



Health Policy Briefing

October 30, 2017

Administration Declares Opioid Epidemic Public Health Emergency

The White House hosted an event on the opioid epidemic on Thursday, during which the President declared a nationwide public health emergency. The declaration will allow federal agencies additional flexibility to waive regulations and will result in a realignment of federal resources to address the crisis. The declaration will focus on expanding access to telemedicine treatment services, temporary appointment of specialists to crisis areas, and allowing people eligible for HIV/AIDS programs to also receive substance use disorder treatment. Additionally, Dislocated Worker Grants will be made available to people in treatment for opioid addiction. The President highlighted that federal employees who prescribe opioids will now be required to receive special training, and that the inspection of imported packages will be strengthened to better detect the flow of fentanyl into the country. In his speech, Trump also touched upon efforts by the National Institutes of Health (NIH) to create a public-private partnership to study the creation of non-addictive painkillers. Because the President opted not to declare a national Stafford Act emergency, the announcement comes with no additional money and will have to be renewed every 90 days until the declaration is no longer needed. There has never before been a public health or national emergency declaration for a drug epidemic, and questions remain on how long it will last and what metrics will determine its conclusion. The declaration was officially signed by U.S. Department of Health and Human Services (HHS) Acting Secretary Eric Hargan shortly following Thursday's announcement. The Administration has stated that it is in discussions with Congress about including additional funding to address the epidemic as a part of the end of the year-end spending bill.

The Centers for Disease Control and Prevention (CDC) announced the latest statistics on the epidemic last week, estimating that fatal drug overdoses have increased by more than 200 percent in the last 16 years. Overdose is now the leading cause of injury-related death in the nation. Additionally, Saturday, October 28, was the Drug Enforcement Administration's (DEA) 14th annual National Prescription Drug Take Back Day.

Inside

- Negotiations Continue on ACA Fix.....2
- Judge Rejects Motion to Restore CSR Payments.....2
- House Passes Senate Budget Resolution by Narrow Margin.....2
- House Passes CBP Fentanyl Legislation.....2
- Lawmakers Approach Deal on Medicare Extenders.....3
- Meehan to Introduce Stark Law Reform.....3
- Duncan to Join Energy and Commerce Committee.....3
- Flake to Retire in 2019.....3
- Upcoming Congressional Hearings and Meetings.....3
- Recently Introduced Health Legislation.....4

Negotiations Continue on ACA Fix

President Trump has weighed in with specific requests for the Alexander-Murray health deal aimed at stabilizing the individual insurance market. The White House is asking that the penalties for failure to comply with the individual and employer mandates be lifted for the years 2015, 2016, and 2017. The Administration has also asked for additional state waiver flexibility, expanded use of health savings accounts (HSAs), and increased use of short-term, limited duration health insurance plans. While Republicans have welcomed the input, Democrats are opposed to reopening negotiations on a package that already has enough support to pass the Senate. Majority Leader Mitch McConnell (R-Ky.) has said that he will bring the health care bill to floor when the President indicates that he will sign it into law. House Freedom Caucus Chairman Mark Meadows (R-N.C.) has stated that the bill must be revised to be “substantially more conservative” in order to have a chance of passing the lower chamber. The changes that Meadows is working on with Sens. Lindsey Graham (R-S.C.), Ron Johnson (R-Wis.), and Rep. Tom MacArthur (R-N.J.) largely align with those requested by the White House.

The Congressional Budget Office (CBO) estimates that the Alexander-Murray plan would reduce the deficit by \$3.8 billion between 2018 and 2027, according to the score released last week. CBO reports that the legislation would not substantially change the number of people with health insurance coverage compared to the existing baseline.

In related news, House Ways and Means Committee Chairman Kevin Brady (R-Texas) and Senate Finance Committee Chairman Orrin Hatch (R-Utah) released a bicameral proposal that would temporarily extend funding for cost-sharing reduction (CSR) payments for two years. The funding would be contingent upon structural reforms to the Affordable Care Act (ACA), including the expansion of HSAs to increase the maximum contribution limit, relief from the individual mandate penalty between 2017-2021, relief from the employer mandate between 2015-2017, and attaching pro-life protections to insurance carriers receiving CSRs. The full legislative language has yet to be released.

Judge Rejects Motion to Restore CSR Payments

A federal judge in California has rejected an emergency motion to temporarily restore the cost sharing reduction (CSR) payments to health insurers under the Affordable Care Act (ACA), which the President announced he would stop paying earlier this month. The judge said he was skeptical that cutting off the payments would cause immediate injury to residents because of preparatory steps taken by states in anticipation of the Administration’s decision. The motion for a temporary restraining order had been signed by 18 states and the District of Columbia.

