



Health Policy Briefing

March 7, 2022

Congress Faces March 11 Government Funding Deadline

The Senate and the House of Representatives return to session on Monday ahead of the March 11 deadline to fund the federal government. Lawmakers aim to enact a spending package that includes aid for Ukraine, COVID-19 relief, and the 12 annual appropriations measures by the end of this week, but negotiations on supplemental spending have complicated an agreement on a broader omnibus bill. The administration is asking Congress for \$22.5 billion in COVID-19 relief for the purchase of anti-viral treatments and therapies, tests, and improved vaccines, as well as to support global vaccine efforts, in anticipation of possible new COVID-19 variants and waves of infection. Both the White House and Democratic leadership are pushing to attach COVID-19 and Ukraine supplemental spending to the omnibus government funding package. Some Republicans, however, have raised concerns about whether more COVID-19 spending is really necessary and about how support for Ukraine impacts total defense spending levels.

Biden Delivers First SOTU

During his first State of the Union address last week, President Joe Biden pointed to the progress that has been made in combating the coronavirus pandemic and the ability of Americans to return “back to more normal routines.” The President announced a new “Test to Treat” initiative that will make COVID-19 tests and treatments available for free at pharmacies across the nation. The initiative would allow Americans to soon be able to access Pfizer’s antiviral treatment at the pharmacy immediately after testing positive for COVID-19. The administration is aiming for one million antiviral pills to be available in March and to double that figure in April. The President also announced that Americans will be able to order additional free COVID-19 tests online as early as this week and that the Department of Justice plans to name a chief prosecutor for pandemic fraud.

During his address, Biden made the case that

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spending on his economic agenda could help fight inflation. He highlighted the health care goals he aims to achieve amid the pandemic and war in Ukraine and endorsed efforts to lower the cost of prescription drugs, health care premiums, and long-term care, including a legislative initiative to limit the price of insulin to \$35. The President touted his Cancer Moonshot initiative and the creation of the Advanced Research Projects Agency for Health (ARPA-H). He also announced plans for the White House to examine the role of private equity in the ownership and operation of nursing homes and long-term care facilities. The President spotlighted the need to end the opioid epidemic, increase access to mental health care, and investigate the health of veterans exposed to burn pits and toxic substances during their deployment. He also called on lawmakers to pass legislative initiatives to address gun control, support U.S. manufacturing and supply chains, and reduce the federal budget deficit.

Masks No Longer Required on House Floor

Capitol attending physician Brian Monahan announced that masks will no longer be required on the floor of the House of Representatives. His announcement follows new guidance from the Centers for Disease Control and Prevention (CDC) easing most COVID-19 related restrictions in areas of the country that are experiencing low coronavirus transmission rates and a decrease in hospitalizations. Washington, D.C. is currently in the CDC's low-risk category. A negative test was still required for entry to the joint session of Congress for President Joe Biden's State of the Union address on Tuesday.

Debate Continues on Status of Telehealth Flexibilities

Lawmakers continue to negotiate the extension of telehealth flexibilities instituted in response to the COVID-19 pandemic as a part of the expected omnibus spending bill to fund the federal government beyond the expiration of the current continuing resolution on March 11. According to a GOP aide, Republicans have proposed using bipartisan pay-fors to extend telehealth access for multiple years beyond the conclusion of the current public health emergency (PHE) but have received push back from Democrats who are hoping to use those same pay-fors to fund the stalled Build Back Better reconciliation package. Democrats, however, say that Republicans are not on board with a long-term extension of telehealth access and are instead insisting on a short-term extension lasting only 25 days beyond the PHE expiration. The administration has committed to giving a 60-days' notice before allowing the PHE declaration, which must be renewed every 90 days, to expire. Given this commitment, the PHE declaration is expected to extend through at least July.

Lawmakers Urge Funding for New COVID Therapies

A group of 21 Democrats in the House of Representatives has sent a [letter](#) to appropriations leadership asking for additional money for the procurement and distribution of new COVID-19 therapies in the fiscal year (FY) 2022 government funding package currently under negotiation. "Giving the American people access to new treatments is one of the federal government's most critical missions during this phase of the COVID-19 response," the lawmakers write. "Rapid deployment of new, effective treatments will reduce the overwhelming burdens placed on our hospital systems and save American lives."

