



Health Policy Briefing

January 10, 2022

What's On the Congressional Agenda for 2022

Lawmakers have returned to Capitol Hill for the second session of the 117th Congress, facing a busy agenda in a legislative year shortened by the approaching 2022 midterm elections. The **Build Back Better** tax and spending reconciliation package (H.R. 5376) remains stalled in the Senate due to objections from Sen. Joe Manchin (D-W.Va.). Senate Majority Leader Chuck Schumer (D-N.Y.) has said that he wants the Senate to vote on the bill this month.

Congress faces a deadline of February 18 to maintain funding for the federal government for the remainder of the fiscal year (FY) 2022, which ends September 30. Legislators do not appear to be close to an agreement on either total spending or a path forward for another stopgap spending bill or omnibus package. February 18 is also the expiration of a ban on fentanyl-analog drugs. The White House has asked Congress to permanently deem fentanyl-related substances as Schedule I controlled substances.

Majority Leader Schumer has stated that he will seek to change the Senate's filibuster rule by January 17 to advance a measure on voting rights and reform. It remains unclear whether Democrats have the simple majority needed to modify the Senate's debate procedures. Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) have previously opposed the elimination of the 60-vote threshold to enable passage of legislation with a simple majority. The House of Representatives has already passed three separate voting and ethics bills: the **For the People Act** (H.R. 1), the **John R. Lewis Voting Rights Advancement Act** (H.R. 4), and the **Protecting Our Democracy Act** (H.R. 5314).

Lawmakers have also begun another round of talks on additional coronavirus relief. The **Washington Post** has reported that the White House is preparing a request to Congress for an additional COVID-related health spending package, expected to focus on therapeutics and vaccine distribution, while House Speaker Nancy Pelosi (D-Calif.) has suggested that there may be an opportunity to add federal coronavirus relief to the February 18 government funding legislation. Sens. Ben Cardin (D-Md.) and Roger Wicker (R-Miss.) are leading an

Inside

- SOTU Set for March 1.....2
- Jayapal Urges Administration to End Direct Contracting Model.....2
- HELP Committee to Vote on FDA Nominee Wednesday..2
- Congressional Attending Physician Issues Warning of Unprecedented Surge.....2
- Thune and Johnson Announce Plans for 2022.....2
- Bobby Rush to Retire After 15 Terms.....2
- CMS Issues Proposed Rule on Price Concessions.....3
- Provider Relief Fund Reporting Portal for Phase 2 Opened.....3
- Upcoming Congressional Hearings and Markups.....3
- Recently Introduced Health Legislation.....3

effort on a standalone measure to provide approximately \$68 billion in assistance for restaurants, performance venues, gyms, minor league sports teams, and other service businesses impacted by omicron.

SOTU Set for March 1

On Friday, Speaker of the House Nancy Pelosi (D-Calif.) invited President Joe Biden to deliver the State of the Union on Tuesday, March 1. This is the latest date ever announced for the annual address. The White House has since confirmed that Biden will give the State of the Union on the date offered by Pelosi. Biden is expected to urge Congress to complete action on the ***Build Back Better Act*** and the ***John Lewis Voting Rights Advancement Act***.

Jayapal Urges Administration to End Direct Contracting Model

A group of more than 50 lawmakers in the House of Representatives is [asking](#) the U.S. Department of Health and Human Services (HHS) to eliminate the Medicare program's direct contracting model, which pays for-profit companies to manage care for beneficiaries. The lawmakers, led by Rep. Pramila Jayapal (D-Wash.), argue that the program threatens patient care and outcomes. The letter urges Secretary Xavier Becerra to permanently end the Trump-era program and transition enrollees back into traditional Medicare.

HELP Committee to Vote on FDA Nominee Wednesday

The Biden administration has re-sent to the Senate a list of nominations that did not reach confirmation last year, including the nomination of Robert Califf to serve as commissioner of the Food and Drug Administration (FDA) and John Nkengasong to serve as U.S. Global AIDS Coordinator and Special Representative for Global Health Diplomacy. The Senate Health, Education, Labor, and Pensions (HELP) Committee plans to vote on Califf's nomination on January 12. The vote was pushed back a week due to a snowstorm in Washington, D.C.

