



## Health Policy Briefing

July 17, 2023

### House Appropriators Advance Labor-HHS, State-Foreign Ops Funding Bills

The House Appropriations Committee released its Labor-Health and Human Services-Education appropriations [bill](#) for fiscal year (FY) 2024 and advanced the package out of subcommittee last week. The bill would cut topline spending levels by 29%, with the U.S. Department of Health and Human Services (HHS) receiving a total of \$103.3 billion - \$14 billion less than current levels. Funding for the Centers for Disease Control and Prevention would be cut by \$1.6 billion, funding for the National Institutes of Health would be cut by \$3.8 billion, and funding for the Advanced Research Projects Agency for Health would be cut by \$1 billion. Appropriations for the Agency for Healthcare Research and Quality would be eliminated altogether, with appropriators arguing the agency is duplicative of other HHS programs. Title X family planning grants would also be eliminated. The bill includes several contentious policy riders, including a requirement that HHS report to Congress how many abortions are provided under exceptions to the Hyde Amendment. The Senate Appropriations Committee is reportedly planning to mark up its own Labor-HHS-Education appropriations bill on July 27.

The House Appropriations Committee also approved its FY 2024 State and Foreign Operations appropriations [bill](#) last week. The bill includes a total of \$1.5 billion for USAID, an approximately \$500 million cut, and would extend authorization for the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR) for one year. It includes a provision to prevent the administration from entering any international agreement via the World Health Assembly without two-thirds Senate approval. It also includes several abortion-related riders, including the Helms amendment restriction on the use of global health funds to pay for abortions and the Mexico City Policy barring support for organizations that perform or promote abortions. The Senate Appropriations Committee is scheduled to markup its FY 2024 State and Foreign Operations appropriations bill on July 20.

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## Education Workforce Panel Considers Health Transparency Measures

The House Education and Workforce Committee advanced four bipartisan health care transparency measures out of committee last week. The bills approved by the panel include:

- [H.R. 4509](#), the *Transparency in Billing Act*, which would require accurate billing practices by hospitals to ensure that group health plans pay for appropriately billed services.
- [H.R. 4507](#), the *Transparency in Coverage Act*, to codify the “Transparency in Coverage” final rule, which provides consumers with price transparency for medical services and prescription drugs.
- [H.R. 4527](#), the *Health DATA Act*, to ensure health plan fiduciaries are not contractually restricted from receiving cost or quality of care information about their plan.
- [H.R. 4508](#), the *Hidden Fee Disclosure Act*, which would strengthen requirements that pharmacy benefit managers and Third-Party Administrators disclose compensation to plan fiduciaries.

## Finance Committee to Markup PBM Package

The Senate Finance Committee has scheduled a July 26 markup of legislative proposals to increase transparency and accountability in the pharmacy benefit manager (PBM) industry. While it remains unclear what legislation the package will contain, it is expected to build on the [roadmap](#) released by Chairman Ron Wyden (D-Ore.) and Ranking Member Mike Crapo (R-Idaho) in April outlining the types of bipartisan solutions they wished to pursue. The Chairman’s Mark will be released 48 hours in advance of the markup.

## Senate Democrats Release Report on Generic Insulin Access

Senate Democrats released a [report](#) last week shedding light on the accessibility of generic insulin products. The report, which was prepared by the offices of Sens. Richard Blumenthal (D-Conn.), Elizabeth Warren (D-Mass.), and Raphael Warnock (D-Ga.), found that while nearly half of the 300 pharmacies surveyed did not have Eli Lilly’s generic insulin Lispro in stock, 80% of those pharmacies had the more expensive brand product Humalog available. The average price of Lispro for uninsured individuals totaled \$97.51, more than triple the advertised list price. The three major manufacturers of insulin – Eli Lilly, Novo Nordisk Inc., and Sanofi – publicly committed to limiting patient costs for generic insulin to \$25 per vial earlier this year. Senate Health, Education, Labor and Pensions Committee Chairman Bernie Sander (I-Vt.) met with Senate Majority Leader Chuck Schumer (D-N.Y.) to discuss the issue last week. Schumer has stated his intention to advance bipartisan legislation to lower the cost of insulin and prescription drugs during the chamber’s current work period.

