



Health Policy Briefing

August 27, 2018

John McCain, War Hero and Senate Maverick, Dies at 81

Sen. John McCain (R-Ariz.) died at the age of 81 on Saturday. Senator McCain had served his country for sixty years as a naval aviator, war hero, congressman, senator, and presidential candidate. His naval honors include the Silver Star, Bronze Star, Legion of Merit, Purple Heart, and the Distinguished Flying Cross. McCain's family had announced that the senator had decided to discontinue medical treatment for his brain cancer the previous day. McCain was diagnosed in July 2017 with glioblastoma and had been absent from the Hill since last December. He was the chairman of the Senate Armed Services Committee and one of the strongest Republican critics of President Trump in the Senate. His legislative legacy includes initiatives regarding defense and national security, human rights, veterans' services, campaign finance reform, and government reform. Congress named the National Defense Authorization Act, which became law earlier this month, after Senator McCain. Senate Democratic Leader Chuck Schumer announced his plan to introduce a resolution to rename the Senate Russell office building after Senator McCain. Sen. McCain will lie in state in the Capitol Rotunda, a rare honor, and receive a full-dress funeral service at the Washington National Cathedral before his burial at the U.S. Naval Academy Cemetery in Annapolis, Maryland. Arizona Gov. Doug Ducey will appoint McCain's replacement, who will serve until the 2020 election.; the winner of that election will serve the remainder of McCain's term through 2022.

Senate Approves FY19 Funding for DOD, HHS

The Senate approved a spending package (H.R. 6157) that combines appropriations measures for the departments of Defense (DOD), Labor, Health and Human Services (HHS), and Education by a vote of 85-7 last week. Sens. Mike Crapo (R-Idaho), Jeff Flake (R-Ariz.), Mike Lee (R-Utah), Rand Paul (R-Ky.), Jim Risch (R-Idaho), Bernie Sanders (I-Vt.) and Pat Toomey (R-Pa.) opposed the \$854 billion bill. Leadership had previously agreed to avoid partisan amendments from both sides. Lawmakers approved several health-related amendments, including one from Sen. Bob Menendez

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(D-N.J.) that would provide \$1 million for a firefighter cancer registry, and another from Sen. John Kennedy (R-La.) that would appropriate an additional \$2.8 million to the National Suicide Prevention Lifeline. The chamber also agreed to a measure from Sens. Chuck Grassley (R-Iowa) and Dick Durbin (D-Ill.) that would require direct-to-consumer (DTC) advertisements to disclose the price of prescription drugs. Lawmakers rejected a push from Sen. Rand Paul (R-Ky.) to attach a provision that would block federal funding for Planned Parenthood by a vote of 45-48; Sens. Susan Collins (R-Maine) and Lisa Murkowski (R-Alaska) joined Democrats in opposition to the amendment. A similar provision is included in the HHS funding bill that has cleared the House Appropriations Committee. An amendment from Sen. Joe Manchin (D-W.Va.) that would have allowed the Senate to intervene and defend the Affordable Care Act (ACA) in a Texas lawsuit, which has the potential to impact consumer health insurance protections, was not brought for a vote. The Senate has now passed nine of the 12 appropriations bills needed to fund the government past the end of the fiscal year on September 30, but the spending legislation must still be reconciled with the House before it is sent to the President for his signature. The Senate is expected to complete work on the confirmation of 17 judicial and executive nominees before adjourning until after Labor Day.

Senate Expected to Consider Opioids After Labor Day

Senate Republican and Democratic leaders are still working to reach an agreement to bring an opioids package to the floor for a vote. Negotiations are underway to limit debate and amendments to the *Opioid Crisis Response Act of 2018*, a combination of three packages of bills advanced by three Senate committees earlier this year. Some lawmakers continue to push for changes to the package. For example, Sen. Rob Portman (R-Ohio) supports the addition of a provision that would rescind the institutions for mental disease (IMD) exclusion. The chamber is expected to bring the opioids legislation to the Senate floor the week after Labor Day.

In related news, the President took to Twitter last week to urge the Senate to pass the *STOP Act* (H.R. 5788), which is aimed at stopping the flow of synthetic opioids into the U.S. The bill would require the U.S. Postal Service (USPS) to obtain electronic data on international mail shipments that can be used to identify suspicious packages for inspections by the U.S. Customs and Border Protection (CBP). Private carriers are already required to submit this data. The bill would also promote the development of technology to detect synthetic opioids. The *STOP Act* passed the House earlier this year but has yet to be taken up in the Senate.

FDA, NAS to Develop New Opioid Prescribing Guidelines

The Food and Drug Administration (FDA) has announced the award of a contract to the National Academies of Sciences, Engineering, and Medicine for the creation of new opioid prescribing guidelines. The National Academies are tasked with the development of guidelines for the treatment of acute pain. The guidelines will make recommendations for specific conditions and procedures. According to FDA Commissioner Scott Gottlieb, the forthcoming guidelines will include specific scenarios for prescribers treating pain, unlike the recent guidelines from the Centers for Disease Control and Prevention (CDC), and could potentially be used to inform drug labeling.

