



## Health Policy Briefing

July 25, 2022

### HHS Renews COVID-19 PHE/House to Consider Telehealth Extensions

U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra has renewed the COVID-19 public health emergency (PHE) through October 13. In addition to ensuring free COVID-19 vaccines, therapeutics, and testing, the PHE declaration provides added flexibility for the provision of telehealth and Medicaid enrollment. HHS has committed to giving 60-days' notice before allowing the PHE declaration to expire.

The House of Representatives is scheduled to consider the *Advancing Telehealth Beyond COVID-19 Act* ([H.R. 4040](#)) this week. The bill would further expand telehealth flexibilities beyond the COVID-19 PHE and includes measures to remove geographic requirements, expand originating sites of telehealth services, allow for the furnishing of audio-only telehealth services, and permit telehealth face-to-face hospice recertification encounters. Congress previously passed legislation to extend such authorities for 151 days after the PHE expires. The legislation is offset by reducing funds in the Medicare Improvement Fund.

### President, Lawmakers Test Positive for COVID-19

President Joe Biden tested positive for COVID-19 on Thursday. The President was experiencing mild symptoms and is being treated with Pfizer Inc.'s Paxlovid. According to White House physician Kevin O'Conner, he is responding to the therapy as expected. Preliminary sequencing results indicated that Biden was probably infected with the BA.5 variant that is currently prevalent in the U.S. He has been isolating at the White House and maintaining a virtual work schedule. Biden is fully vaccinated and has received two booster shots.

Several lawmakers also announced that they tested positive for COVID-19 in breakthrough cases of the virus last week, including Sen. Tom Carper (D-Del.) and Sen. Tina Smith (D-Minn.). Rep. Bennie Thompson (D-Miss.), chair of the House Select Committee investigating the January 6 riot at the Capitol, also announced that he has tested positive for COVID-19. The lawmakers were experiencing mild symptoms and planned to isolate.

Inside	
House to Vote on Health Legislation This Week.....	2
Six-Bill Minibus Advanced by House.....	2
House Passes Bill Codifying Access to Contraception.....	2
CBO Releases ACA Subsidy, UFA Estimates.....	2
Lawmakers Debate R&D Tax Break in Scaled-Back USICA.....	3
Senate Panel Examines Implementation of VA's New EHR System.....	3
WHO Director-General Declares Monkeypox Public Health Emergency.....	3
ACIP Recommends Novavax COVID-19 Vaccine.....	3
HHSElevates ASPR to Operating Division.....	4
Harvard Surgeon in Line to Lead NCI.....	4
Fauci Announces Plan to Step Down.....	4
Upcoming Congressional Hearings and Markups.....	4
Recently Introduced Health Legislation.....	5

## House to Vote on Health Legislation This Week

Several health-related pieces of legislation have been placed on the House of Representative's calendar for this week, including the *Medical Marijuana and Cannabidiol Research Expansion Act* ([H.R. 8454](#)), the *Gabriella Miller Kids First Research Act 2.0* ([H.R. 623](#)), and the *South Asian Heart Health Awareness and Research Act of 2022* ([H.R. 3771](#)), in addition to the *Advancing Telehealth Beyond COVID-19 Act* (discussed above). The House is currently scheduled to adjourn for August recess at the end of this week, while the Senate is scheduled to be in session until August 5. However, House Speaker Pelosi (D-Calif.) previously extended the ability for House members to vote remotely through August 12 – a nod that the House could be called back for votes as necessary.

## Six-Bill Minibus Advanced by House

The House of Representatives passed six of the 12 annual appropriations bills last week. The package ([H.R. 8294](#)) – which included Agriculture-Food and Drug Administration, Energy-Water, Financial Services, Interior-Environment, Military Construction-VA, and Transportation-Housing and Urban Development programs—passed by a 220-207 party-line vote. It totals just over \$400 billion, one-fourth of the discretionary funds for fiscal year (FY) 2023. Republican lawmakers expressed opposition to the overall funding levels and the omission of certain policy riders. It remains unclear whether the six remaining FY 2023 spending bills can be advanced before the congressional August recess. Majority Leader Steny Hoyer (D-Md.) has suggested that the Commerce-Justice-Science, Labor-Health and Human Services-Education, and State-Foreign Operations have the most potential for movement, but they are not on the House calendar for consideration this week. While Senate appropriators are expected to release their spending bills before the recess, no mark ups have been scheduled, increasing the likelihood of lawmakers relying on a continuing resolution to fund the federal government beyond the end of the fiscal year on September 30.

