



Health Policy Briefing

November 18, 2019

White House Unveils Price Transparency Regulations

On Friday, the White House unveiled new health care price transparency regulations in fulfillment of President Trump's June 24 Executive Order on *Improving Price and Quality Transparency in American Healthcare to Put Patients First*. The final rule would require hospitals to publicly disclose the cost of specific items and services in an easily-accessible manner. The rule covers provisions originally included in the Outpatient Prospective Payment System (OPPS)/Ambulatory Surgical Center (ASC) proposed rule and is effective starting January 1, 2021. The negotiated rates for the 300 most common services that can be scheduled in advance would have to be published, along with how much the hospital would be willing to accept if the patient pays cash. The information would be updated each year. Under a separate proposed policy put forward by the Centers for Medicare and Medicaid Services (CMS), most employer-based group health plans and health insurance issuers offering group and individual coverage would be required to disclose price and cost-sharing information with plan participants through an online tool that allows policyholders to get real-time, personalized estimates of their out-of-pocket costs for all covered services and items. Plans would also have to make available to the public the negotiated rates for in-network providers and the maximum amounts paid for out-of-network providers. The proposed rule has a comment period of 60 days. The sweeping changes face stiff pushback from the health care industry and a coalition of major hospital groups, who quickly announced that hospitals will sue to block the changes.

Inside

Congress to Vote on CR This Week.....	2
E&C Advances Tobacco, Maternal Mortality, and Citizens Petition Legislation.....	2
Cornyn, Durbin Continue to Push for Passage of Drug Pricing Legislation.....	2
Ways and Means Issues RFI on Health Disparities.....	3
Path Forward for Surprise Billing Legislation Remains Uncertain.....	3
Pallone Requests Investigation into Contaminated Vaping Pods.....	3
Democratic Candidates Introduce Bill to Create Prescription Drug Bureau.....	3
Upcoming Congressional Hearings and Markups.....	4
Recently Introduced Health Legislation.....	5

Congress to Vote on CR This Week

Congress will vote on a stopgap spending measure this week to extend government funding through December 20. The current continuing resolution (CR) funding the federal government will expire on November 21. House Majority Leader Steny Hoyer (D-Md.) has stated that the short-term spending bill should be “relatively clean,” while the White House has indicated that the patch will be signed by President Trump as long as it does not contain any restrictions on funding for border wall construction. Congressional leadership and top appropriators have yet to reach an agreement on top-line figures for fiscal year (FY) 2020 spending bills. Hoyer announced that lawmakers should be prepared to postpone a recess scheduled to begin December 13 if a government funding deal has not yet been reached.

E&C Advances Tobacco, Maternal Mortality, and Citizens Petition Legislation

The House Energy and Commerce Subcommittee on Health advanced four pieces of public health legislation to the full panel last week. The bills include the ***Reversing the Youth Tobacco Epidemic Act*** (H.R. 2339), which would raise the minimum age to buy tobacco products to 21. It would also ban some flavored tobacco products. During the markup, Republicans raised concerns that the legislation would eliminate consumer choice for law-abiding adults while not doing enough to address the causes of the emerging lung illness impacting e-cigarette users. Some GOP panel members also objected to the bill’s lack of an exception to the change in purchasing age for members of the military. The panel also advanced the ***STOP GAMES Act*** (H.R. 2387), which would make changes to prevent the citizens petition process from being used to prevent generic drug competition from coming to market. Republicans expressed worry that the bill could impact legitimate citizens petitions but indicated that they could support the bill with some modifications. The subcommittee also passed two pieces of legislation aimed at improving maternal health. The ***Helping MOMS Act*** (H.R. 4996) would give states the option to cover pregnant and postpartum women for a year instead of 60 days. The ***Maternal Health Quality Improvement Act*** (H.R. 4995) would combine the provisions of the ***Excellence in Maternal Health Act***, to authorize grants to identify, develop, and disseminate maternal health quality best practices, support training for health professionals, and authorize grants for operating innovative, evidence-based programs that deliver integrated services to pregnant and post-partum women, and the ***Rural Moms Act***, to provide funding for the establishment of rural obstetric networks for improving outcomes in birth and maternal morbidity. The E&C full committee plans to consider H.R. 2339, H.R. 4996, and H.R. 4995 during a scheduled mark up on November 19; it is unclear when the full committee will consider H.R. 2387 (related to citizen petitions).

