



Health Policy Briefing

July 29, 2019

Budget, Debt Limit Deal Advances, House Leaves for August Recess

The House of Representatives adjourned for August recess after passing the bipartisan agreement reached between the White House and congressional leadership to raise spending caps and increase the debt ceiling. The bill was passed by a vote of 284-149, with 65 Republicans voting in support and 16 Democrats voting in opposition. If signed into law, the deal would avoid sequestration and a default on federal payments. It would increase government spending by \$320 billion over the next two years and suspend the borrowing limit through July 2021 while adding an estimated \$1.7 trillion to the deficit over the next decade. Nondefense spending would be increased from \$605 billion to \$634.5 billion. The legislation includes \$77 billion in cuts and revenue increases to offset some of the bill's costs. President Trump has urged support for the agreement, despite opposition from many conservative lawmakers regarding the spending increases in the package. The House will return to Washington on September 9. The Senate will consider the bill this week before leaving town on August 2. Assuming the legislation is signed into law, Senate Appropriations Chairman Richard Shelby (R-Ala.) has stated that he intends to hold markups on fiscal year (FY) 2020 appropriations the week of September 9, prioritizing the spending bills for Defense and Labor-HHS-Education.

House Passes Public Health Reauthorizations

The House of Representatives passed a slate of bills to bolster public health programs last week. The ***Lifespan Respite Care Reauthorization Act of 2019*** (H.R. 2035) would reauthorize state grants for respite services; the ***Emergency Medical Services for Children Program Reauthorization Act of 2019*** (H.R. 776) would reauthorize grants that recognize the treatment of children in emergency medical systems is different than adults; the ***AUTISM Cares Act of 2019*** (H.R. 1058) would reauthorize research funding and the Interagency Autism Coordinating Committee; and the ***Newborn Screening Saves Lives Reauthorization Act of 2019*** (H.R. 2507) would reauthorize newborn screening funding and encourage screening for additional disorders. The legislation now heads to the Senate for consideration.

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Finance Advances Sweeping Drug Pricing Package

The Senate Finance Committee advanced a wide-ranging, bipartisan drug-pricing bill by a vote of 19-9 last week. The ***Prescription Drug Pricing Reduction Act of 2019*** would overhaul payments in Medicare Parts B and D and aims to increase transparency in the pharmaceutical supply chain. The U.S. Department of Health and Human Services (HHS) would be required to make public the data on rebates it receives from pharmacy benefit managers (PBMs) and manufacturers would be required to justify certain price hikes to HHS. HHS would be permitted to share information about Medicare Part D and Medicaid drug prices and rebates with the Medicare Payment Advisory Commission (MedPAC) and the Medicaid and CHIP Payment and Access Commission (MACPAC). The bill would also cap Medicare beneficiaries' out-of-pocket costs at \$3,100. The Part D donut hole would be eliminated and manufacturer liability would be shifted to the catastrophic phase. The legislation sets a maximum add-on payment for drugs, biologics, and biosimilars, and the reimbursement for biosimilars would be increased from the average sales price (ASP) plus six percent to ASP plus eight percent of the original biologic's sales price for five years.

While Sens. Grassley, Bill Cassidy (R-La.), John Cornyn (R-Texas), Rob Portman (R-Ohio), Steve Daines (R-Mont.), and Todd Young (R-Ind.) supported the bill, the nine votes against the measure came from Republican panel members who objected to a provision that would require pharmaceutical manufacturers to rebate the Medicare program when the price of a product is increased above the rate of inflation. The inflation cap would be tied to a medicine's price on July 1 of this year. Some GOP panel members argued that the policy is analogous to a government price control and may result in manufacturers lowering rebates and increasing their initial launch prices. Sen. Bob Menendez (D-N.J.) also expressed concerns about the policy, which would set aside the rebates paid by drug makers in a Medicare fund to support the program's drug benefit and physician payment systems. He would prefer the money more directly benefit Medicare enrollees.

The White House has signaled support for the legislation, which the Congressional Budget Office (CBO) estimates would save \$100 billion - \$85 billion from Medicare and \$15 billion from Medicaid - over the next decade. The majority of the savings - \$57.4 billion - stem from the inflation cap policy. The bill will also lower out-of-pocket costs for Medicare beneficiaries by \$27 billion and lower premiums by \$5 billion. Chairman Grassley expects the bill to be packaged with legislation to lower health care costs from the Senate Health, Education, Labor, and Pensions (HELP) Committee and additional drug pricing bills from the Senate Judiciary Committee, which have already been advanced to the full Senate, and be considered by the full chamber after August recess. Ranking Member Ron Wyden (D-Ore.) has stated that Democrats will not vote to begin debate on the bill on the Senate floor without assurances that there will be votes on amendments to preserve protections for pre-existing conditions under the Affordable Care Act (ACA) and to allow the Medicare program to negotiate drug prices.

