



## Health Policy Briefing

November 7, 2022

### Senators Express Support for Medicare Reimbursement Fix

Last week, Senators Debbie Stabenow (D-Mich.) and John Barrasso, MD (R-Wyo.) penned a bipartisan [letter](#) signed by forty-six senators urging Senate leadership to address the scheduled cuts to Medicare provider reimbursement before they take effect in the new year. The Centers for Medicare and Medicaid Services released its calendar year 2023 Physician Fee Schedule final rule last week, which confirms a reduction of 4.47% to the conversion factor. “Going forward,” the lawmakers state, “we support bipartisan, long-term payment reforms to Medicare in fiscally responsible manner.” They warn that failure to act could result in reduced staffing levels and office closures and negatively impact patient access to care.

### Finance Chair Releases Report on MA Deceptive Marketing Practices

Senate Finance Committee Chair Ron Wyden (D-Ore.) has released a new [report](#) detailing his investigation into misleading advertising practices by Medicare Advantage (MA) plans. The investigation was prompted by a recent finding from the Centers for Medicare and Medicaid Services (CMS) indicating that the number of complaints about MA marketing approximately doubled from 15,497 in 2020 to 39,617 in the first 11 months of 2021; nine of the 10 states that track MA complaint data saw an increase in complaints between 2020 and 2021. According to the report, plans use in-person sales, television ads, telemarketing calls, and robocalls to encourage seniors to switch from traditional Medicare to MA plans. Many of the complaints involved deceptive or fraudulent marketing practices, including the targeting of people with dementia, the enrollment of people without their consent, and the use of marketing materials made to look as if they came from the federal government. The report recommends prohibiting the cold calling of Medicare seniors and reinstating rules changed during the Trump administration to specify which marketing materials are subject to CMS regulation. The report also suggests requiring marketing materials to include a plan’s complaint and appeals process.

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## Lawmakers Urge Extension of APM Incentive Payments

A bipartisan group of more than 40 lawmakers in the House of Representatives sent a [letter](#) to House leadership in support of the extension of the 5% alternative payment model (APM) incentive payment. The *Medicare Access and CHIP Reauthorization Act of 2015* (MACRA) included a 5% incentive payment to encourage practices to transition into APMs. The letter asks that Congress include Section 4 of the *Value in Health Care Act* ([H.R. 4587](#)) in an end-of-year legislative package. This bipartisan legislation would extend the APM incentive payment and allow the Centers for Medicare and Medicaid Services to adjust qualifying thresholds to achievable levels in the coming years.

## Cybersecurity Caucus Co-Founder Releases Report on Security of Health Care Sector

Senate Cybersecurity Caucus co-founder Mark Warner (D-Va.) released a new [report](#) last week outlining ways to strengthen cybersecurity in the health care sector. The report asks Congress and the U.S. Department of Health and Human Services (HHS) to review patient privacy protections and to set minimum security standards for the industry. Other policy options in the report suggested for consideration include creating a senior leadership position at HHS to strengthen cybersecurity, establishing a process to update HIPAA on a regular basis, determining minimum security standards for health organizations, and reimbursing cybersecurity expenses through the Medicare program.

## HHS Renews Monkeypox PHE

The U.S. Department of Health and Human Services (HHS) has [renewed](#) the national monkeypox outbreak public health emergency (PHE). The monkeypox PHE was first declared on August 4. While monkeypox cases continue to decline across the nation, HHS attributed the decision to renew the PHE to consultation with public health officials, the continued consequences of the outbreak across multiple states, and the need maintain vaccine effectiveness studies and data flow from states and localities. More than 28,000 cases of monkeypox have been confirmed in the U.S., with six related deaths. The most recent seven-day case average currently stands at 30 per day. Black individuals account for the largest share of reported cases at 44%. While there are no vaccines or treatments available specifically for monkeypox, the smallpox vaccine Jynneos and the antiviral TPOXX have been put to use in at-risk communities.

## E&C GOP Leadership Request Info on Monkeypox Diagnostics

Republican leadership of the House Energy and Commerce Committee have sent a [letter](#) to Centers for Disease Control and Prevention (CDC) Director Rochelle Walensky regarding reports of faulty monkeypox tests and diagnostics. Ranking Member Cathy McMorris Rodgers (R-Wash.), Health Subcommittee Ranking Member Brett Guthrie (R-Ky.), and Oversight and Investigations Subcommittee Ranking Member Morgan Griffith (R-Va.) request information about the agency's diagnostic testing procedures for the monkeypox virus. "From the CDC's fiasco in rolling out effective COVID-19 tests in early 2020, to the recent faulty Monkeypox test information, this further highlights another example of why Americans have lost trust in our public health agencies and their ability to keep individuals safe and contain outbreaks. If the Biden administration is serious about restoring trust, public health agencies must be transparent and accountable to the American people," the letter argues.

## NIH to Fund DEI Grants

The National Institutes of Health (NIH) plans to fund grants that will support research institutions in conducting system-wide evaluations of their diversity, equity, inclusion (DEI), and accessibility and addressing any shortcomings they find. While the grants have not been officially announced, Chief Officer for Scientific Workforce Diversity Marie A. Bernard has said the concept has been approved and funding opportunities will soon be announced. The diversity assessment grants are a part of the NIH's broader strategy to encourage the scientific research community to be more inclusive - a strategy that also involves mentoring awards and institutional prizes for excellence in DEI.

## Recently Introduced Health Legislation

H.R.9254 — To establish within the Department of Health and Human Services an Ombuds for Reproductive and Sexual Health. Sponsor: Williams, Nikema [Rep.-D-GA-5]; Committees: House - Energy and Commerce

H.R.9247 — To amend the Public Health Service Act to direct the Secretary of Health and Human Services to conduct a public health education, awareness, and outreach campaign to enhance access to abortion and related health services. Sponsor: Maloney, Carolyn B. [Rep.-D-NY-12]; Committees: House - Energy and Commerce