Cornyn, Durbin Continue to Push for Passage of Drug Pricing Legislation

Two bipartisan pairs of lawmakers again failed in their attempt to pass drug pricing legislation by unanimous consent last week. Sens. John Cornyn (R-Texas) and Richard Blumenthal (D-Conn.) pushed their bill (S. 1416) that would empower the federal government to prevent brand manufacturers from using the patent system to block generic competition from coming to market, while Sens. Dick Durbin (D-Ill.) and Chuck Grassley (R-Iowa) sought to pass legislation (S. 1437) that would require drug makers to disclose the cost of their products in direct-to-consumer (DTC) advertising. The DTC advertising bill was blocked by Sen. Pat Toomey (R-Pa.), who has expressed concern about the legislation’s potential to mislead consumers or deter them from seeking care, and about unfairly targeting only a single stakeholder in the health care system – drug manufacturers. Senate Minority Leader Chuck Schumer (D-N.Y.) blocked the patent bill, saying that he does not oppose the legislation but citing Republican opposition to clearing broader health care bills that would have a larger impact on lowering costs, such as proposals to allow Medicare to negotiate drug prices or the Finance Committee’s drug pricing package. Sen. Cornyn has said that he will repeat his attempt to pass his bill weekly, “if not more often,” while Sen. Blumenthal appealed to Majority Leader Mitch McConnell (R-Ky.) to bring the legislation to the floor himself.

Ways and Means Issues RFI on Health Disparities

The House Ways and Means Committee has issued a [request for information](#) (RFI) soliciting input on ‘priority’ topics that affect health status and outcomes in underserved communities. The information will be used to inform the bipartisan Rural and Underserved Communities Health Task Force as it works to draft legislation to identify the causes of health care disparities, develop strategies to close gaps in care, and ultimately improve health care outcomes in both urban and rural underserved areas. The deadline for response is close of business Friday, November 29, 2019. The RFI includes guidelines for submissions.

Path Forward for Surprise Billing Legislation Remains Uncertain

Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-Tenn.) indicated last week that he and Ranking Member Patty Murray (D-Wash.), along with bipartisan House committee leadership, are nearing a deal on a surprise insurance gap bill that could be attached to year-end spending legislation. While it is ultimately the decision of congressional leadership to determine what is included in the government funding package, Chairman Alexander stated his wish to have reconciled HELP’s legislation to address surprise medical bills (S. 1895) and the bill advanced by House Energy and Commerce (H.R. 3630) when the time comes. Two other House committees – Ways and Means and Education and Labor – may also want to weigh in but have not yet scheduled a mark-up on the legislation. Sen. Bill Cassidy (R-La.) has said that significant progress has been made toward an agreement on how to settle payment disputes between providers and payers. But lawmakers must also still determine how to handle the other health measures attached to the bills, which include drug pricing policies and a provision to raise the minimum age to buy tobacco products.

Pallone Requests Investigation into Contaminated Vaping Pods

House Energy and Commerce Committee Chairman Frank Pallone (D-N.J.) [wrote](#) to Acting Commissioner of Food and Drugs Brett Giroir requesting an investigation into assertions that Juul Labs knowingly distributed approximately one million contaminated mint-flavored e-cigarette pods for consumer use. He requests a briefing from the Food and Drug Administration (FDA) about the agency’s actions related to the allegations and their implications.

Democratic Candidates Introduce Bill to Create Prescription Drug Bureau

Sens. Cory Booker (D-N.J.), Bernie Sanders (I-Vt.), and Kamala Harris (D-Calif.) have introduced legislation that would create a new federal agency responsible for controlling the costs of prescription drugs. The ***Prescription Drug Affordability and Access Act*** would form the Bureau of Prescription Drug Affordability and Access. When looking to bring a new drug to market, pharmaceutical manufacturers would submit to the Bureau its research and development costs, the cost of the product, the cost of comparable treatments in other countries, and federal investments that contributed to the product’s development. The Bureau would use this information to determine an appropriate list price for the drug. The proposal is modeled on Canada’s Patented Medicine Prices Review Board, which compares the price of drugs to similar medicines in other countries to determine if they are overpriced.

