



Health Policy Briefing

June 24, 2019

House Proceeds to Second Minibus Spending Bill

The House of Representatives passed its first fiscal year (FY) 2020 spending bill last week. The \$1 trillion package (H.R. 2740) provides funding for Defense, Energy and Water, Labor-Health and Human Services-Education, and State-Foreign Operations and was passed by a 226-203 vote. No Republicans joined Democrats in voting for the measure, which the White House has threatened to veto. Following passage of H.R. 2740, the House began consideration of its second minibus (H.R. 3055) which provides funding for Agriculture-Food and Drug Administration, Commerce-Justice-Science, Interior-Environment, Military Construction-Veterans' Affairs, and Transportation-Housing and Urban Development. The bill includes a total of \$320 billion in discretionary spending. The House approved dozens of amendments to the package last week, including changes that would prohibit the Department of Justice (DOJ) from interfering with tribal and state cannabis programs and an amendment to bar the DOJ from using funds for litigation to undermine the Affordable Care Act (ACA). The White House has also threatened to veto H.R. 3055 due to overall spending levels for non-defense programs and the prohibition of funding for some of the President's top priorities, such as construction of a border wall. House consideration of the Financial Services-General Government appropriations bill (H.R. 3351) is expected to begin this week.

The Senate has yet to take up any FY 2020 spending bills as chamber leadership continues negotiations on top-line spending numbers. Senate Appropriations Chairman Richard Shelby (R-Ala.) has stated that if a budget caps agreement cannot be reached by July 1, he would prefer to deem a set of numbers in order to allow appropriators to start drafting bills.

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House Passes Medicaid Extenders Bill

The House of Representatives passed H.R. 3252, the ***Empowering Beneficiaries, Ensuring Access, and Strengthening Accountability Act of 2019*** last week by a vote of 371-46. The bill would extend funding for several Medicaid programs, including the Excellence in Mental Health Demonstration pilot program and the Money Follows the Person program. Both are scheduled to expire later this year. The bill would extend a provision that disregards a spouse's income when determining home and community-based services eligibility and increase amounts in the Medicaid Improvement Fund. H.R. 3252 would also modify how Medicaid drug rebates are calculated and expand the authority of State Medicaid Fraud and Abuse Control Units to investigate patient abuse. The bill will now be sent to the Senate for consideration.

HELP to Mark Up Lower Health Care Costs Act This Week

The Senate Health, Education, Labor, and Pensions (HELP) Committee formally introduced a revised version of the bipartisan ***Lower Health Care Costs Act of 2019*** (S. 1895) last week. The legislation would use a benchmark rate set at the median in-network payment for each insurer for a geographic area to compensate certain out-of-network health care providers. The legislation would extend the benchmark policy to air ambulance bills; air ambulance providers would be prohibited from sending balance bills to patients, and patients would only be required to pay the median in-network payment amount for air ambulance transport. Chairman Lamar Alexander (R-Tenn.) had previously stated that he would prefer an in-network guarantee approach (also known as network matching), but he was ultimately swayed by the Congressional Budget Office's (CBO) findings that the benchmark rate policy would be the most effective means to lower health care costs. The surprise billing provisions contained in the Lower Health Care Costs Act are similar to the House Energy and Commerce Committee's bipartisan ***No Surprises Act***. The HELP package, which also includes provisions to increase prescription drug competition and create more transparency in the health care system, will be marked up on June 26. Sen. Chris Murphy (D-Conn.) has said that he may vote against the bill unless measures are added to address the administration's recent efforts to undermine the Affordable Care Act (ACA), such as the funding cuts to enrollment outreach and the expansion of short-term, limited-duration health plans. Both Chairman Alexander and Ranking Member Patty Murray (D-Wash.) have stated that issues related to the ACA should be handled separately from the Lower Health Care Costs Act package. Hart Health Strategies Inc. has updated its side-by-side comparisons of the [Senate](#) out-of-network legislation to reflect the latest developments out of the HELP Committee. A comparison of the [House](#) proposals is also available.

Update on Congressional Drug Pricing Negotiations

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) has announced opposition to the White House's ***International pricing index (IPI)*** proposal, which would tie the price Medicare pays for certain Part B prescription drugs to prices in other countries. Grassley had far been waiting for a formal proposed regulation to decide his stance on the policy but stated that he has now studied the issue for long enough to determine that it would not "be to the benefit of the adoption of and research for modern drugs." Despite it being touted as one of the administration's key proposals to lower drug prices, the IPI policy has already been denounced by many congressional Republicans. The proposed rule was recently sent by the U.S. Department of Health and Human Services (HHS) to the White House for review. Sen. Grassley had previously aimed to release the Finance Committee's own drug pricing package last week but announced that negotiations with Committee Democrats are still ongoing and that a bill is not likely to be unveiled before the Fourth of July recess. The Finance package is expected to include reforms to Medicare Part B as an alternative to the international pricing proposal.