## Cassidy Releases Proposal to Reauthorize Key Health Programs

Senate Health, Education, Labor and Pensions (HELP) Committee Ranking Member Bill Cassidy (R-La.) has introduced [legislation](#) to reauthorize community health centers and several other public health programs. Cassidy’s proposal, which mirrors the bipartisan [bill](#) advanced by the House Energy and Commerce Committee, would offer small increases in funding for community health centers, the National Health Service Corps (NHSC), and the Teaching Health Center Graduate Medical Education (THCGME) Program. It stands in contrast to HELP Chairman Bernie Sander’s (I-Vt.) plan, which included significant funding increases. Authorization for the programs is set to expire at the end of the fiscal year on September 30. Cassidy’s *Community Health Center Reauthorization Act* would extend and increase funding for community health centers at \$4.2 billion a year for the next two years. The Community Health Center Fund currently receives \$4 billion in federal funding annually. The NHSC would be funded at \$350 million for two years, an increase of \$40 million per year. Funding for the THCGME program would increase from \$175 million to \$275 million over six years.

## Senate Judiciary Advances Rogue Pharmacy Legislation

The Senate Judiciary Committee advanced bipartisan legislation last week to require social media companies and digital communication service providers to report to the Drug Enforcement Administration when their platforms are used by rogue pharmacies or drug dealers to illegally sell or distribute drugs. [S. 1080](#), the *Cooper Davis Act*, was advanced in a 16-5 vote. The bill is named in honor of a 16-year-old teenager who died after taking a counterfeit prescription drug laced with fentanyl in August 2021. It was later discovered that a drug dealer solicited the teenager via Snapchat.

## E&C GOP Investigation NIH Reappointments

Republican leadership of the House Energy and Commerce Committee are [investigating](#) the process surrounding the Reappointment of 14 National Institutes of Health (NIH) officials, including former National Institutes of Allergy and Infectious Diseases Director Anthony Fauci. The lawmakers assert that the individuals were not correctly reappointed to their positions in late 2021, calling into question the legality of the more than \$25 billion in research grants they approved. While NIH center and institute leaders are permitted to serve multiple five-year terms, the *21st Century Cures Act* requires the U.S. Department of Health and Human Services Secretary to personally handle such appointments. Chair Cathy McMorris Rodgers (R-Wash.) asserts that in the case of the 14 NIH leaders, reappointments were made by the NIH director and later ratified by Secretary Xavier Becerra. According to committee staff, the panel plans to continue pressing the issue with administration officials and are considering the need for legislation to clarify the appointment process.

## Nomination for NIH Director Remains Stalled Before HELP Committee

Dr. Monica Bertagnolli, the White House's nominee to lead the National Institutes of Health (NIH), has declined Sen. Elizabeth Warren's (D-Mass.) request to make a public ethics pledge committing to not seek employment in an industry related to her government post for at least four years after leaving public service. Bertagnolli's nomination also faces a hurdle from Senate Health, Education, Labor and Pensions Committee Chairman Bernie Sanders (I-Vt.), who has said he will oppose all administration health nominees who do not commit to working to lower drug prices. Bertagnolli reportedly has concerns about the scope of each commitment, and left a meeting with Warren last week without reaching an agreement. The NIH has been without a confirmed director for a year and a half, but administration officials have stated that they remain committed to Bertagnolli's confirmation.

## GAO Updates PHE Preparedness Recommendations

The Government Accountability Office (GAO) has released a new [report](#) containing additional recommendations for federal agencies to better prepare for future public health emergencies (PHE). As of April 2023, the GAO has made 386 recommendations to 26 federal agencies and 19 suggestions to Congress to strengthen response and preparedness. About 45% of those have been fully or partially addressed. GAO's latest recommendations focus on access to diagnostic testing and medical countermeasures, access to real-time information about emerging threats, and the risk of improper payments and fraud.