Senate Votes to End PHE, Repeal Health Care Worker Vaccine Mandate

The Senate voted 48-47 last week to end President Biden's COVID-19 national emergency declaration, but would not impact the public health emergency declaration. The resolution (S.J. Res. 38) was able to pass due to the absence of several Senate Democrats. Congress can end a declared emergency via a resolution passed by a simple majority vote. However, the largely symbolic Republican-backed legislation is not expected to pass the Democratic-controlled House of Representatives, and President Biden has already threatened to veto any such measure. The Senate also voted 49-44 to block the White House's vaccine mandate for health care workers (S.J. Res. 32), with six Democrats missing the vote. House Democrats have signaled that they will not consider the joint resolution, which the President has threatened to veto.

GOP Blocks Consideration of Bill to Codify Roe v. Wade

Senate Republicans successfully blocked consideration of standalone legislation (H.R. 3755) to codify abortion rights last week on a 46-48 vote. Sen. Joe Manchin (D-W.Va.) joined Republicans in voting no, while three Democrats and three Republicans did not vote. The **Women's Health Protection Act** was previously passed by the House of Representatives in a near party-line vote last September.

Manchin Releases Revised BBB Outline

Sen. Joe Manchin (D-W.Va.) has released a plan proposing a revival of the Build Back Better reconciliation package. Manchin's slimmed-down version of the President's economic agenda would split any revenue raised between reducing the federal budget deficit and new spending. He also proposes prescription drug pricing reform and a partial roll back the 2017 tax cuts as two such sources of revenue and expresses support for climate change measures on the spending side. While this latest announcement from Manchin – who is responsible for stalling the originally \$2 trillion tax and spending proposal that would require the support of all 50 Senate Democrats for passage – was well received by his congressional colleagues, Congress has largely turned its focus from Build Back Better to government funding, responding to Russia's invasion of Ukraine, and confirmation proceedings for the President's Supreme Court nominee.

Rep. Deutch to Retire

Rep. Ted Deutch (D-Fla.) announced that he will not seek re-election at the end of the 117th Congress. He has accepted the position of CEO of the American Jewish Committee. Deutch has served in Congress since 2010. He currently sits on the Foreign Affairs, Judiciary, and Ethics committees.

Members of Congress Test Positive for COVID-19 in Advance of SOTU

Sen. Alex Padilla (D-Calif.), and Reps. Jamie Raskin (D-Md.), Suzan DelBene (D-Wash.), Pete Aguilar (D-Calif.), Ted Deutch (D-Fla.), and Dwight Evans (D-Pa.) each announced that they had tested positive for COVID-19. Members were asked to provide a negative test before attending the State of the Union address. Some members of congress objected to the required testing and chose not to attend the event.

SUNSET Delayed Through September

The White House is once again delaying the implementation of a Trump-era regulation that would require the U.S. Department of Health and Human Services (HHS) to review each of its regulations at least once every ten years. The Securing Updated and Necessary Statutory Evaluations Timely (SUNSET) rule was set to take effect later this month. HHS proposed withdrawing or repealing the SUNSET rule last year amid ongoing litigation but instead postponed its effective date to March 22. The rule's implementation has now been delayed again until September 22. The proposal was aimed at reducing government bureaucracy and would have deemed regulations expired unless they had undergone agency review to determine whether they should be amended or rescinded at least once every 10 years.

HHS to Review Surprise Billing Court Decision

The U.S. Department of Health and Human Services (HHS) announced that it is reviewing a recent court decision on the implementation of the No Surprises Act and considering next steps. HHS notified health care providers, emergency facilities, providers of air ambulance services, group health plans, health insurance issuers, Federal Employees Health Benefits (FEHB) Carriers, and certified independent dispute resolution (IDR) entities of steps that are being taken to conform to the court's order:

- Effective immediately, guidance documents that are based on, or that refer to, the portions of the Rule that the court invalidated are withdrawn. Once these documents have been updated to conform with the court's order, the updated documents will be promptly reposted.
- Training will be provided on the revised guidance for certified IDR entities and Disputing Parties. This training will be offered through webinars and roundtable discussions and will occur after the above-referenced documents are updated.
- The IDR process will be opened for submissions through the IDR Portal. For disputes for which the open negotiation period has expired, submission of a notice of initiation of the IDR process within 15 business days following the opening of the IDR Portal will be permitted.

