



Health Policy Briefing

November 2, 2020

Bera, Bucshon Introduce Legislation to Offset Fee Schedule Cuts

Rep. Ami Bera (D-Calif.) and Larry Bucshon (R-Ind.) have introduced legislation (H.R. 8702) that would provide support for physicians scheduled to see cuts to their Medicare reimbursement rates next year. The ***Holding Providers Harmless from Medicare Cuts During COVID-19 Act of 2020*** would provide relief payments for most Medicare physician services to mitigate the reimbursement cuts resulting from a budget neutrality adjustment under the Medicare Physician Fee Schedule (MPFS). The legislation would keep pay increases to office/outpatient evaluation and management services set to begin in January 2021 in place while ensuring that other services are not reduced in the midst of the coronavirus pandemic.

Pelosi, Mnuchin Continue to Spar Over COVID Relief

House Speaker Nancy Pelosi (D-Calif.) and Treasury Secretary Steven Mnuchin are still at odds over a new coronavirus stimulus bill. In a [letter](#) to the administration last week, Pelosi outlined seven areas of continuing disagreements – national virus testing and tracing program, funding for state and local governments, school safety measures, child-care funding, tax credits for working families, unemployment insurance, and workplace protections and liability issues – while Mnuchin faulted Pelosi’s “all or nothing” approach for the stimulus bill hold up. The chances of COVID relief being passed during the forthcoming lame-duck session may depend on the outcome of the election, with some lawmakers arguing that Senate Republicans may not support any additional stimulus if Democratic candidate Joe Biden is elected president.

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Amy Coney Barrett Confirmed to Supreme Court

The Senate confirmed Amy Coney Barrett to the Supreme Court last week by a vote of 52-48. Every Senate Democrat voted against the nominee, as did Sen. Susan Collins (R-Maine), who objected to the confirmation coming so close to the presidential election. Barrett took the judicial oath on Tuesday, becoming the 115th justice. She will immediately assume her new responsibilities and in the coming weeks is expected to participate in a case (California v. Texas) that will rule on the constitutionality of the Affordable Care Act (ACA).

Senate Finance Continues Investigation into Organ Transplant System

The Senate Finance Committee is continuing its investigation into the nation's organ transplantation system, asking the U.S. Department of Health and Human Services (HHS) for details about its oversight of organ procurement organizations (OPOs). A joint [letter](#) from Chairman Chuck Grassley (R-Iowa) and Ranking Member Ron Wyden (D-Ore.) expresses concerns about gaps in federal oversight that could result in thousands of life-saving organs going unrecovered every year. The lawmakers cite several inspector general audits and other reports regarding the adequacy of patient safety standards. The Committee also shared the [answers](#) it received from the United Network for Organ Sharing in response to a previous inquiry from the panel.

Oversight Committee Releases Details on HHS PR Campaign

The House Oversight and Reform Committee has released a series of documents related to its investigation of the administration's \$250 million ad campaign for coronavirus public health messaging. In a letter to the U.S. Department of Health and Human Services (HHS), Chair Carolyn Maloney (D-N.Y.), Select Subcommittee on the Coronavirus Crisis Chair James Clyburn (D-S.C.), and Rep. Raja Krishnamoorthi (D-Ill.) argue that the funds from the Centers for Disease Control and Prevention (CDC) were inappropriately used to politically benefit President Trump. HHS responded that the contract is currently on hold pending a review.

Open Enrollment from Nov. 1 through Dec. 15

This year's HealthCare.gov open enrollment began on Sunday. While millions of people have been left uninsured as a result of the economic impact of the current public health crisis, outreach efforts to promote enrollment have not been a focus of the current administration, which previously cut funding for Affordable Care Act (ACA) marketplace advertising and navigator efforts. Nevertheless, experts are predicting that enrollment will hold steady with previous years, which has hovered around 11 million people since 2015. Open enrollment for HealthCare.gov ends December 15, though some states will keep their enrollment open for a longer period. Average premiums for the most popular coverage option have decreased two percent, and only four percent of counties will only have one insurer.

