



Health Policy Briefing

April 25, 2022

Seven-Term Senator Hatch Dies at 88

Former GOP Senator Orrin Hatch (Utah) died in Salt Lake City on Saturday at the age of 88. Hatch was the longest-serving Republican senator in U.S. history. He served in the chamber for 42 years, from 1977 to 2019, and as the president pro tempore (2015-2019). During his career, he served as chairman of three major Senate committees: Finance, Judiciary, and Labor and Human Resources (aka, HELP Committee). His legacy legislation includes the Drug Price Competition and Patent Term Restoration Act (aka, Hatch-Waxman), the State Children’s Health Insurance Program (SCHIP), and the Americans with Disabilities Act. He was also awarded the Presidential Medal of Freedom. Hatch’s seat was filled by Sen. Mitt Romney (R) after his retirement in 2019. His death was announced in a statement from his foundation, which focuses on civic engagement and political discourse, and did not specify a cause. Hatch is survived by his wife Elaine and their six children.

HHS Makes ARPA-H Placement at NIH Official

The Biden administration has made official the decision to house the new Advanced Research Projects Agency for Health (ARPA-H) within the National Institutes of Health (NIH). A notice published in the Federal Register last week from U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra details the transfer of fiscal year (FY) 2022 money to NIH for the establishment of ARPA-H, but notes that ARPA-H’s director will report directly to the HHS secretary. While the FY 2022 omnibus provided \$1 billion to fund ARPA-H, lawmakers were divided on where ARPA-H should reside, with Appropriations Chair Rosa DeLauro (D-Conn.) and Energy and Commerce Health Subcommittee Chair Anna Eshoo (D-Calif.) arguing that tethering ARPA-H to the NIH bureaucracy will not allow the new agency to nimbly achieve the breakthrough research and development it was established to accomplish.

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Lawmakers Spotlight Need for Long COVID Research, Treatment

Sens. Sheldon Whitehouse (D-R.I.) and Ed Markey (D-Mass.) have sent a [letter](#) to the National Institutes of Health (NIH) asking the agency about research being conducted into long-COVID. The lawmakers expressed concern that the NIH has been slow to launch long-COVID research efforts and that observational research is being prioritized over investigations into potential treatments and therapeutics. They asked how much of the \$1.15 billion provided to NIH for long-COVID research remains unspent, and what additional funding or authorities are needed. The Government Accountability Office estimates that between 7.7 and 23 million Americans have long-COVID. “Should this projection prove accurate,” the letter states, “our health care system will face increased strain in the years to come. In addition to these effects on health care, long COVID threatens our economic recovery, potentially exacerbating workforce shortages and straining social safety net programs.” In related news, the House Progressive Caucus sent a letter to Democratic leadership last week calling for the passage of legislation to increase benefits for long-COVID patients who receive Social Security Disability and to eliminate the five-month waiting period for individuals to qualify for the program. The approximately 100 members of the caucus argue that such a bill would “demonstrate Democrats’ commitment to furthering the legacy of President Franklin Delano Roosevelt and strengthening the most important anti-poverty program in America’s history.”

HHS Announces \$90 Million to Support HRSA Health Center Data Modernization

The Health Resources and Services Administration (HRSA) will provide nearly \$90 million to allow health centers to collect better data to identify and reduce health disparities. The funding was made available through the American Rescue Plan. The data modernization initiative aims to support health centers in collecting more and improved information about social determinants of health to further meet the needs of the community and reduce gaps in care. More than 90% of HRSA-funded health center patients live at or below 200% of the federal poverty level, and approximately 63% of patients are racial or ethnic minorities.

DOJ Tallies COVID-19 Patient Fraud

The U.S. Department of Justice (DOJ) estimates that COVID-19-related patient scams have amounted to a total of \$292 million in fraud since the start of the pandemic. The DOJ has charged 21 people with scams totaling \$149 million during the last year, on top of the charges raised against 14 individuals totaling \$143 million announced last May. These scams aimed at patients are separate from the fraud related to the federal government’s COVID-19 relief programs.

OMB Clears Ban on Menthol Flavoring in Cigarettes/Cigars

The Office of Management and Budget has cleared two proposed rules from the Food and Drug Administration (FDA) that would ban menthol flavoring in cigarettes and all characterizing flavors in cigars. The regulations can now be published by the agency at any time. The FDA had announced plans last year to pursue these policies as a part of its efforts to address health disparities and reduce the death and disease caused by combusted tobacco product use. Smoking products with menthol flavoring are disproportionately used by Black Americans.