Senate Surprise Billing Legislation Pushed to September

Senate HELP Committee Chairman Lamar Alexander (R-Tenn.) and Sen. Bill Cassidy (R-La.) are reportedly close to reaching an agreement on the addition of an independent dispute resolution (IDR) policy to the panel's proposal to protect patients from surprise insurance gaps. The change would more closely align HELP's legislation with the House's version of the bill. Sen. Cassidy has said that he expects the IDR backstop, which would settle certain payment disputes that arise between providers and payors, to be finalized over the August recess. Chairman Alexander and Ranking Member Patty Murray (D-Wash.) had previously announced that the Senate would delay consideration of the ***Lower Health Care Costs Act*** (S. 1895) until September. There are several additional remaining concerns from senators regarding other issues such as air ambulance surprise billing and the bill's potential impact on both rural and urban areas that have yet to be addressed.

Update on House Drug Pricing Negotiations

House Speaker Nancy Pelosi's (D-Calif.) office has stated that she will wait until September to introduce legislation to allow Medicare to negotiate drug prices for certain products. An arbitration process is also expected to be included in the bill to help resolve pricing disputes. Hearings on the legislation are expected to begin when Congress returns from August recess.

Dems File Amicus Brief in Association Health Plan Case

House Democrats have filed an amicus brief with the U.S. Court of Appeals for the District of Columbia Circuit opposing the Trump administration's expansion of association health plans. The federal court is currently hearing the administration's appeal of a district court ruling that the administration's attempt to expand such plans is unlawful.

Rep. Hill Requests Additional Details on Addiction Training from ACGME

Rep. Katie Hill (D-Calif.) has spearheaded a follow up [letter](#) to the Accreditation Council of Graduate Medical Education (ACGME) encouraging the appropriate training of physicians to treat people with opioid use disorder. She questions whether the ACGME has a comprehensive plan in place to ensure that doctors learn "not just how to recognize the signs of addiction, but also how to respond to the signs of addiction by providing treatment that saves lives."

Porter Requests Investigation into Dialysis Providers

Rep. Katie Porter (D-Calif.) has [requested](#) that the Office of the Inspector General (OIG) open an investigation into the American Kidney Fund's relationship with kidney dialysis providers. Her letter cites recent reports that the providers have collaborated with charitable organizations "to implement practices that benefit their bottom line at the expense of patients with kidney disease." Rep. Porter requests additional oversight from the OIG, potentially in conjunction with the Department of Justice, given complaints from patients that they have been prevented from accessing kidney transplants and from consumers and providers that dialysis companies "are using their financial influence over the American Kidney Fund to push patients towards more expensive insurance options" for financial gain.

Upcoming Congressional Hearings and Markups

Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights hearing titled "An oversight hearing to examine enforcement of the antitrust laws;" 2:30 p.m., 226 Dirksen Bldg.; Sept. 17. Witnesses are the Honorable Joseph Simons, Chairman, Federal Trade Commission and the Honorable Makan Delrahim, Assistant Attorney General, Antitrust Division U.S. Department of Justice.

Recently Introduced Health Legislation

H.R.3865 — To amend the Public Health Service Act to establish a program of research regarding the risks posed by the presence of dioxin, synthetic fibers, chemical fragrances, and other components of feminine hygiene products; Sponsor: Rep. Maloney, Carolyn B. [D-NY-12]; Committees: House - Energy and Commerce

H.R.3866 — To amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with tinnitus or hearing loss, and for other purposes; Sponsor: Rep. Velazquez, Nydia M. [D-NY-7]; Committees: House - Veterans' Affairs

H.R.3867 — To require the Secretary of Veterans Affairs to improve the provision of services and benefits from the Department of Veterans Affairs for veterans who experience domestic violence or sexual assault, and for other purposes; Sponsor: Rep. Velazquez, Nydia M. [D-NY-7]; Committees: House - Veterans' Affairs

S.2199 — A bill to provide patient protections with respect to the cost of insulin; Sponsor: Sen. Shaheen, Jeanne [D-NH]; Committees: Senate - Finance

H.R.3878 — To amend the Controlled Substances Act to clarify the process for registrants to exercise due diligence upon discovering a suspicious order, and for other purposes; Sponsor: Rep. McKinley, David B. [R-WV-1]; Committees: House - Energy and Commerce, Judiciary