HHS Issues Series of Key Rules

On October 29, the U.S. Department of Health and Human Services (HHS) released a series of regulations pertaining to health coverage transparency, compliance with information blocking requirements, the home health prospective payment system (HH PPS), implementation of the SUPPORT Act, and coverage of COVID-19 vaccines and therapeutics.

The Centers for Medicare and Medicaid Services' (CMS) [Transparency in Coverage Final Rule](#) would require insurers in the group and individual markets to disclose price and cost-sharing information. Most health plans, including employer-based group plans and insurance issuers offering group and individual coverage, will be subject to the reporting requirements. Plans must make publicly available standardized and regularly updated cost data files starting on January 1, 2022. Beginning January 1, 2023, health plans will be required to offer an online shopping tool that allows consumers to see the negotiated rate between their provider and their plan, as well as a personalized estimate of their out-of-pocket cost, for 500 of the most shoppable items and services. These tools will be required to show the costs for any remaining procedures, drugs, durable medical equipment, and other items or services available for plan or policy years beginning on or after January 1, 2024.

The Office of the National Coordinator for Health Information Technology (ONC) [extended](#) the compliance deadline for its information blocking regulation until April 5, 2021. This means that health care providers, IT developers, and health information exchanges will have an additional six months to comply with the data sharing deadline due to the impact of the coronavirus pandemic. The original deadline was set for today. Stakeholder organizations had expressed concerns that compliance with the technical requirements would divert resources away from patient care during the current public health emergency, or make it more difficult for patients to access their own data during this time. ONC also extended the deadlines for meeting health IT certification standards and for adopting standards to allow patient data to flow into apps until December 31, 2022.

The [2021 Home Health PPS Final Rule](#) updates HH PPS payment rates and wage index for calendar year (CY) 2021. The final rule implements changes to the home health regulations regarding the use of telecommunications technology in providing services under the Medicare home health benefit, and also implements the permanent home infusion therapy services benefit and supplier enrollment requirements for CY 2021.

The Drug Enforcement Administration's (DEA) [Implementation of the SUPPORT Act: Dispensing and Administering Controlled Substances for Medication-Assisted Treatment](#) amends certain regulations to make them consistent with the SUPPORT Act. The law expanded the conditions a practitioner must meet to provide medication-assisted treatment as well as the options available for a physician to be considered a qualifying physician. The SUPPORT Act also allows a pharmacy to deliver prescribed controlled substances to a practitioner's registered location for the purpose of maintenance or detoxification treatment to be administered under certain conditions by a practitioner.

CMS also released its fourth [COVID-19 Interim Final Rule with Comment Period](#) (IFC), which largely focuses on coverage of vaccines and therapeutics across Medicare, Medicaid, and group and individual plans. The rule aims to ensure that patients, including Medicare, Medicaid, CHIP, and most privately insured individuals, pay no out of pocket costs for a COVID vaccine, even if it is under an emergency use authorization (EUA).

OWS Purchases Lilly COVID Antibody Drug

The White House's Operation Warp Speed (OWS) announced that it has agreed to purchase 300,000 doses of bamlanivimab, Eli Lilly's antibody drug for the treatment of COVID-19, for \$375 million, with the option to purchase more doses through next year. An emergency use authorization (EUA) for the treatment, which has been shown to reduce symptoms, virus levels, and risk of hospitalization for those with mild to moderate COVID-19, is expected to be granted soon. Eli Lilly recently halted a clinical trial for bamlanivimab for hospitalized COVID-19 patients because it was not effective. The company will manufacturer one million doses of the product before the end of the year. The U.S. Department of Health and Human Services (HHS) has stated that the treatment will be provided to Americans at no cost.

Fed Eases Terms of Main Street Lending Program

The Federal Reserve has lowered the minimum loan amount under the Main Street Lending Program from \$250,000 to \$100,000, making the emergency loans available for more small businesses and nonprofits. While as much as \$75 billion in relief funding has been set aside by the Treasury Department to cover potential losses from the Main Street loans, only approximately \$4 billion in loans have been made under the program since its inception this summer. Many banks have been reluctant to participate because of the necessary underwriting and the risk of loan defaults. Under the Main Street Lending Program, the Federal Reserve purchases 95 percent of a bank loan to a company with fewer than 15,000 employees or less than \$5 billion in annual revenue. As a part of the changes announced last week, companies will be allowed to exclude Paycheck Protection Program (PPP) loans of up to \$2 million when calculating how much debt they hold while also increasing the maximum amount others can borrow.