GOP Lawmakers Introduce Pre-Existing Conditions Bill

Ten Republican senators have introduced a bill (S. 3388) that would require health insurers to cover everyone, regardless of health status. The legislation would amend the Health Insurance Portability and Accountability Act (HIPAA) to guarantee the availability of health insurance to all Americans, including those with pre-existing conditions, and prevent insurers from increasing premiums because of pre-existing conditions. Insurers, however, would still be allowed to exclude coverage of pre-existing conditions. The legislation is sponsored by Republican Senators Thom Tillis (N.C.), Lisa Murkowski (Alaska), Lamar Alexander (Tenn.), Chuck Grassley (Iowa), Dean Heller (Nev.), Bill Cassidy (La.), Joni Ernst (Iowa), Lindsey Graham (S.C.), John Barrasso (Wyo.) and Roger Wicker (Miss.). The bill comes as some red states are pursuing a lawsuit that would roll back the Affordable Care Act's (ACA) consumer protections. Oral arguments in the case are scheduled to begin on September 5.

GAO Releases Report on ACA Enrollment

The Government Accountability Office (GAO) has released a new **report** criticizing the administration's management of ACA enrollment. The agency concludes that plan affordability played a major role in exchange enrollment, which fell five percent in 2018. The report says that the White House's decision to halt cost-sharing reduction (CSR) payments was one driver of the 30 percent premium increases this year. Reductions in outreach and advertising were also responsible for decreased enrollment, according to the GAO. The agency recommended that HHS set numeric enrollment targets for 2019, a recommendation with which HHS says it disagrees. The department, however, did concur with GAO's other recommendations to ensure data used in the navigator program is accurate and to better assess consumer experience in the exchange. The GAO report was requested and released by congressional Democrats.

Hunter to Step Down from Committees Following Indictment

Rep. Duncan Hunter (R-Calif.) has agreed to step down from his committee assignments following his indictment for alleged campaign finance violations. Hunter was currently serving on the Armed Services Committee, Education and the Workforce Committee, and Transportation and Infrastructure Committee. His name will remain on the ballot in the November midterm elections.

HHS Releases New Report on Drug Pricing

There have been 60 percent fewer branded drug price increases since the release of the Trump administration's drug pricing blueprint earlier this year compared to last year, according to a new **report** cited by HHS Secretary Alex Azar. The report credits the release of the blueprint with 54 percent more generic and brand-drug price decreases than during the same period in 2017. The *Report on 100 Days of Action on the American Patients First Blueprint*, compiled by Dan Best, Senior Advisor to the Secretary for Drug Pricing Reform, also outlines the actions the department has already taken to increase competition, improve negotiation, incentivize lower list prices, and reduce out-of-pocket (OOP) costs.

Upcoming Congressional Hearings and Markups

Senate Health, Education, Labor, and Pensions Committee hearing "FDA Oversight: Leveraging Cutting-Edge Science and Protecting Public Health;" 10:00 a.m., 430 Dirksen Bldg.; August 29

Senate Judiciary Committee executive business meeting to consider James W. Carroll, Jr., to be Director of National Drug Control Policy; 10:00 a.m., 226 Dirksen Bldg.; August 30

House Committee on Veterans' Affairs hearing "Veteran Suicide Prevention: Maximizing Effectiveness and Increasing Awareness;" 10:30 a.m., 334 Cannon Bldg.; September 27

Recently Introduced Health Legislation

S.3355 — A bill to amend title 38, United States Code, to remove the manifestation period required for the presumptions of service connection for chloracne, porphyria cutanea tarda, and acute and subacute peripheral neuropathy associated with exposure to certain herbicide agents, and for other purposes; Sponsor: Sen. Blumenthal, Richard [D-CT]; Committees: Senate - Veterans' Affairs

S.3356 — A bill to require the Surgeon General of the Public Health Service to submit to Congress a report on the health effects of new psychoactive substances (including synthetic drugs) use; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Committees: Senate - Health, Education, Labor, and Pensions

S.3362 — A bill to provide grants to communities affected by substance use disorder to enable those communities to plan for and implement full-service community schools; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Health, Education, Labor, and Pensions

S.3363 — A bill to support States in their work to end preventable morbidity and mortality in maternity care by using evidence-based quality improvement to protect the health of mothers during pregnancy, childbirth, and in the postpartum period and to reduce neonatal and infant mortality, to eliminate racial disparities in maternal health outcomes, and for other purposes; Sponsor: Sen. Harris, Kamala D. [D-CA]; Committees: Senate - Finance

S.3366 — A bill to amend title XVIII of the Social Security Act to improve access to diabetes outpatient self-management training services, and for other purposes; Sponsor: Sen. Shaheen, Jeanne [D-NH]; Committees: Senate - Finance

S.3369 — A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a congenital anomaly or birth defect; Sponsor: Sen. Baldwin, Tammy [D-WI]; Committees: Senate - Health, Education, Labor, and Pensions

S.3380 — A bill to direct the Office of National Drug Control Policy to track and review federally funded drug demand reduction activities; Sponsor: Sen. Donnelly, Joe [D-IN]; Committees: Senate - Judiciary

S.3383 — A bill to amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program; Sponsor: Sen. Cardin, Benjamin L. [D-MD]; Committees: Senate - Finance

S.3384 — A bill to amend title XIX of the Social Security Act to provide for an extension of the enhanced FMAP for certain Medicaid health homes for individuals with substance use disorders. Sponsor: Sen. Cardin, Benjamin L. [D-MD]; Committees: Senate - Finance

S.3388 — A bill to amend the Health Insurance Portability and Accountability Act; Sponsor: Sen. Tillis, Thom [R-NC]; Committees: Senate - Health, Education, Labor, and Pensions