H.R.3880 — To amend the Internal Revenue Code of 1986 to allow the deduction for health insurance costs in computing self-employment taxes; Sponsor: Rep. Delgado, Antonio [D-NY-19]; Committees: House - Ways and Means

H.R.3909 — To amend subpart 2 of part B of title IV of the Social Security Act to authorize grants to eligible entities to develop and implement statewide or tribal post-adoption and post-legal guardianship mental health service programs for all children who are adopted or placed in legal guardianship, and for other purposes; Sponsor: Rep. Langevin, James R. [D-RI-2]; Committees: House - Ways and Means

H.R.3910 — To amend title XI of the Social Security Act to improve access to care for all Medicare and Medicaid beneficiaries through models tested under the Center for Medicare and Medicaid Innovation, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Energy and Commerce, Ways and Means

H.R.3911 — To amend title XVIII of the Social Security Act and the Bipartisan Budget Act of 2018 to expand and expedite access to cardiac rehabilitation programs and pulmonary rehabilitation programs under the Medicare program, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Energy and Commerce, Ways and Means

H.R.3912 — To amend title XVIII of the Social Security Act to increase awareness, expand preventative services, and improve care for individuals with end stage renal disease, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Energy and Commerce, Ways and Means

H.R.3924 — To provide for the treatment of a pharmacy counter refusal as a coverage determination under Medicare part D; Sponsor: Rep. Suozzi, Thomas R. [D-NY-3]; Committees: House - Energy and Commerce, Ways and Means

H.R.3925 — To amend title XIX of the Social Security Act to prohibit States receiving Federal medical assistance for medication-assisted treatment under Medicaid from imposing utilization control policies or procedures with respect to such treatment, and for other purposes; Sponsor: Rep. Tonko, Paul [D-NY-20]; Committees: House - Energy and Commerce

S.2205 — *A bill to ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Health, Education, Labor, and Pensions*

S.2216 — *A bill to require the Secretary of Veterans Affairs to formally recognize caregivers of veterans, notify veterans and caregivers of clinical determinations relating to eligibility for caregiver programs, and temporarily extend benefits for veterans who are determined ineligible for the family caregiver program, and for other purposes; Sponsor: Sen. Peters, Gary C. [D-MI]; Committees: Senate - Veterans’ Affairs*

S.2218 — *A bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to restore Medicaid coverage for citizens of the Freely Associated States lawfully residing in the United States under the Compacts of Free Association between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; Sponsor: Sen. Hirono, Mazie K. [D-HI]; Committees: Senate – Finance*

H.Res.517 — *Supporting the Global Fund to fight AIDS, tuberculosis (TB), malaria, and its Sixth Replenishment; Sponsor: Rep. Engel, Eliot L. [D-NY-16]; Committees: House - Foreign Affairs*

H.Con.Res.55 — *Expressing the sense of Congress on the need to inform American consumers with more balanced purchasing information for prescription drugs through the disclosure of price information in direct-to-consumer (DTC) advertisements; Sponsor: Rep. Burgess, Michael C. [R-TX-26]; Committees: House - Energy and Commerce, Ways and Means*

H.R.3927 — *To direct the Secretary of Health and Human Services to carry out a pilot program to test the feasibility and outcomes of integrating a substance use disorder and behavioral health treatment locator tool into the prescription drug monitoring programs of 5 eligible States; Sponsor: Rep. McKinley, David B. [R-WV-1]; Committees: House - Energy and Commerce*

H.R.3929 — *To direct the Architectural and Transportation Barriers Compliance Board to develop a minimum nonvisual access standard for home use medical devices, exercise equipment, and home appliances, and for other purposes; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Energy and Commerce*

H.R.3932 — *To amend title 38, United States Code, to eliminate copayments by the Department of Veterans Affairs for medicines relating to preventive health services, and for other purposes; Sponsor: Rep. Underwood, Lauren [D-IL-14]; Committees: House - Veterans’ Affairs*

H.R.3935 — *To amend title XIX of the Social Security Act to provide for the continuing requirement of Medicaid coverage of nonemergency transportation to medically necessary services; Sponsor: Rep. Carter, Earl L. “Buddy” [R-GA-1]; Committees: House - Energy and Commerce*

H.R.3947 — *To lower the cost of prescription drugs, and for other purposes; Sponsor: Rep. Meadows, Mark [R-NC-11]; Committees: House - Energy and Commerce, Ways and Means, Judiciary, Armed Services, Oversight and Reform*

H.R.3953 — *To amend title XIX of the Social Security Act to expand the requirement for States to suspend, rather than terminate, an individual’s eligibility for medical assistance under the State Medicaid plan while the individual is an inmate of a public institution, to apply to inmates of any age; Sponsor: Rep. Scott, Robert C. “Bobby” [D-VA-3]; Committees: House - Energy and Commerce*