Upcoming Congressional Hearings and Markups

House Energy and Commerce Committee markup of 18 bills, including H.R. 2339, the Reversing the Youth Tobacco Epidemic Act, H.R. 4995, the Maternal Health Quality Improvement, and H.R. 4996, the Helping Medicaid Offer Maternity Services (MOMS) Act; 10:00 a.m., 2123 Rayburn Bldg.; November 19

House Armed Services Subcommittee on Military Personnel hearing “Military Health System Reform: A Cure for Efficiency and Readiness?” 2:30 p.m., 2212 Rayburn Bldg.; November 19

House Committee on Science, Space, and Technology hearing “Fighting Flu, Saving Lives: Vaccine Science and Innovation;” 10:00 a.m., 2318 Rayburn Bldg.; November 20

House Veterans’ Affairs Committee hearing on H.R. 3495, the Improve Well-Being for Veterans Act which would establish a pilot program of grants to eligible entities to provide and coordinate the provision of suicide prevention services for veterans at risk of suicide and veteran families; 10:00 a.m., 210 Capitol; November 20

Senate HELP Committee hearing on the nomination of Stephen M. Hahn, MD, to serve as Commissioner of Food and Drugs; 10:00 a.m., 430 Dirksen Bldg.; November 20

House Financial Services Subcommittee on Housing, Community Development, and Insurance hearing “Safe and Decent? Examining the Current State of Residents’ Health and Safety in HUD Housing;” 2:00 p.m., 2128 Rayburn Bldg.; November 20

House Veterans’ Affairs Subcommittee on Technology Modernization hearing “Go-live March 2020: The Status of Electronic Health Record Modernization (EHRM) Readiness;” 2:00 p.m., 210 Capitol Bldg.; November 20

Senate Finance Subcommittee on Health Care hearing “Alzheimer’s Awareness: Barriers to Diagnosis, Treatment, and Care Coordination;” 2:00 p.m., 215 Dirksen Bldg.; November 20

Senate Indian Affairs Committee oversight hearing on S.1001, the Tribal Veterans Health Care Enhancement Act, and S.2365, the Health Care Access for Urban Native Veterans Act; 2:30 p.m., 628 Dirksen Bldg.; November 20

Senate Armed Services Subcommittee on Emerging Threats and Capabilities hearing to examine biological threats to United States national security; 3:00 p.m., 222 Russell Bldg.; November 20

Senate Armed Services Subcommittee on Personnel hearing to examine testimony about servicemember, family, and veteran suicides and prevention strategies; 2:30 p.m., 222 Russell Bldg.; December 4

Recently Introduced Health Legislation

H.R.4992 — To direct the Secretary of Defense to carry out a pilot program on suicide prevention in the military health care system; Sponsor: Rep. Gabbard, Tulsi [D-HI-2]; Committees: House - Armed Services

H.R.4993 — To amend title 10, United States Code, to require members of the Armed Forces to receive physical examinations and mental health assessments during the 90-day period before separation from the Armed Forces, to include health care planning in the Transition Assistance Program for members of the Armed Forces, to require the Secretary of Defense to issue an annual report to Congress regarding health care for separating members of the Armed Forces, and for other purposes; Sponsor: Rep. Gabbard, Tulsi [D-HI-2]; Committees: House - Armed Services

H.R.4994 — To direct the Secretary of Defense to conduct a study on reimbursement rates for mental health care providers under the TRICARE program; Sponsor: Rep. Gabbard, Tulsi [D-HI-2]; Committees: House - Armed Services

H.R.4995 — To amend the Public Health Service Act to improve obstetric care and maternal health outcomes, and for other purposes; Sponsor: Rep. Engel, Eliot L. [D-NY-16]; Committees: House - Energy and Commerce

H.R.4996 — To amend title XIX of the Social Security Act to provide for a State option under the Medicaid program to provide for and extend continuous coverage for certain individuals, and for other purposes; Sponsor: Rep. Kelly, Robin L. [D-IL-2]; Committees: House - Energy and Commerce