House Passes Senate Budget Resolution by Narrow Margin

The House of Representatives passed the Senate-adopted budget resolution H. Con. Res. 71 by a vote of 216-212 last week. The resolution will allow lawmakers to begin work on a \$1.5 trillion tax cut through the fast-track budget process known as reconciliation. The budget resolution also calls for \$5 trillion in spending cuts over the next decade. House Budget Committee Chairwoman Diane Black (R-Tenn.) had supported \$203 billion in deficit reductions from mandatory spending included in the House-passed budget adopted earlier this month. However, she decided to vote in favor of the Senate resolution in order to avoid a conference committee between the two chambers and speed the passage of tax reform legislation.

House Passes CBP Fentanyl Legislation

The House of Representatives passed legislation to increase the U.S. Customs and Border Protection’s (CBP) ability to prevent fentanyl and other synthetic opioids from being smuggled into the country. The bill would authorize \$9 million to provide for chemical screening devices, scientists, and other personnel at the CBP to prevent the illegal importation of opioids. The bill was approved by a vote of 412-3. Companion legislation has been introduced by Sens. Ed Markey (D-Mass.), Sherrod Brown (D-Ohio), Marco Rubio (R-Fla.), and Shelley Moore Capito (R-W.Va.).

Lawmakers Approach Deal on Medicare Extenders

The Senate Finance Committee is working to finalize a draft bipartisan bill that would renew funding for a series of Medicare extenders before their expiration at the end of this calendar year. The legislation would address provisions to assist low-volume or rural health care providers, reauthorize federally backed outreach to low-income beneficiaries, and eliminate an annual limit on beneficiary spending for certain physical therapy services. The House Energy and Commerce Committee and House Ways and Means Committee reached a similar bipartisan agreement last week on permanent repeal of the per-patient therapy Medicare expenditures known as therapy caps. The Finance Committee draft does not detail how the cost of the bill would be offset.

Meehan to Introduce Stark Law Reform

Rep. Pat Meehan (R-Pa.) is drafting legislation to modernize the anti-kickback statute known as the Stark Law. Meehan's pair of bills will increase the number of safe harbors for health care organizations to more easily engage in value-based payment models and cybersecurity. While Rep. Meehan has no timeline for introducing the legislation, he already has the backing of the House Ways and Means Committee.

Duncan to Join Energy and Commerce Committee

The House Steering Committee has selected Rep. Jeff Duncan (R-S.C.) to serve on the House Energy and Commerce Committee and fill the vacancy following the resignation of Rep. Tim Murphy (R-Pa.). Congressman Duncan is a strong proponent of American energy independence. He is a member of the Republican Study Committee and the House Freedom Caucus. He was first elected to Congress in 2011, and previously served as a member of the South Carolina House of Representatives.

Flake to Retire in 2019

Sen. Jeff Flake (R-Ariz.) announced that he would not be running for reelection next year. Flake has been an outspoken critic of President Trump and the current state of the Republican Party. He serves on the Committee on the Judiciary and the Special Committee on Aging.

Upcoming Congressional Hearings and Meetings

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing "Implementation of the 21st Century Cures Act: Achieving the Promise of Health Information Technology;" 2:30 p.m., 430 Dirksen Bldg.; October 31

House Veterans' Affairs Committee; markup of pending legislation; 10:00 a.m.; 334 Cannon Bldg.; November 2

House Energy and Commerce Oversight and Investigations Subcommittee hearing "Concerns over Federal Select Agent Program Oversight of Dangerous Pathogens;" 10:15 a.m., 2322 Rayburn Bldg.; November 2

Recently Introduced Health Legislation

H.R.4090 (introduced by Rep. Evan H. Jenkins): To amend the Controlled Substance Act to establish a task force to address fentanyl and heroin trafficking; Judiciary, Energy and Commerce

H.R.4094 (introduced by Rep. Brian Higgins): To establish a public health plan; Energy and Commerce, Ways and Means

H.R.4095 (introduced by Rep. Stephen F. Lynch): To repeal Public Law 114-145; Energy and Commerce, Judiciary

H.R.4097 (introduced by Rep. Richard E. Neal): To amend title XVIII of the Social Security Act to provide for coverage of methadone under Medicare part B; Energy and Commerce, Ways and Means

H.R.4104 (introduced by Rep. Gregg Harper): To amend title XVIII of the Social Security Act to extend the additional temporary exception from the Medicare site-neutral inpatient payment rate to additional DRG codes for severe wound discharges from long-term care hospitals; Ways and Means

H.R.4105 (introduced by Rep. Brenda L. Lawrence): To amend title XX of the Social Security Act to extend the health professions workforce demonstration project; Ways and Means

H.R.4113 (introduced by Rep. Bruce Poliquin): To amend title 38, United States Code, to allow the Secretary of Veterans Affairs to enter into certain agreements with non-Department of Veterans Affairs health care providers if the Secretary is not feasibly able to provide health care in facilities of the Department or through contracts or sharing agreements, and for other purposes; Veterans' Affairs

H.Res.583 (introduced by Rep. Yvette D. Clarke): Expressing support for the designation of the last week in October as "Black Women's Health Week"; Oversight and Government Reform