PhRMA Launches Award for Health Disparities Research

The PhRMA Foundation has announced a new Challenge Award program that is soliciting research proposals to evaluate how the value assessment field can better serve diverse populations and address the causes of health disparities. A total of \$85,000 will be awarded to selected researchers who propose solutions to the question "How can value assessment methods and processes better account for populations that are typically underrepresented in research and drivers of health disparities?" Letters of intent should be submitted no later than December 1, 2020. More information about the application process is available on the PhRMA Foundation's website [here](#).

Physicians See Slight Decline in Average Income

A new [survey](#) reveals that physician pay remained flat this year amidst the coronavirus pandemic. The average pay for physicians increased by 1.5 percent according to a Doximity survey of more than 40,000 of the nation's doctors. Because of the 2.3 percent inflation rate in 2019, this represents a slight decline in average physician income. The cancellation of appointments and elective procedures resulting from the current public health crisis is likely to blame. Certain specialties have appeared to fare better than others, however, including vascular surgery, geriatrics, and emergency medicine, which saw pay increases of nearly five percent. Doximity also reported on the observed wage gap between male and female doctors, which increased to 28 percent from 25.2 percent last year.

Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [COVID-19 Testing](#)
- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business – PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)

Recently Introduced Health Legislation

H.Res.1200 — *Supporting the goals and ideals of National Rural Health Day; Sponsor: Rep. Finkenauer, Abby [D-IA-1]; Committees: House - Energy and Commerce*

H.R.8652 — *To amend title XVIII of the Social Security Act to provide coverage and payment under such title for certain treatments for dialysis-related amyloidosis, and for other purposes; Sponsor: Rep. Babin, Brian [R-TX-36]; Committees: House - Energy and Commerce; Ways and Means*

H.R.8658 — *To establish a Federal strategy for preventing, diagnosing, and treating nonalcoholic steatohepatitis, commonly referred to as “NASH”; Sponsor: Rep. Crenshaw, Dan [R-TX-2]; Committees: House - Energy and Commerce*

H.R.8662 — *To direct the Secretary of Health and Human Services to support research on, and expanded access to, investigational drugs for amyotrophic lateral sclerosis, and for other purposes; Sponsor: Rep. Fortenberry, Jeff [R-NE-1]; Committees: House - Energy and Commerce*

S.Res.757 — *A resolution expressing support for the designation of the month of November 2020 as “Pancreatic Cancer Awareness Month”; Sponsor: Sen. Whitehouse, Sheldon [D-RI]; Committees: Senate - Health, Education, Labor, and Pensions*

S.4854 — *A bill to provide payments for home health services furnished via visual or audio telecommunication systems during an emergency period; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate – Finance*

S.4859 — *A bill to require the Centers for Medicare & Medicaid Services to make recommendations for improving maternal and child health outcomes using remote physiologic monitoring devices and expanding coverage of such devices under Medicaid; Sponsor: Sen. Cassidy, Bill [R-LA]; Committees: Senate – Finance*

S.4863 — *A bill to amend title XIX of the Social Security Act to provide States with the option to provide coordinated care through a pregnancy medical home for high-risk pregnant women, and for other purposes; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate – Finance*

S.4864 — A bill to amend title XIX of the Social Security Act to improve access to adult vaccines under Medicaid; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Finance

S.4866 — A bill to amend titles XVIII and XIX of the Social Security Act to modernize Federal nursing home protections and to enhance care quality and transparency for nursing home residents and their families; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Finance

S.4867 — A bill to direct the Secretary of Health and Human Services to support research on, and expanded access to, investigational drugs for amyotrophic lateral sclerosis, and for other purposes; Sponsor: Sen. Coons, Christopher A. [D-DE]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.1204 — Expressing support for the designation of November, 2020 as “Pancreatic Cancer Awareness Month”; Sponsor: Rep. Carson, Andre [D-IN-7]; Committees: House - Armed Services; Energy and Commerce