S.2244 — *A bill to amend the Controlled Substances Act to allow community addiction treatment facilities and community mental health facilities to register to dispense controlled substances through the practice of telemedicine, and for other purposes; Sponsor: Sen. Roberts, Pat [R-KS]; Committees: Senate - Health, Education, Labor, and Pensions*

S.2246 — A bill to amend titles XVIII and XIX of the Social Security Act to provide equal coverage of in vitro specific IgE tests and percutaneous tests for allergies under the Medicare and Medicaid programs, and for other purposes; Sponsor: Sen. Moran, Jerry [R-KS]; Committees: Senate – Finance

S.2247 — A bill to amend titles XI and XVIII of the Social Security Act to provide greater transparency of discounts provided by drug manufacturers, to establish requirements relating to pharmacy-negotiated price concessions, and for other purposes; Sponsor: Sen. Kennedy, John [R-LA]; Committees: Senate – Finance

S.2252 — A bill to amend title XIX of the Social Security Act to expand the permitted uses of drug price information disclosed to States under the Medicaid drug rebate program; Sponsor: Sen. Van Hollen, Chris [D-MD]; Committees: Senate – Finance

S.2255 — A bill to amend title XIX of the Social Security Act to expand the requirement for States to suspend, rather than terminate, an individual's eligibility for medical assistance under the State Medicaid plan while the individual is an inmate of a public institution, to apply to inmates of any age; Sponsor: Sen. Markey, Edward J. [D-MA]; Committees: Senate – Finance

H.R.3965 — To amend the Public Health Service Act to provide for enhancements to requirements for public disclosure of hospital price data; Sponsor: Rep. Lipinski, Daniel [D-IL-3]; Committees: House - Energy and Commerce

H.R.3974 — To require the use of prescription drug monitoring programs; Sponsor: Rep. Ryan, Tim [D-OH-13]; Committees: House - Energy and Commerce

H.R.3975 — To amend the Fairness to Contact Lens Consumers Act to modernize verification of contact lens prescriptions, and for other purposes; Sponsor: Rep. Rush, Bobby L. [D-IL-1]; Committees: House - Energy and Commerce

H.R.3984 — To improve access to emergency medical services, and for other purposes; Sponsor: Rep. Flores, Bill [R-TX-17]; Committees: House - Energy and Commerce

H.R.3991 — To amend title 35, United States Code, to clarify and improve the process for subsection (k) applicants to resolve patent infringement claims for biological products (commonly known as the “patent dance”), and for other purposes; Sponsor: Rep. Johnson, Henry C. “Hank,” Jr. [D-GA-4]; Committees: House – Judiciary

H.R.4004 — To direct the Secretary of Health and Human Services to establish an interagency council on social determinants of health, and for other purposes; Sponsor: Rep. Bustos, Cheri [D-IL-17]; Committees: House - Energy and Commerce

H.R.4010 — To amend the Public Health Service Act to establish insulin assistance programs, and for other purposes; Sponsor: Rep. Craig, Angie [D-MN-2]; Committees: House - Energy and Commerce, Ways and Means

H.R.4013 — To require the Center for Medicare and Medicaid Innovation to test the effect of including telehealth services in Medicare health care delivery reform models; Sponsor: Rep. Curtis, John R. [R-UT-3]; Committees: House - Energy and Commerce, Ways and Means

H.R.4025 — To establish the Mental Health in Schools Excellence Program to increase the recruitment and retention of school-based mental health services providers, and for other purposes; Sponsor: Rep. Fitzpatrick, Brian K. [R-PA-1]; Committees: House - Education and Labor

H.R.4040 — To amend title XVIII of the Social Security Act to extend the temporary exception to the application of the site neutral IPPS payment rate to discharges from certain spinal cord specialty hospitals, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Ways and Means

H.R.4056 — To provide certain coverage of audiologist services under the Medicare program, and for other purposes; Sponsor: Rep. Rice, Tom [R-SC-7]; Committees: House - Energy and Commerce, Ways and Means

H.R.4063 — To amend title XVIII of the Social Security Act to provide for coverage of certified adult day services under the Medicare program, and for other purposes; Sponsor: Rep. Sanchez, Linda T. [D-CA-38]; Committees: House - Ways and Means, Energy and Commerce

H.R.4078 — To reauthorize the Young Women's Breast Health Education and Awareness Requires Learning Young Act of 2009; Sponsor: Rep. Wasserman Schultz, Debbie [D-FL-23]; Committees: House - Energy and Commerce