Congressional Attending Physician Issues Warning of Unprecedented Surge

In a letter to congressional leaders, attending physician Brian Monahan stated that there has been an unprecedented number of cases in the Capitol community affecting hundreds of individuals, with most of the cases being breakthrough cases amongst individuals who are already vaccinated. He urged congressional offices and agencies to reduce in-person activities to the maximum extent possible. Sen. Rob Portman (R-Ohio) and Rep. Alexandria Ocasio-Cortez (D-N.Y.) are two of the latest lawmakers to announce having tested positive for COVID-19. Portman is asymptomatic and plans to work remotely for the time being, while Ocasio-Cortez is experiencing symptoms and recovering at home.

Thune and Johnson Announce Plans for 2022

Over the weekend, Sen. John Thune (R-S.D.) announced that he will run for reelection. Thune serves as the Senate Republican whip, the number two leadership position, and sits on the Senate Finance Committee. Sen. Ron Johnson (R-Wisc.) also announced his plan to run for a third term. He previously pledged to serve only two terms in the Senate. The Wisconsin senate seat is expected to be competitive.

Bobby Rush to Retire After 15 Terms

Rep. Bobby Rush (D-Ill.) has announced that he will not seek reelection this year. The longtime civil rights activist and Army veteran was first elected to Congress in 1992. Rush currently serves on the Energy and Commerce and Agriculture committees.

CMS Issues Proposed Rule on Price Concessions

A new proposed rule from the Centers for Medicare and Medicaid Services (CMS) would require Part D plans to apply all pharmacy price concessions they receive from network pharmacies to the point of sale and pass on savings to patients at the pharmacy counter. The rule aims to reduce out-of-pocket costs for Medicare beneficiaries and improve price transparency and market competition in Part D. The proposed rule would require pharmacy price concessions to be included in the negotiated price of the drug. The agency estimates that the regulation would save beneficiaries \$21.3 billion over the next decade while increasing government Part D costs by \$40 billion. Pharmaceutical manufacturers would save \$14.6 billion over the same window. The policy would take effect on January 1, 2023. CMS also proposes to require Medicare Advantage (MA) plans to establish and consult with an enrollee advisory committee on the needs of dual-eligible beneficiaries, streamline the grievance and appeals processes in certain Dual Eligible Special Needs Plans (D-SNPs), and limit the ability of poorly performing MA plans to expand or enter into new contracts. Comments on the proposed rule are due March 7.

Provider Relief Fund Reporting Portal for Phase 2 Opened

The Provider Relief Fund (PRF) Reporting Portal is open for the second reporting period and will remain open through March 31, 2022. Providers who received one or more PRF payments exceeding \$10,000, in the aggregate, from July 1, 2020 to December 31, 2020 must report on their use of funds. According to HHS, the deadline to use funds for this reporting period was December 31, 2021. Providers who were required to report in the first reporting period but did not report are out of compliance, will be excluded from receiving or retaining future PRF payments (including any applicable Phase 4 payments), and the Health Research and Services Administration (HRSA) will seek repayment of those funds.

Upcoming Congressional Hearings and Markups

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing “Addressing New Variants: A Federal Perspective on the COVID-19 Response;” 10:00 a.m.; January 11

Senate HELP Committee vote on Dr. Robert Califf’s nomination to be Commissioner of Food and Drugs; 10:00 a.m.; January 12

Recently Introduced Health Legislation

S.3440 — A bill to amend the Federal Food, Drug, and Cosmetic Act and the Defense Production Act of 1950 to prohibit the Federal Government from limiting State access to key therapies, such as monoclonal antibodies, and from prioritizing Federal contracts over State contracts relating to purchasing supplies to combat the COVID-19 pandemic; Sponsor: Sen. Cruz, Ted [R-TX]; Committees: Senate - Banking, Housing, and Urban Affairs

S.3444 — A bill to ensure that facilities of the Indian Health Service, facilities operated by an Indian Tribe, Tribal organization, or inter-Tribal consortium, and facilities operated by an urban Indian organization receive items from the strategic national stockpile and qualified pandemic or epidemic products directly from the Department of Health and Human Services; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions