 are "at least as likely" as adults to contract COVID-19, and surveillance testing suggests pediatric cases are widely underreported. Hospitalization rates also are three times higher for children of color than for white kids, highlighting racial disparities also seen among adult patients. The FDA will now begin to consider the panel's recommendation. The recommendation made by the panel is not binding but is usually followed by FDA leadership. After approval by FDA leadership, the measure will be reviewed by the CDC's Advisory Committee on Immunization Practices, which is scheduled to meet to consider the issue this week.

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## **HHS Releases Health Workforce Strategic Plan**

On Tuesday, the Department of Health and Human Services (HHS), through the Health Resources and Services Administration, released the Health Workforce Strategic Plan (Strategic Plan). This strategic plan, a requirement from the CARES Act, provides a forward-looking framework for health workforce improvements, focused on four key goals:

- **Goal 1. Expand the Health Workforce Supply to Meet Evolving Community Needs.** Objectives for this goal will include financial support, incentives to grow the workforce and investment in education and training. Additionally, this goal will aim to increase diversity and representation from underrepresented groups in health professions.
- **Goal 2. Improve the Distribution of the Health Workforce to Reduce Shortages.** Approaches to this goal will include evidence-based strategies around education and training in rural and high-need communities.
- **Goal 3. Enhance Health Care Quality through Professional Development, Collaboration, and Evidence-Informed Practice.** This goal will include opportunities to optimize interprofessional, team-based care to support the ability of providers to work to their full scope.
- **Goal 4. Develop and Apply Data and Evidence to Strengthen the Health Workforce.** Efforts to achieve this goal will include monitoring and forecasting to identify trends and to target resources.

This Strategic Plan will facilitate a coordinated and intentional effort to address long-standing barriers to strengthening the health workforce. Many barriers have been amplified by ongoing crises, including the COVID-19 pandemic, the economic condition for lower and middle-income families, changing health impacts due to climate change, and the need to advance racial equity.

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## **State Issues**

**Delaware**  
Legislative

## **PBM Bill Becomes Law**

[House Bill 219](#) Relating to Pharmacy Benefits Managers (PBM) became law without the Governor's signature. This Act is designed to provide enhanced oversight and transparency as it relates to pharmacy benefits managers. The main provisions of this Act is to prohibit a PBM from paying or reimbursing a pharmacy or pharmacist for the ingredient drug product component of pharmacist services less than the national average drug acquisition cost ("NADAC"), or if the NADAC is unavailable, the wholesale acquisition cost ("WAC"). The law also prohibits a PBM from engaging in spread pricing; false advertising; charging a claim adjudication fee; requiring pharmacy accreditation standards or certification requirements that do not match Board of Pharmacy requirements; reimbursing a pharmacy or pharmacist for goods or services less than the amount the PBM reimburses itself or an affiliate; failing to provide a reasonably adequate network for the provision of prescription drugs or denying a pharmacy the opportunity to participate in such network at preferred participation status if the pharmacy accepts the terms and conditions for such participation status.

**Why this matters:** AHIP has interpreted this Act as impacting the ability of not only fully insured plans, but also self-funded plans to negotiate for certain PBM reimbursement arrangements designed to maximize the value of prescription drug expenditures. The U.S. Supreme Court in *Rutledge v. PCMA*, 2020 WL 7250098 (U.S. Dec. 10, 2020), narrowed the scope of ERISA's preemption of state law relating to employer-sponsored health plans. The applicability of this legislation to self-funded plans is still under broader discussion.

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## **State Issues**

### **Pennsylvania**

Legislative

### **House Human Services Committee Advances Mental Health and Substance Use Disorder Confidentiality Alignment Legislation**

On Tuesday, October 26, the House Human Services Committee advanced the following bills:

[House Bill 1561](#) (Farry, R-Bucks) would update the Mental Health Procedures Act to bring PA into alignment with HIPAA standards to permit providers, facilities, and health plans to share appropriate patient mental health and substance use disorder-related information.

[House Bill 1563](#) (Cutler, R-Lancaster) would update the Drug and Alcohol Abuse Act to bring PA into alignment with HIPAA standards to permit providers, facilities, and health plans to share appropriate patient mental health and substance use disorder-related information.

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### **Senate Advances Senate Bill 705 – Telemedicine Legislation**

On Tuesday, October 26, the Senate advanced [Senate Bill 705](#) (Vogel, R-Beaver) to the House of Representatives. Senate Bill 705 would define telemedicine services, offer guidelines outlining who can provide telemedicine services, and establish requirements on health insurance company reimbursement for telemedicine services. Senate Bill 705 passed the Senate by a vote of 46-4 and now awaits consideration from the House of Representatives where it was referred to the House Insurance Committee.

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## Industry Trends

Policy / Market Trends

### Individual Marketplace Open Enrollment Begins November 1

Annual Open Enrollment began Monday in the individual market, including health insurance Marketplaces. Beginning November 1, consumers can submit an application and enroll in coverage for the 2022 plan year through Healthcare.gov or their State-based Marketplace website.

The deadline to enroll in coverage beginning January 1 is December 15. New for plan year 2022, consumers can enroll in coverage through January 15, but plan selections made after December 15 will have a February 1 start date. The 18 states with State-based Marketplaces may have different open enrollment [deadlines](#).

The American Rescue Plan Act (ARP) expanded the availability of financial assistance for coverage through the Marketplace, making financial assistance available to more consumers and at greater levels. As a result of the ARP, four in five consumers will be able to find health care coverage for \$10 or less per month. For 2022, there are 213 qualified health plan (QHP) issuers in Healthcare.gov states, an increase of 32 from 2021.

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### New Report Finds Medicaid and Marketplace Coverage Helped Offset Uninsured Rate During COVID-19

Ahead of the annual Open Enrollment Period, the Department of Health and Human Services (HHS) issued a [press release](#) announcing a new [report](#) showing that Medicaid and health insurance purchased through Healthcare.gov helped to prevent major coverage losses in 2020-2021. The report analyzed Medicaid and Marketplace enrollment between 2020-2021 and the findings suggest increases in Medicaid and Marketplace enrollment helped offset losses in employer-sponsored coverage related to the COVID-19 economic crisis.

Medicaid enrolled [around 10 million](#) individuals during the pandemic and efforts such as the 2021 Special Enrollment Period netted another [2.8 million](#) in new coverage gains.

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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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