## Upcoming Congressional Hearings and Markups

House Energy and Commerce Subcommittee on Health hearing “Innovation Saves Lives: Evaluating Medicare Coverage Pathways for Innovative Drugs, Medical Devices, and Technology;” 10:30 a.m.; July 18

House Oversight and Accountability Subcommittee on Health Care and Financial Services hearing “Why Expanding Medicaid to DACA Recipients Will Exacerbate the Border Crisis;” 2:00 p.m.; July 18

House Small Business Subcommittee on Oversight, Investigations, and Regulations hearing “Burdensome Red Tape: Overregulation in Health Care and the Impact on Small Businesses;” 10:00 a.m.; July 19

Joint Economic Committee hearing to examine the economic impact of diabetes; 2:00 p.m.; July 19

Senate Homeland Security and Governmental Affairs Committee hearing to examine America’s supply chain security, focusing on understanding and mitigating threats; 10:00 a.m.; July 20

Senate Finance Subcommittee on Health hearing “The Cost of Inaction and the Urgent Need to Reform the U.S. Transplant System;” 10:00 a.m.; July 20

Senate Health, Education, Labor, and Pensions Committee markup of S. \_\_\_\_, ***Pandemic and All-Hazards Preparedness and Response Act***; 10:30 a.m.; July 20

Senate Appropriations Committee markup of FY 2024 State and Foreign Operations, Energy and Water Development, Housing, and Urban Development; 10:30 a.m.; July 20

H.R.4507 — To amend the Employee Retirement Income Security Act of 1974 to promote transparency in health coverage and reform pharmacy benefit management services with respect to group health plans, and for other purposes; Sponsor: Good, Bob [Rep.-R-VA-5]; Committees: House - Education and the Workforce; Energy and Commerce; Ways and Means

H.R.4508 — To amend the Employee Retirement Income Security Act of 1974 to clarify and strengthen the application of certain employer-sponsored health plan disclosure requirements; Sponsor: Courtney, Joe [Rep.-D-CT-2]; Committees: House - Education and the Workforce

H.R.4509 — To amend the Employee Retirement Income Security Act of 1974 to require group health plans and health insurance issuers offering group health insurance coverage to only pay claims submitted by hospitals that have in place policies and procedures to ensure accurate billing practices, and for other purposes. Sponsor: Foxx, Virginia [Rep.-R-NC-5]; Committees: House - Education and the Workforce

H.R.4516 — To amend the Public Health Service Act to provide for the inclusion of a biological attribution strategy, and an early warning strategy and implementation plan, in the National Health Security Strategy, and for other purposes. Sponsor: Crenshaw, Dan [Rep.-R-TX-2]; Committees: House - Energy and Commerce

H.R.4518 — To amend title 38, United States Code, to modify the program of comprehensive assistance for family caregivers of veterans, and for other purposes. Sponsor: Davis, Donald G. [Rep.-D-NC-1]; Committees: House - Veterans' Affairs

H.R.4525 — To provide an individual with an eligible medical condition access to an employee restroom facilities of a retail establishment under certain conditions, and for other purposes. Sponsor: Norton, Eleanor Holmes [Del.-D-DC-At Large]; Committees: House - Energy and Commerce

S.2231 — A bill to amend title V of the Social Security Act to support stillbirth prevention and research, and for other purposes; Sponsor: Merkley, Jeff [Sen.-D-OR]; Committees: Senate - Finance

S.2237 — A bill to amend the Public Health Service Act to require the Secretary to award grants, contracts, or cooperative agreements to eligible entities to establish, maintain, or improve activities related to the detection and monitoring of infectious diseases through wastewater for public health emergency preparedness and response purposes, and for other purposes; Sponsor: Booker, Cory A. [Sen.-D-NJ]; Committees: Senate - Health, Education, Labor, and Pensions

S.2239 — A bill to prevent maternal mortality and severe maternal morbidity among Black pregnant and postpartum individuals and other underserved populations, to provide training in respectful maternity care, to reduce and prevent bias, racism, and discrimination in maternity care settings, and for other purposes; Sponsor: Warnock, Raphael G. [Sen.-D-GA]; Committees: Senate - Health, Education, Labor, and Pensions

S.2243 — A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care at accredited allopathic and osteopathic medical schools, nursing schools and other programs, including social work, physician assistant, and chaplaincy education programs, to promote education and research in palliative care and hospice, and to support the development of faculty careers in academic palliative and hospice care; Sponsor: Baldwin, Tammy [Sen.-D-WI]; Committees: Senate - Health, Education, Labor, and Pensions