## House Passes Bill Codifying Access to Contraception

The House of Representatives passed legislation ([H.R. 8373](#)) to codify access to contraceptives last week. Eight Republicans voted in support of the measure. The vote was a part of a series of bills put forth by Democratic leadership to put lawmakers on the record on issues related to pregnancy and abortion following the Supreme Court's overturning of *Roe v. Wade*. Many Republicans criticized the legislation for being overly broad, making Senate passage of the bill unlikely. Sens. Tim Kaine (D-Va.) and Susan Collins (R-Maine), however, are working to draft legislation to codify the right to contraception as secured by *Griswold v. Connecticut*.

## CBO Releases ACA Subsidy, UFA Estimates

The Congressional Budget Office (CBO) has released its projections for several measures currently being debated on Capitol Hill. CBO estimates that permanently extending enhanced Affordable Care Act (ACA) subsidies will cost an average of \$25 billion per year. The subsidies are set to expire this year if Congress does not act to extend them. Democrats have proposed including a two-year extension in the current reconciliation package being negotiated by Senate Majority Leader Chuck Schumer (D-N.Y.) and Sen. Joe Manchin (D-W.Va.). CBO predicts that making the expanded subsidies permanent would increase the federal deficit by \$247.9 billion over the next decade and result in 4.8 million new enrollees in the marketplace. Approximately 2.2 million fewer people would be uninsured each year, compared to the current law. Permanently extending the enhanced ACA plan subsidies would also increase enrollment in both Medicaid and the Children's Health Insurance Program by a combined 200,000 each year and result in a 2.3 million decrease in enrollment in employer-based coverage. CBO also released its projections for the *FDA Safety and Landmark Advancements (FDASLA) Act* ([S. 4348](#)) to reauthorize medical product user fee programs at the Food and Drug Administration. The agency estimates that the bill, as reported out of committee, would save \$1.4 billion over the next decade.

## Lawmakers Debate R&D Tax Break in Scaled-Back USICA

The bipartisan group of lawmakers working to negotiate a scaled-back version of the *U.S. Innovation and Competition Act* (USICA) are considering the addition of a one-year extension of a tax break for corporate research and development costs that expired at the end of 2021. The provision would allow companies to deduct research expenses in the year they are incurred rather than a multi-annual period – five years for domestic expenses and 15 years for foreign costs. The measure is valued at an estimated \$2 billion. Sens. Mark Warner (D-Va.), Jon Tester (D-Va.), and Shelley Moore Capito (R-W.Va.) are on the record in support of the addition. Sen. Todd Young (R-Ind.), who is the Republican lead on negotiations, is also pushing to include a provision to establish a directorate for technology and innovation within the National Science Foundation. Conference negotiations have been ongoing for months as lawmakers work to reconcile the differences between the House- and Senate-passed versions of the China competition bill.

## Senate Panel Examines Implementation of VA's New EHR System

During a hearing before the Senate Veterans' Affairs (VA) Committee last week, lawmakers committed to additional oversight of the VA's new electronic health records system being implemented by its contractor Oracle. The VA signed a deal with Cerner to implement the modernized records management system in 2018, and Oracle bought Cerner last month. The cost of the system, which is in place at just five of the VA's 171 medical centers, has increased from \$10 billion over 10 years to \$50.8 billion over 28 years. Lawmakers expressed concern with the ballooning total cost of the project and the VA's failure to mitigate lost productivity caused by the system's rollout. A [report](#) from the VA's inspector general found 60 safety issues at the medical center where the system was first rolled out by Cerner. Deputy Inspector General David Case testified that Oracle has not explained how it would fix the current problems and move the rollout forward.