H.R.5006 — To amend title XIX of the Social Security Act to provide coverage under the Medicaid program for services for the treatment of psychiatric or substance use disorders furnished to certain individuals in an institution for mental diseases, and for other purposes; Sponsor: Rep. Emmer, Tom [R-MN-6]; Committees: House - Energy and Commerce

H.R.5010 — To amend title I of the Patient Protection and Affordable Care Act to authorize the establishment of, and provide support for, State-based universal health care systems that provide comprehensive health benefits to State residents, and for other purposes; Sponsor: Rep. Khanna, Ro [D-CA-17]; Committees: House - Energy and Commerce; Ways and Means; Oversight and Reform; Armed Services; Education and Labor

H.R.5014 — To improve the quality, appropriateness, and effectiveness of diagnosis in health care, and for other purposes; Sponsor: Rep. Lujan, Ben Ray [D-NM-3]; Committees: House - Energy and Commerce

H.R.5017 — To amend the Federal Food, Drug, and Cosmetic Act to treat as misbranded cosmetics with packaging or labeling using the term “natural” unless the product meets certain standards, and for other purposes; Sponsor: Rep. Maloney, Sean Patrick [D-NY-18]; Committees: House - Energy and Commerce

H.R.5020 — To direct the Secretary of Veterans Affairs to seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine or the National Cancer Institute to conduct a study on radiation exposure relating prostate cancer; Sponsor: Rep. Panetta, Jimmy [D-CA-20]; Committees: House - Veterans’ Affairs

H.R.5024 — To amend title 38, United States Code, to expand health care coverage provided by the Department of Veterans Affairs during the transition of members of the Armed Forces from service in the Armed Forces to civilian life, and for other purposes; Sponsor: Rep. Sablan, Gregorio Kilili Camacho [D-MP-At Large]; Committees: House - Veterans’ Affairs

H.R.5027 — To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to furnish free and comprehensive mental health care to former members of the Armed Services, and for other purposes; Sponsor: Rep. Suozzi, Thomas R. [D-NY-3]; Committees: House - Veterans’ Affairs

H.R.5029 — To require the Secretary of Veterans Affairs to staff each medical center of the Department of Veterans Affairs with at least one suicide prevention coordinator, and for other purposes; Sponsor: Rep. Watkins, Steve [R-KS-2]; Committees: House - Veterans' Affairs

H.R.5030 — To direct the Comptroller General of the United States to take certain actions regarding suicides by veterans and mental health care furnished by the Secretary of Veterans Affairs; Sponsor: Rep. Watkins, Steve [R-KS-2]; Committees: House - Veterans' Affairs

H.R.5031 — To authorize the collection of supplemental payments to increase congressional investments in medical research, and for other purposes; Sponsor: Rep. Welch, Peter [D-VT-At Large]; Committees: House - Energy and Commerce

H.Res.688 — Recognizing 25 years since the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt and reaffirming the goals and ideals of the ICPD Programme of Action, including comprehensive sexual and reproductive health and rights; Sponsor: Rep. Frankel, Lois [D-FL-21]; Committees: House - Foreign Affairs

H.R.5032 — To amend chapter 73 of title 38, United States Code, to direct the Secretary of Veterans Affairs to establish a rural recruitment office within the Department of Veterans Affairs to recruit health care professionals, and for other purposes; Sponsor: Rep. Huffman, Jared [D-CA-2]; Committees: House - Veterans' Affairs

H.R.5033 — To expand the eligibility of veterans for hospital care and medical services provided by non-Department of Veterans Affairs medical providers under the Veterans Choice Program; Sponsor: Rep. Byrne, Bradley [R-AL-1]; Committees: House - Veterans' Affairs

H.R.5036 — To prohibit the Secretary of Health and Human Services from taking any action to implement, enforce, or otherwise give effect to the final rule, entitled "Protecting Statutory Conscience Rights in Health Care; Delegations of Authority"; Sponsor: Rep. Pappas, Chris [D-NH-1]; Committees: House - Energy and Commerce

H.R.5039 — To lower the prices of excessively costly life-sustaining prescription drugs under part D of the Medicare program by requiring the Secretary of Health and Human Services to negotiate their prices, and for other purposes; Sponsor: Rep. Lipinski, Daniel [D-IL-3]; Committees: House - Energy and Commerce; Ways and Means