House Speaker Nancy Pelosi (D-Calif.) has stated that congressional leadership is making progress on prescription drug pricing negotiations with the White House, but that it is still unclear whether Congress will act on any legislation before the August recess.

House Oversight Committee Chairman Elijah Cummings (D-Md.) and Sen. Debbie Stabenow (D-Mich.) have [asked](#) the Government Accountability Office (GAO) to examine how HHS prevents pharmaceutical manufacturers from infringing

on government-owned patents, and how the department could use government-owned patents to improve drug access and affordability. The lawmakers specifically reference reports of Gilead Sciences infringing on a government-owned patent for pre-exposure prophylaxis (PrEP).

Reps. Diana DeGette (D-Colo.) and Tom Reed (R-N.Y.) are considering drafting legislation that would apply specifically to the cost of insulin products because of the slow progress being made on more comprehensive drug pricing legislation. Their bill would likely draw on a paper published by the Congressional Caucus on Diabetes last year, according to Rep. DeGette. It could include provisions to transition from a drug rebate system to a flat-fee-based payment model, require increased transparency around how insulin prices are set, or cap out-of-pocket costs for prescription drugs for chronic conditions such as diabetes.

Lawmakers Push Back Against WH Effort to Repeal ACA

In an interview last week, the President stated that he would be announcing his plan to repeal and replace the ACA over the next two months. His remarks, along with the administration's actions to declare the 2010 health care law unconstitutional in court, have been widely denounced by Democratic lawmakers. Congressional Republicans are also wary of returning to the ACA repeal debate and would prefer to focus on other more bipartisan health care priorities, such as protecting patients from surprise insurance gaps and lowering drug prices. Senate Majority Leader Mitch McConnell (R-Ky.) has stated that Congress will wait to act on the administration's proposal until after next year's election.

CBO Releases Latest Mandatory Means-Tested Spending Estimates

The CBO has released its [estimates](#) of federal mandatory spending for means-tested programs from 2009 through 2029, projecting that the Medicaid program will grow by approximately 5.5 percent annually between 2020 and 2029. ACA insurance subsidy spending is estimated to grow by just over three percent per year over the same time period. Total spending on means-tested health programs will increase from \$497 billion in 2019 to \$834 billion in 2029, according to the report.

Health Prices Transparency Order Expected Today

President Trump plans to sign an executive order this afternoon to require the disclosure of prices in health care. The "Executive Order to Improve Price and Quality Transparency in Healthcare" is expected to direct federal agencies to begin drafting regulations and guidance that would compel insurers, doctors, hospitals, and other stakeholders in the health care industry to provide more transparency around the negotiated and discounted costs of care.

Trump Administration Personnel Update

HHS Secretary Alex Azar announced the promotion of Judy Stecker to Deputy Chief of Staff for Operations and Strategy. She will continue in her current role as Assistant Secretary for Public Affairs as well and will serve under recently promoted Chief of Staff Brian Harrison.

Senate HELP Committee Chairman Lamar Alexander (R-Tenn.) is planning to meet with acting Commissioner of Food and Drugs Ned Sharpless in the near future. Sharpless has expressed interest in officially leading the Food and Drug Administration (FDA), but has not yet been nominated by the White House. As HELP Committee Chairman, Sen. Alexander would preside over Dr. Sharpless's confirmation hearings if he is eventually nominated.

Upcoming Congressional Hearings and Markups

House Energy and Commerce Subcommittee on Health hearing “Reauthorizing Vital Health Programs for American Families;” 10:00 a.m., 2322 Rayburn Bldg.; June 25

Senate Health, Education, Labor, and Pensions Committee mark up of S. 1199, Poison Center Network Enhancement Act of 2019; S. 1173, Emergency Medical Services for Children Reauthorization Act of 2019; and S. 1895, Lower Health Care Costs Act; 10:30 a.m., 430 Dirksen Bldg.; June 26

House Oversight and Reform Subcommittee on National Security hearing titled “U.S. Biodefense, Preparedness, and Implications of Antimicrobial Resistance for National Security;” 2:00 p.m., 2247 Rayburn Bldg.; June 26

House Veterans’ Affairs Subcommittee on Health hearing “Beyond the Million Veterans Program: Barriers to Precision Medicine;” 2:00 p.m., 210 Capitol Bldg.; June 26

Senate Judiciary Committee executive session to consider S. 1227, Prescription Pricing for the People Act of 2019; S. 440, PACED Act; S. 1224, Stop STALLING Act; S. 1416 Affordable Prescriptions for Patients Act of 2019; 10:00 a.m., 226 Dirksen Bldg.; June 27

Recently Introduced Health Legislation

H.R.3296 — To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives; Sponsor: Rep. Pressley, Ayanna [D-MA-7]; Committees: House - Energy and Commerce, Education and Labor, Ways and Means

H.R.3327 — To amend title XI of the Social Security Act to require that direct-to-consumer television advertisements for prescription drugs and biological products include the list price of such drugs and products, and for other purposes; Sponsor: Rep. Rooney, Francis [R-FL-19]; Committees: House - Energy and Commerce, Ways and Means.