## WHO Director-General Declares Monkeypox Public Health Emergency

World Health Organization Director-General Tedros Adhanom Ghebreyesus declared the global outbreak of monkeypox a public health emergency of international concern on Saturday, personally intervening after nine members of an expert committee expressed opposition to the declaration. Six members of the committee were in favor of the decision. While the U.S. Department of Health and Human Services (HHS) is considering whether to declare monkeypox a public health emergency, White House COVID-19 response coordinator Ashish Jha stated that monkeypox "can be contained" in the U.S. as testing and vaccinations for the illness begin to ramp up. The Biden administration announced a \$140 million research agenda focused on vaccines, testing, and treatment for monkeypox to be overseen by the White House Office of Science and Technology Policy. There have been more than 2,000 cases nationwide, and the U.S. is currently able to test 80,000 people a week and has 300,000 vaccines available. The U.S. is also using a smallpox antiviral medication as treatment. While monkeypox is primarily affecting men who have sex with men, two pediatric patients were identified in the U.S. this week.

House Oversight and Reform Committee Chair Carolyn Maloney (D-N.Y.) has sent a [letter](#) to HHS calling on the administration to increase access to monkeypox vaccine, treatment, and testing. Maloney states that many hospitals are not testing for monkeypox and that commercial laboratories still do not have the capacity to test all individuals who have been exposed. She requests a response by August 3 and a committee staff briefing by August 5.

## ACIP Recommends Novavax COVID-19 Vaccine

The Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) voted unanimously to recommend Novavax Inc.'s COVID-19 vaccine for adults. The company's vaccine is the first protein-based option against COVID-19, which could make it an appealing choice for individuals hesitant to receive a vaccine that uses mRNA technology. The Biden administration has ordered 3.2 million doses of the vaccine, which can be used as another primary series option for individuals ages 18 and older.

## HHS Elevates ASPR to Operating Division

The U.S. Department of Health and Human Services (HHS) announced the elevation of the existing Office of the Assistant Secretary for Preparedness and Response (ASPR) from a staff division to an operating division, taking on the new name of the Administration for Strategic Preparedness and Response (ASPR), in recognition of its growing size and scope. ASPR will now perform as a standalone agency within HHS, which the Department states will allow it to “mobilize a coordinated national response more effectively and efficiently during future disasters and emergencies in close collaboration with its sister agencies.” The name and status change went into immediate effect, but the administrative transition will be phased in over the next two years. Dawn O’Connell, Assistant Secretary for Preparedness and Response, will continue to lead ASPR. The agency will continue to oversee the National Disaster Medical System, the Biomedical Advanced Research and Development Authority, and Medical Reserve Corps, the Strategic National Stockpile, and the HHS Coordination Operations and Response Element.

## Harvard Surgeon in Line to Lead NCI

President Joe Biden plans to tap Harvard cancer surgeon Monica M. Bertagnolli, M.D. as the next director of the National Cancer Institute (NCI). Bertagnolli is a professor of surgery at Harvard Medical School and chief of the Brigham and Women’s Hospital and Dana-Farber Cancer Institute’s surgical oncology division. Her appointment would make Bertagnolli the 16th NCI director and the first woman to serve in the position, which does not require Senate confirmation. Doug Lowy, NCI’s principal deputy director, has been serving as acting director since Ned Sharpless stepped down from the leadership position in April.

## Fauci Announces Plan to Step Down

Dr. Anthony Fauci, the President’s chief medical adviser, announced that he plans to step down from his current position by the end of President Joe Biden’s term in office. Fauci has served as the Director of the National Institute of Allergy and Infectious Disease since 1984. “We’re in a pattern now. If somebody says, ‘You’ll leave when we don’t have COVID anymore,’ then I will be 105,” Fauci told Politico. “I think we’re going to be living with this.” Pushing back on reports of retirement, Dr. Fauci further said “I have other things that I want to do in a professional way that I want to have the capability [and] while I still have the energy and the passion to do them.”