S.2245 — A bill to require a review of women and lung cancer, and for other purposes; Sponsor: Rubio, Marco [Sen.-R-FL]; Committees: Senate - Health, Education, Labor, and Pensions

S.2246 — A bill to authorize the appropriation of funds to the National Institutes of Health and the Centers for Disease Control and Prevention for conducting or supporting research on barriers to gender affirming care; Sponsor: Markey, Edward J. [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.4527 — To amend the Employee Retirement Income Security Act of 1974 to ensure plan fiduciaries may access de-identified information relating to health claims, and for other purposes; Sponsor: Chavez-DeRemer, Lori [Rep.-R-OR-5]; Committees: House - Education and the Workforce

H.R.4529 — To amend the Public Health Service Act regarding guidance documents of the Centers for Disease Control and Prevention, and for other purposes; Sponsor: McMorris Rodgers, Cathy [Rep.-R-WA-5]; Committees: House - Energy and Commerce

H.R.4531 — To reauthorize certain programs that provide for opioid use disorder prevention, recovery, and treatment, and for other purposes; Sponsor: Guthrie, Brett [Rep.-R-KY-2]; Committees: House - Energy and Commerce; Judiciary; Education and the Workforce

H.R.4534 — To require a review of women and lung cancer, and for other purposes; Sponsor: Boyle, Brendan F. [Rep.-D-PA-2]; Committees: House - Energy and Commerce

H.R.4535 — To amend the Internal Revenue Code of 1986 to increase funding for Social Security and Medicare; Sponsor: Boyle, Brendan F. [Rep.-D-PA-2]; Committees: House - Ways and Means

H.R.4541 — To improve the identification and support of children and families who experience trauma; Sponsor: Davis, Danny K. [Rep.-D-IL-7]; Committees: House - Education and the Workforce; Energy and Commerce; Judiciary

S.2254 — A bill to amend title XVIII of the Social Security Act to establish pharmacy benefit manager reporting requirements with respect to prescription drug plans and MA-PD plans under Medicare part D; Sponsor: Cortez Masto, Catherine [Sen.-D-NV]; Committees: Senate - Finance

S.2259 — A bill to require the Secretary of Veterans Affairs to carry out a pilot program to establish community integration network infrastructure for services for veterans, to require the collection from veterans of information related to social determinants of health, and for other purposes; Sponsor: Sullivan, Dan [Sen.-R-AK]; Committees: Senate - Veterans' Affairs

S.2263 — A bill to require the Secretary of Veterans Affairs to reimburse the cost of transportation by ambulance for highly rural veterans seeking care under the laws administered by the Secretary, regardless of whether such veteran qualifies for payments or allowances for beneficiary travel; Sponsor: Sullivan, Dan [Sen.-R-AK]; Committees: Senate - Veterans' Affairs

H.R.4572 — To provide for research and education with respect to uterine fibroids, and for other purposes; Sponsor: Clarke, Yvette D. [Rep.-D-NY-9]; Committees: House - Energy and Commerce

H.R.4581 — To amend title V of the Social Security Act to support stillbirth prevention and research, and for other purposes; Sponsor: Hinson, Ashley [Rep.-R-IA-2]; Committees: House - Energy and Commerce

H.R.4582 — To amend the Public Health Service Act to authorize the use of Preventive Health and Health Services Block Grants to purchase life-saving opioid antagonists for schools and to provide related training and education to students and teachers, and for other purposes; Sponsor: Lamborn, Doug [Rep.-R-CO-5]; Committees: House - Energy and Commerce

H.R.4585 — To amend title XIX of the Social Security Act to provide a higher Federal matching rate for increased expenditures under Medicaid for maternal health care services; Sponsor: Manning, Kathy E. [Rep.-D-NC-6]; Committees: House - Energy and Commerce