H.R.3310 — To direct the Secretary of Homeland Security to conduct a study on how to improve training and support for local emergency response providers in areas with high concentrations of covered chemical facilities in how to respond to a terrorist attack on a chemical facility; Sponsor: Rep. Jackson Lee, Sheila [D-TX-18]; Committees: House - Homeland Security, Energy and Commerce.

H.R.3302 — To amend title XVIII of the Social Security Act to improve the accuracy of geographic adjustment factors under the Medicare program and to permanently extend certain adjustments to such factors for certain localities, and for other purposes; Sponsor: Rep. Finkenauer, Abby [D-IA-1]; Committees: House - Energy and Commerce, Ways and Means.

H.R.3332 — To amend title XVIII of the Social Security Act to provide coverage for wigs as durable medical equipment under the Medicare program, and for other purposes; Sponsor: Rep. McGovern, James P. [D-MA-2]; Committees: House - Energy and Commerce, Ways and Means

H.R.3335 — To provide a set-aside of funds for the territories under the health profession opportunity grant program under section 2008 of the Social Security Act, to make the Commonwealth of the Northern Mariana Islands eligible for the grants, and for other purposes; Sponsor: Rep. Neal, Richard E. [D-MA-1]; Committees: House - Ways and Means

H.R.3336 — *To provide grants for the conduct of demonstration projects designed to provide education and training for eligible individuals with an arrest or conviction record to enter and follow a career pathway in the health professions through occupations that pay well and are expected to experience a labor shortage or be in high demand, under the health profession opportunity grant program under section 2008 of the Social Security Act; Sponsor: Rep. Davis, Danny K. [D-IL-7]; Committees: House - Ways and Means*

H.R.3337 — *To require applications for a health profession opportunity grant under section 2008 of the Social Security Act to contain evidence of in-demand jobs or worker shortages; Sponsor: Rep. Boyle, Brendan F. [D-PA-2]; Committees: House - Ways and Means*

H.R.3338 — *To remove barriers to health professions by providing resources to access foundational educational training, such as English as a foreign language and adult basic education, and to require the provision of child care, in demonstration projects funded under the health profession opportunity grant program under section 2008 of the Social Security Act; Sponsor: Rep. Chu, Judy [D-CA-27]; Committees: House - Ways and Means*

H.R.3339 — *To provide for the use of peer support, peer mentoring, and career coaching in demonstration projects conducted under the health profession opportunity grant program under section 2008 of the Social Security Act; Sponsor: Rep. Evans, Dwight [D-PA-3]; Committees: House - Ways and Means*

H.R.3340 — *To provide a set-aside of funds for Indian populations under the health profession opportunity grant program under section 2008 of the Social Security Act, and for other purposes; Sponsor: Rep. Gomez, Jimmy [D-CA-34]; Committees: House - Ways and Means*

H.R.3341 — *To make opioid treatment programs eligible for grants under section 2008 of the Social Security Act; Sponsor: Rep. Higgins, Brian [D-NY-26]; Committees: House - Ways and Means*

H.R.3342 — *To make hospitals eligible for health professions opportunity grants under section 2008 of the Social Security Act; Sponsor: Rep. Horsford, Steven [D-NV-4]; Committees: House - Ways and Means*

H.R.3343 — *To provide for technical assistance under the health profession opportunity grant program under section 2008 of the Social Security Act; Sponsor: Rep. Kildee, Daniel T. [D-MI-5]; Committees: House - Ways and Means*

H.R.3344 — *To provide grants for the conduct of demonstration projects designed to provide education and training for eligible individuals to enter and follow a career pathway in the field of pregnancy or childbirth, under the health profession opportunity grant program under section 2008 of the Social Security Act; Sponsor: Rep. Moore, Gwen [D-WI-4]; Committees: House - Ways and Means*

H.R.3345 — *To require preference to be given to applicants for health profession opportunity grants under section 2008 of the Social Security Act who have certain kinds of business and community partners; Sponsor: Rep. Murphy, Stephanie N. [D-FL-7]; Committees: House - Ways and Means*