## Upcoming Congressional Hearings and Markups

Senate HELP Committee hearing “Fighting Fentanyl: The Federal Response to a Growing Crisis;” 10:00 a.m.; July 26

Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism hearing to examine decriminalizing cannabis at the Federal level, focusing on necessary steps to address past harms; 2:30 p.m.; July 26

House Veterans’ Affairs Subcommittee on Technology Modernization hearing “Protecting Our Veterans: Patient Safety and Electronic Health Record Modernization Program;” 10:00 a.m.; July 27

Senate Judiciary Committee executive business meeting to consider S.4430, *Interagency Patent Coordination and Improvement Act of 2022*; 9:00 a.m.; July 28

H.R.8398 — To amend title 38, United States Code, to increase the mileage rate offered by the Department of Veterans Affairs through their Beneficiary Travel program for health related travel, and for other purposes. Sponsor: Rep. Brownley, Julia [D-CA-26]; Committees: House - Veterans' Affairs

S.4544 — A bill to amend the Public Health Service Act to provide health equity for people with disabilities; Sponsor: Sen. Casey, Robert P. [D-PA]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.8405 — To preserve access to abortion medications; Sponsor: Rep. Bush, Cori [D-MO-1]; Committees: House - Energy and Commerce

S.4557 — A bill to protect a person's ability to access contraceptives and to engage in contraception, and to protect a health care provider's ability to provide contraceptives, contraception, and information related to contraception; Sponsor: Sen. Markey, Edward J. [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.8421 — To preempt States from establishing, implementing, or enforcing any ban on the prescription, provision, or use of a drug, biological product, or device for contraception if such drug, biological product, or device is approved, licensed, cleared, or otherwise authorized for human use by the Food and Drug Administration for contraception, and for other purposes; Sponsor: Rep. Bice, Stephanie I. [R-OK-5]; Committees: House - Energy and Commerce

H.R.8428 — To allow women greater access to safe and effective oral contraceptive drugs intended for routine use; Sponsor: Rep. Hinson, Ashley [R-IA-1]; Committees: House - Ways and Means; Energy and Commerce

S.4575 — A bill to clarify that the Federal Right to Try law applies to schedule I substances for which a phase I clinical trial has been completed and to provide access for eligible patients to such substances pursuant to the Federal Right to Try law; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate - Judiciary

H.R.8440 — To clarify that the Federal Right to Try law applies to schedule I substances for which a phase I clinical trial has been completed and to provide access for eligible patients to such substances pursuant to the Federal Right to Try law; Sponsor: Rep. Blumenauer, Earl [D-OR-3]; Committees: House - Energy and Commerce; Judiciary

H.R.8441 — To amend the Patient Protection and Affordable Care Act to ensure that taxpayer funds for health insurance coverage are available only to authorized individuals, and for other purposes; Sponsor: Rep. Buck, Ken [R-CO-4]; Committees: House - Energy and Commerce; Ways and Means

H.R.8452 — To amend the Public Health Service Act to authorize grants to eligible entities to pay for travel-related expenses and logistical support for individuals with respect to accessing abortion services, and for other purposes; Sponsor: Rep. Strickland, Marilyn [D-WA-10]; Committees: House - Energy and Commerce

S.4591 — A bill to decriminalize and deschedule cannabis, to provide for reinvestment in certain persons adversely impacted by the War on Drugs, to provide expungement of certain cannabis offenses, and for other purposes; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate - Finance

S.4593 — A bill to amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain information available on a public website relating to intermediate care facilities for individuals with intellectual disabilities certified for participation under the Medicaid program, and for other purposes; Sponsor: Sen. Kelly, Mark [D-AZ]; Committees: Senate - Finance

H.Res.1244 — Of inquiry requesting the President and directing the Secretary of Health and Human Services to transmit, respectively, certain documents to the House of Representatives relating to any COVID-19 vaccine; Sponsor: Rep. Gosar, Paul A. [R-AZ-4]; Committees: House - Energy and Commerce

H.R.8454 — To expand research on cannabidiol and marijuana, and for other purposes; Sponsor: Rep. Blumenauer, Earl [D-OR-3]; Committees: House - Energy and Commerce; Judiciary

H.R.8468 — To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain information available on a public website relating to intermediate care facilities for individuals with intellectual disabilities certified for participation under the Medicaid program, and for other purposes; Sponsor: Rep. Gallego, Ruben [D-AZ-7]; Committees: House - Energy and Commerce

H.R.8481 — To amend the Public Health Service Act with respect to public health data accessibility, and for other purposes; Sponsor: Rep. Underwood, Lauren [D-IL-14]; Committees: House - Energy and Commerce