Upcoming Congressional Hearings and Markups

Senate Health, Education, Labor, and Pensions Committee markup of the PREVENT PANDEMICS Act; 10:00 a.m.; March 15

Recently Introduced Health Legislation

H.R.6851 — To amend the Families First Coronavirus Response Act and the CARES Act to establish new coverage and payment rules for certain COVID-19 diagnostic tests and related items and services, and for other purposes; Sponsor: Rep. Pallone, Frank, Jr. [D-NJ-6]; Committees: House - Energy and Commerce; Ways and Means; Education and Labor

H.R.6848 — To provide for a Medicare demonstration project to evaluate the fiscal impact of covering low vision devices as durable medical equipment under part B of the Medicare program; Sponsor: Rep. Maloney, Carolyn B. [D-NY-12]; Committees: House - Energy and Commerce; Ways and Means

H.R.6840 — To prohibit COVID-19 travel restrictions with respect to any nationals of Canada, and for other purposes; Sponsor: Rep. Jacobs, Chris [R-NY-27]; Committees: House - Judiciary.

H.R.6839 — To prohibit agencies of the Federal Government from evaluating bids and proposals on the basis of information related to noncompliance with a Federal contractor COVID-19 vaccine mandate, and for other purposes; Sponsor: Rep. Hill, J. French [R-AR-2]; Committees: House - Oversight and Reform

H.R.6834 — To provide for the mandatory recall of drugs regulated by the Food and Drug Administration; Sponsor: Rep. DeLauro, Rosa L. [D-CT-3]; Committees: House - Energy and Commerce

H.R.6833 — To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to establish requirements with respect to cost-sharing for certain insulin products, and for other purposes; Sponsor: Rep. Craig, Angie [D-MN-2]; Committees: House - Energy and Commerce; Ways and Means; Education and Labor

H.R.6832 — 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: Rep. Cloud, Michael [R-TX-27]; Committees: House - Energy and Commerce; Financial Services

H.R.6829 — To amend the Public Health Service Act to limit the authority of the Department of Health and Human Services to regulate interstate commerce relating to communicable diseases, to amend title 49, United States Code, to limit the authority of the Federal Aviation Administration to regulate air commerce relating to communicable diseases, and for other purposes; Sponsor: Rep. Brooks, Mo [R-AL-5]; Committees: House - Energy and Commerce; Transportation and Infrastructure

H.R.6828 — To prohibit the use of Federal funds for the HHS Reproductive Healthcare Access Task Force; Sponsor: Rep. Biggs, Andy [R-AZ-5]; Committees: House - Energy and Commerce

H.R.6823 — To amend title 38, United States Code, to improve certain programs of the Department of Veterans Affairs for home and community based services for veterans, and for other purposes; Sponsor: Rep. Brownley, Julia [D-CA-26]; Committees: House - Veterans' Affairs

H.Res.946 — Supporting women's cardiovascular health; Sponsor: Rep. Trahan, Lori [D-MA-3]; Committees: House - Energy and Commerce

H.Res.948 — Recognizing the extraordinary challenges faced by patients of color with rare diseases and the need to identify and promote evidenced-based solutions to alleviate the disproportionate burden of rare diseases on these communities and supporting the recognition of the last day in February as "Rare Disease Day"; Sponsor: Rep. Butterfield, G. K. [D-NC-1]; Committees: House - Energy and Commerce

H.Res.950 — Providing for consideration of the bill (H.R. 3967) to improve health care and benefits for veterans exposed to toxic substances, and for other purposes; Sponsor: Rep. McGovern, James P. [D-MA-2]; Committees: House - Rules

H.Res.951 — Recognizing the 100th anniversary of the American College of Surgeons Committee on Trauma and the importance of preventing injury and saving more lives from injury around the globe; Sponsor: Rep. Burgess, Michael C. [R-TX-26]; Committees: House - Energy and Commerce

H.Res.952 — Expressing support for the designation of February 28, 2022, as "Rare Disease Day"; Sponsor: Rep. Carson, Andre [D-IN-7]; Committees: House - Energy and Commerce

