



Health Policy Briefing

October 22, 2018

HHS to Require Pharmaceutical List Prices in DTC Advertising

The Trump administration issued a proposed rule last week that would require pharmaceutical manufacturers to disclose the wholesale acquisition cost (WAC), or list price, of their products in direct-to-consumer (DTC) television advertising. The idea had previously been included in the President's drug pricing blueprint. Under the proposal, companies would be required to state the list price of a 30-day supply or the usual course of treatment for any medication covered through Medicare or Medicaid that costs at least \$35 a month. The information would be required to be posted in clear, legible text on screen at the end of the advertisement. Companies that do not comply with the policy would be subject to potential litigation. Lawmakers from both sides of the aisle have expressed support for the proposal, which is expected to face legal challenges from industry. Chairman of the Senate Judiciary Committee Chuck Grassley (R-Iowa) and Democratic whip Dick Durbin (D-Ill.) have stated that they would offer legislation, if necessary, to help authorize the proposal. A similar price transparency provision authored by Sens. Grassley and Durbin was included in a Senate-passed government funding bill but was removed by House Republicans in their version of the legislation. Supporters of the proposal believe that increased transparency will empower patients and slow the rising cost of prescription drugs. Pharmaceutical companies, however, argue that the inclusion of list prices in advertisements could confuse consumers and even discourage patients from seeking treatment because the list price is often higher than what patients end up paying with insurance. Many experts believe that the proposal is unlikely to have a significant impact on the price of drugs. The proposed rule will be open for public comment for 60 days. According to U.S. Department of Health and Human Services (HHS) Secretary Alex Azar, the proposal will take effect "in the months ahead."

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Spotlight on Preexisting Conditions Ahead of November Midterms

President Trump touted his support for protections for people with pre-existing conditions in a series of tweets last week, stating “All Republicans support people with pre-existing conditions, and if they don’t, they will after I speak to them. I am in total support.” Patient protections are a pivotal issue in most campaigns this election year. The administration is currently backing a lawsuit filed by the state of Texas contending that because the individual mandate penalty was repealed by Congress, the rest of the Affordable Care Act (ACA), including consumer protections, must be thrown out. Vulnerable Democrats running in red-states are using the lawsuit against their Republican rivals, while Republican candidates argue that the ACA is not the only means necessary to maintain protections for pre-existing conditions. Senate Majority Leader Mitch McConnell voiced support for the lawsuit in an interview last week. McConnell also suggested that Republicans may try to repeal the ACA again next year, depending on the outcome of the November midterm elections. McConnell spoke about the GOP’s dissatisfaction with the way the law is working and also argued the need to rein in spending on Medicare and other entitlement programs. Many predict that Democrats will win the House of Representatives, which would thwart any major repeal or entitlement reform by the GOP next year.

House Lawmakers Issue Oversight Report on USAID

A bipartisan group of lawmakers in the House has issued a [report](#) on the United States Agency for International Development’s (USAID) global health supply chain contract. According to the report, the \$9.5 billion contract has led to the late delivery of mosquito nets, delayed start of HIV treatments, and procurement of outdated AIDS treatments. The lawmakers argue that improved oversight of the contract is necessary and call for better communication and diplomatic engagement to hold partner countries accountable. The report was spearheaded by Foreign Affairs Committee Chairman Ed Royce (R-Calif.) and Ranking Member Eliot Engel (D-N.Y.).

Opioid-Related News Update

The White House plans to host an event this week to commemorate work on the opioid crisis. The event could be used as an opportunity for President Trump to sign H.R. 6, the ***SUPPORT for Patients and Communities Act***, the sweeping, bipartisan legislation aimed at combating the opioid epidemic passed by Congress earlier this month. This week marks one year since the President declared the issue a national public health emergency.

In related news, Ranking Member of the Senate Homeland Security and Governmental Affairs Committee Claire McCaskill (D-Mo.) has released a [report](#) accusing a pharmaceutical manufacturer of increasing the volume and strength of one of its opioid products. Sen. McCaskill argues that Insys Therapeutics has used speaker and compensation programs to push the sale of its fentanyl drug product Subsys, tying sales incentives to the dosage strength of the drug.

The U.S. Postal Service (USPS) Office of the Inspector General (OIG) has also issued an [audit report](#) in response to a request from Sen. McCaskill regarding the use of international mail for the shipment of fentanyl and illicit drugs. H.R. 6 includes a provision requiring the USPS to transmit advanced information to Customs and Border Protection (CBP) on all international shipments by the end of 2020.

GAO Releases Report on Medicaid Expansion

The Government Accountability Office (GAO) has released a new [report](#) using the 2016 National Health Interview Survey to examine states that expanded their Medicaid programs. The report found that low-income adults in expansion states had better access to health care and were less likely to report financial barriers to care compared with similar individuals in non-expansion states. Low-income adults were also less likely to report having unmet medical needs.

Upcoming Congressional Hearings and Meetings

Senate Health, Education, Labor, and Pensions Committee hearing “Reducing Health Care Costs: Improving Affordability through Innovation; 10:00 a.m., 430 Dirksen Bldg.; November 28