WH to Rescind Conscience Rule

The Biden administration is reportedly planning to rescind the Trump-era conscience rule that permits health care providers to refuse to provide care that conflicts with their religious or moral beliefs. The rule, which was finalized in 2019 but blocked by federal courts, has never been implemented. A spokesperson for the U.S. Department of Health and Human Services has confirmed the decision to rescind the regulation and stated that a policy change is underway. A formal announcement could come as early as the end of this month, amidst actions by many GOP-led states to limit access to abortions and procedures for transgender patients.

White House Personnel Changes

Anita Dunn, a communications and political strategist, will return to the White House as a senior advisor. She left her temporary role in the Biden Administration last August to return to SKDK, the communications and political consulting firm where she is a partner and founding member. Also, Ian Sams will be moving to the White House Counsel's Office from his current position as Deputy Assistant Secretary for Public Affairs at the Department of Health and Human Services. These recent moves are viewed by some as the start to ensuring seasoned individuals are in place to manage possible congressional investigations and inquiries should republicans win the majority in the House and/or Senate during the upcoming mid-term elections.

Upcoming Congressional Hearings and Markups

Senate Health, Education, Labor, and Pensions Committee hearing "FDA User Fee Agreements: Advancing Medical Product Regulation and Innovation for the Benefit of Patients, FDA Center Directors," 10:00 a.m.; April 26

House Veterans Affairs' Subcommittee on Technology Modernization hearing "Next Steps: Examining Plans for the Continuation of the Department of Veterans Affairs Electronic Health Record Modernization Program," 2:00 p.m.; April 26

House Oversight and Reform Committee hearing "McKinsey & Company's Conduct and Conflicts at the Heart of the Opioid Epidemic," 10:00 a.m.; April 27

House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies hearing "Fiscal Year 2023 Budget Request for the Food and Drug Administration," 10:00 a.m.; April 27

House Energy and Commerce Subcommittee on Health hearing "The Fiscal Year 2023 HHS Budget;" the witness will be HHS Secretary Xavier Becerra; 10:15 a.m.; April 27

House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies hearing "Meeting Veterans' Full Needs: Update on Women's Health, Mental Health, Homelessness, and Other Programs;" 2:00 p.m.; April 27

Senate Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies hearing to examine proposed budget estimates and justification for fiscal year 2023 for the Food and Drug Administration; 10:00 a.m.; April 28

House Ways and Means Committee hearing "Proposed Fiscal Year 2023 Budget with Health & Human Services Secretary Becerra;" 10:30 a.m.; April 28

Recently Introduced Health Legislation

H.R.7537 — To amend title V of the Public Health Service Act to direct the Secretary of Health and Human Services, acting through the Assistant Secretary for Mental Health and Substance Use, to establish a program under which the Secretary will award grants to eligible entities to provide community-based mental health services in communities in which an active shooter event or incident of targeted violence occurred, and for other purposes; Sponsor: Rep. McBeth, Lucy [D-GA-6]; Committees: House - Energy and Commerce

H.R.7539 — To amend the Internal Revenue Code of 1986 to exclude from gross income payments under the Indian Health Service Loan Repayment Program and certain amounts received under the Indian Health Professions Scholarships Program; Sponsor: Rep. Moore, Gwen [D-WI-4]; Committees: House - Ways and Means

H.R.7540 — To direct the Secretary of Labor to promulgate an occupational safety and health standard on reducing the threat of violence in the workplace, and for other purposes; Sponsor: Rep. Neguse, Joe [D-CO-2]; Committees: House - Education and Labor

H.J.Res.81 — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Health and Human Services relating to “Vaccine and Mask Requirements To Mitigate the Spread of COVID-19 in Head Start Programs”; Sponsor: Rep. Joyce, David P. [R-OH-14]; Committees: House - Education and Labor

H.R.7559 — To provide for digital communication of prescribing information for drugs (including biological products), and for other purposes; Sponsor: Rep. Sherrill, Mikie [D-NJ-11]; Committees: House - Energy and Commerce

H.R.7565 — To continue to fund the IMPROVE Initiative through the Eunice Kennedy Shriver National Institute of Child Health and Human Development, and for other purposes; Sponsor: Rep. Underwood, Lauren [D-IL-14]; Committees: House - Energy and Commerce