H.Res.954 — Expressing support for designation of March 3, 2022, as "National Triple-Negative Breast Cancer Day"; Sponsor: Rep. Morelle, Joseph D. [D-NY-25]; Committees: House - Oversight and Reform

H.R.6875 — To update the National Action Plan for Adverse Drug Event Prevention to provide educational information on adverse drug events and pharmacogenomic testing, to improve electronic health records for pharmacogenomic information, and for other purposes; Sponsor: Rep. Swalwell, Eric [D-CA-15]; Committees: House - Energy and Commerce

H.Res.958 — Supporting the designation of March 2022 as National Colorectal Cancer Awareness Month; Sponsor: Rep. Payne, Donald M., Jr. [D-NJ-10]; Committees: House - Energy and Commerce

H.R.6878 — To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes; Sponsor: Rep. Bass, Karen [D-CA-37]; Committees: House - Judiciary; Budget

H.R.6885 — To amend title XI of the Social Security Act to provide for the disclosure and analysis of certain health-related ownership information; Sponsor: Rep. Jayapal, Pramila [D-WA-7]; Committees: House - Energy and Commerce; Ways and Means

H.R.6888 — To amend the Federal Food, Drug, and Cosmetic Act to improve the treatment of rare diseases and conditions, and for other purposes; Sponsor: Rep. Tonko, Paul [D-NY-20]; Committees: House - Energy and Commerce

S.3726 — A bill to address research on, and improve access to, supportive services for individuals with long COVID; Sponsor: Sen. Kaine, Tim [D-VA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3737 — A bill to establish the Public Health Information and Communications Advisory Committee for purposes of providing recommendations and reports, and to support educational initiatives on communication and dissemination of information during public health emergencies; Sponsor: Sen. Murphy, Christopher [D-CT]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.6895 — To establish the Commission on Sustaining Medicare and Social Security, and for other purposes; Sponsor: Rep. Bilirakis, Gus M. [R-FL-12]; Committees: House - Ways and Means; Energy and Commerce

H.R.6896 — To amend the Controlled Substances Act to improve consumer take-back programs by allowing persons who are authorized to collect controlled substances from ultimate users and other non-registrants for destruction through an authorized consumer return program to open and inspect packages, to provide a secure method of transporting substances to another location of destruction, and for other purposes; Sponsor: Rep. Foxx, Virginia [R-NC-5]; Committees: House - Energy and Commerce; Judiciary

H.R.6904 — To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit a group health plan and a health insurance issuer offering group or individual health insurance coverage from reducing contracted rates, or terminating contracts, with health care providers during a public health emergency; Sponsor: Rep. Porter, Katie [D-CA-45]; Committees: House - Energy and Commerce; Education and Labor; Ways and Means

S.Res.532 — A resolution recognizing the 100th anniversary of the American College of Surgeons Committee on Trauma and the importance of preventing injury and saving more lives from injury around the globe; Sponsor: Sen. Boozman, John [R-AR]; Committees: Senate - Judiciary

S.3747 — A bill to prohibit an employer from terminating the coverage of an employee under a group health plan while the employee is engaged in a lawful strike, and for other purposes; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Health, Education, Labor, and Pensions

S.3749 — A bill to amend the Public Health Service Act to enhance compliance with hospital price transparency requirements, and for other purposes; Sponsor: Sen. Kennedy, John [R-LA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3761 — A bill to support the provision of treatment family care services, and for other purposes; Sponsor: Sen. Baldwin, Tammy [D-WI]; Committees: Senate - Finance

H.R.6914 — To prohibit the use of Federal funds to discriminate, directly or indirectly, against an individual on the basis of whether such individual has been vaccinated or acquired natural immunity against SARS-CoV-2, and for other purposes; Sponsor: Rep. Bilirakis, Gus M. [R-FL-12]; Committees: House - Energy and Commerce; Education and Labor

H.R.6926 — To prohibit the use of Federal funds to purchase at-home tests for SARS-CoV-2 that are imported from, or manufactured in, the People's Republic of China; Sponsor: Rep. Harshbarger, Diana [R-TN-1]; Committees: House - Energy and Commerce