H.R.5057 — To clarify the treatment of pass-through status under the Medicare outpatient payment system for certain drugs; Sponsor: Rep. Tonko, Paul [D-NY-20]; Committees: House - Energy and Commerce; Ways and Means

S.2836 — A bill to prohibit the Secretary of Health and Human Services from taking any action to implement, enforce, or otherwise give effect to the final rule, entitled "Protecting Statutory Conscience Rights in Health Care; Delegations of Authority"; Sponsor: Sen. Murray, Patty [D-WA]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.5069 — To require the Secretary of Health and Human Services to develop for consideration of the Congress a poverty line for purposes of the Community Services Block Grant Act, and for other purposes; Sponsor: Rep. Ocasio-Cortez, Alexandria [D-NY-14]; Committees: House - Education and Labor

H.R.5075 — To amend the Family and Medical Leave Act of 1993, to repeal certain limits on leave for a married individuals employed by the same employer; Sponsor: Rep. Porter, Katie [D-CA-45]; Committees: House - Education and Labor; Oversight and Reform; House Administration

H.R.5076 — To amend title XVIII of the Social Security Act to provide information regarding vaccines for seniors as part of the Medicare & You handbook and to ensure that the treatment of cost sharing for vaccines under Medicare part D is consistent with the treatment of vaccines under Medicare part B, and for other purposes; Sponsor: Rep. Shalala, Donna E. [D-FL-27]; Committees: House - Energy and Commerce; Ways and Means

S.Res.420 — A resolution encouraging the President to expand the list of the Department of Veterans Affairs of presumptive medical conditions associated with exposure to Agent Orange to include Parkinsonism, bladder cancer, hypertension, and hypothyroidism; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Veterans' Affairs

S.2842 — A bill 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: Sen. Capito, Shelley Moore [R-WV]; Committees: Senate - Finance

S.2845 — A bill to amend the Family and Medical Leave Act of 1993, to repeal certain limits on leave for married individuals employed by the same employer; Sponsor: Sen. Ernst, Joni [R-IA]; Committees: Senate - Health, Education, Labor, and Pensions

S.2846 — A bill to amend title XIX of the Social Security Act to provide for the continuing requirement of Medicaid coverage of nonemergency transportation to medically necessary items and services, and for other purposes; Sponsor: Sen. Isakson, Johnny [R-GA]; Committees: Senate - Finance

H.Res.701 — Expressing support for policies that maintain a robust, fully-funded and staffed Veterans Health Administration of the Department of Veterans Affairs and do not jeopardize care for veterans by moving essential resources to the for-profit private sector; Sponsor: Rep. Grijalva, Raul M. [D-AZ-3]; Committees: House - Veterans' Affairs; Education and Labor

H.Con.Res.73 — Expressing the sense of Congress that public health professionals should be commended for their dedication and service to the United States on Public Health Thank You Day, November 25, 2019; Sponsor: Rep. McGovern, James P. [D-MA-2]; Committees: House - Energy and Commerce

H.R.5103 — To amend title XVIII of the Social Security Act to extend the floor on the area wage index under the inpatient prospective payment system to certain sole community hospitals; Sponsor: Rep. Peterson, Collin C. [D-MN-7]; Committees: House - Ways and Means

S.2855 — A bill to require the Secretary to conduct a study and issue a report on the affordability of insulin; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.2859 — A bill to amend the Public Health Service Act with respect to the designation of general surgery shortage areas, and for other purposes; Sponsor: Sen. Schatz, Brian [D-HI]; Committees: Senate - Health, Education, Labor, and Pensions

S.2860 — A bill to repeal changes made by health care reform laws to the Medicare exception to the prohibition on certain physician referrals for hospitals, and for other purposes; Sponsor: Sen. Lankford, James [R-OK]; Committees: Senate - Finance

S.2871 — A bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments under the Indian Health Service Loan Repayment Program and certain amounts received under the Indian Health Professions Scholarships Program; Sponsor: Sen. Udall, Tom [D-NM]; Committees: Senate - Finance