- S.2329 — A bill to establish an emerging pathogen preparedness program within the Food and Drug Administration to improve regulatory oversight of medical countermeasures for future pandemics. Sponsor: Hickenlooper, John W. [Sen.-D-CO]; Committees: Senate - Health, Education, Labor, and Pensions
- S.2323 — A bill to amend title XVIII of the Social Security Act to provide for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, and for other purposes. Sponsor: Barrasso, John [Sen.-R-WY]; Committees: Senate - Finance
- S.2308 — A bill to extend funding for teaching health centers that operate GME programs, community health centers, and the National Health Service Corps. Sponsor: Cassidy, Bill [Sen.-R-LA]; Committees: Senate - Health, Education, Labor, and Pensions
- S.2305 — A bill to improve the requirements for making a determination of interchangeability of a biological product and its reference product. Sponsor: Lee, Mike [Sen.-R-UT]; Committees: Senate - Health, Education, Labor, and Pensions
- S.2304 — A bill to amend the Public Health Service Act to support dual or concurrent enrollment programs in allied health. Sponsor: Casey, Robert P., Jr. [Sen.-D-PA]; Committees: Senate - Health, Education, Labor, and Pensions
- S.2303 — A bill to provide for research and education with respect to uterine fibroids, and for other purposes. Sponsor: Booker, Cory A. [Sen.-D-NJ]; Committees: Senate - Health, Education, Labor, and Pensions
- S.2300 — A bill to require that information on spending associated with national emergencies be subject to the same reporting requirements as other Federal funds under the Federal Funding Accountability and Transparency Act of 2006, and for other purposes. Sponsor: Marshall, Roger [Sen.-R-KS]; Committees: Senate - Homeland Security and Governmental Affairs
33. S.2297 — A bill to improve the provision of benefits and services to members of the Ready Reserve Corps of the Public Health Service, and for other purposes. Sponsor: Duckworth, Tammy [Sen.-D-IL]; Committees: Senate - Health, Education, Labor, and Pensions
- S.2294 — A bill to amend title 38, United States Code, to furnish hospital care and medical services to veterans and dependents who were stationed at military installations at which those veterans and dependents were exposed to perfluorooctanoic acid or other perfluoroalkyl and polyfluoroalkyl substances, to provide for a presumption of service connection for certain veterans who were stationed at military installations at which those veterans were exposed to such substances, and for other purposes. Sponsor: Stabenow, Debbie [Sen.-D-MI]; Committees: Senate - Veterans' Affairs
- S.2293 — A bill to establish the Chief Artificial Intelligence Officers Council, Chief Artificial Intelligence Officers, and Artificial Intelligence Governance Boards, and for other purposes. Sponsor: Peters, Gary C. [Sen.-D-MI]; Committees: Senate - Homeland Security and Governmental Affairs
- S.2288 — A bill to amend title XVIII of the Social Security Act to provide coverage of medically necessary home resiliency services under Medicare. Sponsor: Markey, Edward J. [Sen.-D-MA]; Committees: Senate - Finance
- S.Res.294 — A resolution expressing support for the designation of May 2023 as “American Stroke Month”. Sponsor: Lujan, Ben Ray [Sen.-D-NM]; Committees: Senate - Health, Education, Labor, and Pensions
- H.R.4599 — To provide for the Secretary of Health and Human Services to establish grant programs to improve the health and positive youth development impacts of youth sports participation, and for other purposes; Sponsor: Allred, Colin Z. [Rep.-D-TX-32]; Committees: House - Education and the Workforce; Energy and Commerce

H.R.4603 — To provide for the prioritization of projects that provide behavioral and mental health treatment services in selecting grantees under certain rural development programs, and extend the substance abuse disorder set-aside and priority under the programs; Sponsor: Caraveo, Yadira [Rep.-D-CO-8]; Committees: House – Agriculture

H.R.4605 — To amend titles XIX and XXI of the Social Security Act to improve maternal health coverage under Medicaid and CHIP, and for other purposes; Sponsor: Carter, Earl L. “Buddy” [Rep.-R-GA-1]; Committees: House - Energy and Commerce; Ways and Means

H.R.4623 — To establish a voluntary program to identify and promote internet-connected products that meet industry-leading cybersecurity and data security standards, guidelines, best practices, methodologies, procedures, and processes, and for other purposes; Sponsor: Lieu, Ted [Rep.-D-CA-36]; Committees: House - Energy and Commerce

H.R.4626 — To encourage sponsors of oral contraceptive drugs to submit applications for the approval of such drugs as over-the-counter, and for other purposes; Sponsor: Miller-Meeks, Mariannette [Rep.-R-IA-1]; Committees: House - Energy and Commerce