S.1999 (introduced by Sen. Richard Blumenthal): A bill to provide for further comprehensive research at the National Institute of Neurological Disorders and Stroke on unruptured intracranial aneurysms; Health, Education, Labor, and Pensions

S.2001 (introduced by Sen. Brian Schatz): A bill to establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan; Finance

H.R.4116 (introduced by Rep. Lloyd Doggett): To amend the Public Health Service Act to require reporting by drug manufacturers to increase transparency in drug pricing, and for other purposes; Energy and Commerce

H.R.4117 (introduced by Rep. Lloyd Doggett): To prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market, and for other purposes; Ways and Means, Judiciary, Energy and Commerce

H.R.4122 (introduced by Rep. Rosa L. DeLauro): To require breast density reporting to physicians and patients by facilities that perform mammograms, and for other purposes; Energy and Commerce

H.R.4128 (introduced by Rep. Michelle Lujan Grisham): To amend title XIX of the Social Security Act to allow States with Exchanges with low-insurer participation to offer a Medicaid buy-in plan, and for other purposes; Energy and Commerce, Ways and Means

H.R.4129 (introduced by Rep. Ben Ray Lujan): To establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan; Energy and Commerce, Ways and Means

H.R.4132 (introduced by Rep. John H. Rutherford): To amend title 38, United States Code, to make certain improvements in the Health Professionals Educational Assistance Program of the Department of Veterans Affairs, and for other purposes; Veterans' Affairs

H.R.4133 (introduced by Rep. Pete Sessions): To amend title XVIII of the Social Security Act to establish a Medicare payment option for patients and eligible professionals to freely contract, without penalty, for Medicare fee-for-service items and services, while allowing Medicare beneficiaries to use their Medicare benefits; Energy and Commerce, Ways and Means

H.R.4136 (introduced by Rep. Jason Smith): To amend title XVIII of the Social Security Act to strengthen intensive cardiac rehabilitation programs under the Medicare program; Energy and Commerce, Ways and Means

S.Res.303 (introduced by Sen. Elizabeth Warren): A resolution expressing support for the designation of October 2017 as “National Audiology Awareness Month”; Health, Education, Labor, and Pensions

S.2003 (introduced by Sen. Orrin Hatch): A bill to modernize the regulation of cosmetics; Health, Education, Labor, and Pensions

S.2004 (introduced by Sen. Robert P. Casey): A bill to increase funding for the State response to the opioid misuse crisis and to provide funding for research on addiction and pain related to the substance misuse crisis; Health, Education, Labor, and Pensions

S.2006 (introduced by Sen. Dianne Feinstein): A bill to require breast density reporting to physicians and patients by facilities that perform mammograms, and for other purposes; Health, Education, Labor, and Pensions

S.2008 (introduced by Sen. Jeanne Shaheen): A bill to combat the opioid epidemic and drug sample backlogs; Judiciary

S.2011 (introduced by Sen. Bernard Sanders): A bill to amend title XVIII of the Social Security Act to provide for the negotiation of lower covered part D drug prices on behalf of Medicare beneficiaries and the establishment and application of a formulary by the Secretary of Health and Human Services under Medicare part D, and for other purposes; Finance

H.R.4138 (introduced by Rep. Elijah E. Cummings): To amend title XVIII of the Social Security Act to provide for the negotiation of lower covered part D drug prices on behalf of Medicare beneficiaries and the establishment and application of a formulary by the Secretary of Health and Human Services under Medicare part D, and for other purposes; Energy and Commerce, Ways and Means

H.R.4143 (introduced by Rep. Jason Smith): To establish a demonstration program to provide integrated care for Medicare beneficiaries with end-stage renal disease, and for other purposes; Energy and Commerce, Ways and Means

H.Res.590 (introduced by Rep. J. Luis Correa): Calling on the Secretary of Veterans Affairs to conduct a clinical study assessing the effectiveness of treating chronic pain in veterans with cannabis in comparison to opioids; Veterans’ Affairs

H.Res.593 (introduced by Rep. Barbara Lee): Recognizing the importance of a continued commitment to ending pediatric HIV/AIDS worldwide; Foreign Affairs, Energy and Commerce

S.2021 (introduced by Sen. Ted Cruz): A bill to repeal title I of the Patient Protection and Affordable Care Act and to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; Finance

S.2022 (introduced by Sen. Ted Cruz): A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for reciprocal marketing approval of certain drugs, biological products, and devices that are authorized to be lawfully marketed abroad, and for other purposes; Health, Education, Labor, and Pensions

S.2026 (introduced by Sen. Bill Nelson): A bill to amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes; Finance

S.2027 (introduced by Sen. Rob Portman): A bill to amend title XIX of the Social Security Act to provide clarification with respect to the liability of third party payers for medical assistance paid under the Medicaid program, and for other purposes; Finance

S.Res.310 (introduced by Sen. Robert P. Casey, Jr.): A resolution recognizing the importance of a continued commitment to ending pediatric AIDS worldwide; Foreign Relations