H.R.3346 — *To guarantee that grants are made under the health profession opportunity grant program under section 2008 of the Social Security Act to grantees in each State that is not a territory, and for other purposes; Sponsor: Rep. Pascrell, Bill, Jr. [D-NJ-9]; Committees: House - Ways and Means*

H.R.3347 — *To require geographical diversity in the provision of health profession opportunity grants under section 2008 of the Social Security Act, and to require the support services provided through the use of the grants to include a transportation assistance plan; Sponsor: Rep. Sewell, Terri A. [D-AL-7]; Committees: House - Ways and Means*

H.R.3350 — To amend title 38, United States Code, to reimburse veterans for the cost of emergency medical transportation to a Federal facility, and for other purposes; Sponsor: Rep. Hartzler, Vicky [R-MO-4]; Committees: House - Veterans' Affairs

H.R.3371 — To amend titles XI and XIX of the Social Security Act to stabilize the Medicaid program in Puerto Rico; Sponsor: Rep. Velazquez, Nydia M. [D-NY-7]; Committees: House - Energy and Commerce

S.1893 — A bill to require the Comptroller General of the United States to conduct a study on ways to increase reporting of missing Indians and the effects of substance abuse, including the use of methamphetamine, on violent crime in Tribal communities, and for other purposes; Sponsor: Sen. Daines, Steve [R-MT]; Committees: Senate - Indian Affairs

S.1895 — A bill to lower health care costs; Sponsor: Sen. Alexander, Lamar [R-TN]; Committees: Senate - Health, Education, Labor, and Pensions

S.1897 — A bill to establish a process for updating the labeling of certain drugs with outdated labeling; Sponsor: Sen. Bennet, Michael F. [D-CO]; Committees: Senate - Health, Education, Labor, and Pensions

S.1905 — A bill to amend the Patient Protection and Affordable Care Act to provide for additional requirements with respect to the navigator program, and for other purposes; Sponsor: Sen. Baldwin, Tammy [D-WI]; Committees: Senate - Health, Education, Labor, and Pensions

S.1906 — A bill to require the Secretary of Veterans Affairs to provide financial assistance to eligible entities to provide and coordinate the provision of suicide prevention services for veterans at risk of suicide and veteran families through the award of grants to such entities, and for other purposes; Sponsor: Sen. Boozman, John [R-AR]; Committees: Senate - Veterans' Affairs

H.Res.455 — Expressing support for the designation of the month of June 2019 as "National Post-Traumatic Stress Injury Awareness Month" and June 27, 2019, as "National Post-Traumatic Stress Injury Awareness Day"; Sponsor: Rep. Peters, Scott H. [D-CA-52]; Committees: House - Armed Services, Veterans' Affairs

H.R.3379 — To amend the Public Health Service Act to shorten the exclusivity period for brand name biological products from 12 to 5 years; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Energy and Commerce

H.R.3386 — To amend title XI of the Social Security Act to require hospitals and critical access hospitals to provide uninsured individuals with access to the lowest negotiated rate for items and services furnished to such individuals; Sponsor: Rep. Collins, Chris [R-NY-27]; Committees: House - Energy and Commerce, Ways and Means

H.R.3396 — To expand the research activities of the National Institutes of Health with respect to functional gastrointestinal and motility disorders, and for other purposes; Sponsor: Rep. Sensenbrenner, F. James, Jr. [R-WI-5]; Committees: House - Energy and Commerce

S.Res.258 — A resolution expressing support for the designation of May 2019 as "National Brain Tumor Awareness Month"; Sponsor: Sen. Daines, Steve [R-MT]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Voice Vote.

S.1921 — A bill to provide that primary care services provided by the National Health Service Corps may include palliative care services; Sponsor: Sen. Rosen, Jacky [D-NV]; Committees: Senate - Health, Education, Labor, and Pensions

S.1925 — A bill to authorize State opioid response grants, and for other purposes; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate - Health, Education, Labor, and Pensions

S.1926 — A bill to increase access to pre-exposure prophylaxis to reduce the transmission of HIV; Sponsor: Sen. Harris, Kamala D. [D-CA]; Committees: Senate - Health, Education, Labor, and Pensions

S.1928 — A bill to amend title XVIII of the Social Security Act to improve the enrollment of retiring individuals in the Medicare program; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate - Finance

S.1934 — A bill to amend title 38, United States Code, to provide benefits from the Department of Veterans Affairs for persons disabled by treatment under the Veterans Community Care Program, and for other purposes; Sponsor: Sen. Tester, Jon [D-MT]; Committees: Senate - Veterans' Affairs

S.1935 — A bill to amend the Internal Revenue Code of 1986 to ensure that working families have access to affordable health insurance coverage; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Finance

S.1936 — A bill to amend title XVIII of the Social Security Act to protect coverage for screening mammography, and for other purposes; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Finance