



Health Policy Briefing

August 1, 2022

Manchin, Schumer Reach Climate, Tax Deal

Sen. Joe Manchin (D-W.Va.) and Majority Leader Chuck Schumer (D-N.Y.) announced last week that they have struck a deal to reduce prescription drug prices, extend enhanced Affordable Care Act (ACA) subsidies, raise corporate taxes, and address climate change via the budget reconciliation process. The **Inflation Reduction Act** includes \$739 billion in deficit-reduction measures over 10 years and \$433 billion in spending, reducing the deficit by about \$306 billion over a decade. The agreement contains \$369 billion in climate and energy spending and \$313 billion in corporate tax increases, as well as an increased tax on carried interest and increased tax-audit funding. The bill would direct the government to negotiate with pharmaceutical manufacturers to lower prices on certain medicines and cap what seniors on Medicare pay for drugs each year at \$2,000. The measure also requires drug makers to rebate Medicare if their drug price increases exceed inflation. The agreement extends to 2025 expanded ACA premium subsidies, which are currently set to expire at the end of this year. Schumer also told reporters last week that he plans to include provisions in the package to lower the cost of insulin, without providing further specifics on what such provisions would entail.

Sen. Manchin and Democratic Whip Dick Durbin (D-Ill.), along with Sen. Lisa Murkowski (R-Alaska), have all tested positive for COVID-19 in recent days. Democrats need all their Senate members present to pass legislation through the budget reconciliation process, and in the evenly divided chamber, Democrats have been taking extra precautions to avoid any further members from contracting COVID-19. The Senate does not have a proxy voting system in place to allow floor votes to occur remotely. Sixteen Senate Democrats have reported testing positive for COVID-19 this year – with nearly every instance resulting in missed votes.

The **Inflation Reduction Act** is currently being reviewed by the Senate Parliamentarian to ensure that it complies with the chamber’s rules for budget reconciliation. The bill has not yet been endorsed by Sen. Krysten Sinema (D-Ariz.). Sinema has previously expressed opposition to closing the carried-interest loophole. Under the current budget resolution, Democrats have until September 30 to pass the reconciliation package. Leadership had hoped to complete work on the

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bill before leaving for August recess, but Schumer has told Democrats to be prepared to work through this weekend. The House of Representatives would then be expected to return for a short session in mid-August to vote on the package.

House Passes Cancer, Marijuana Research Legislation, Bill to Extend Telehealth Flexibilities

The House of Representatives passed several pieces of public health and healthcare-related legislation last week. The **Gabriella Miller Kids First Research Act 2.0** ([H.R. 623](#)) reauthorizes the Gabriella Miller Kids First Research Program, a pediatric disease research initiative within the National Institutes of Health. The bill passed by an en bloc vote of 336-90. The **Medical Marijuana and Cannabidiol Research Expansion Act** ([H.R. 8454](#)) would streamline the registration process for conducting research with marijuana under the Controlled Substances Act. The bill passed on the House floor by a vote of 325-95.

The House also approved legislation to further extend the Medicare telehealth flexibilities first instituted in response to the COVID-19 pandemic. The **Advancing Telehealth Beyond COVID-19 Act** ([H.R. 4040](#)) would extend Medicare telehealth waivers through December 31, 2024, including geographic and originating site flexibilities, the types of providers eligible to provide telehealth, waiving of in-person requirements for behavioral health services, allowing for coverage of audio-only telehealth, letting telehealth satisfy face-to-face requirements for hospice care, and allowing qualified health centers and rural health clinics to cover and get reimbursed for telehealth services. The Congressional Budget Office estimates that the legislation will cost approximately \$2.35 billion over two years. During floor debate, House Energy and Commerce Committee Chair Frank Pallone (D-N.J.) stated that a permanent extension was not considered because the CBO estimated it would cost another \$20 billion, and that more oversight should take place before such a permanent change is made. The legislation was passed by a vote of 416-12. The Biden administration has stated that it strongly supports the bill. In the Senate, Finance Committee leaders have said that they are working to draft their own legislation to address the issue of telehealth.

Senate Democratic Appropriators Release FY 2023 Spending Bills

Senate Democratic appropriators [released](#) all 12 fiscal year (FY) 2023 funding bills last week. The nearly \$1.7 trillion appropriations package includes \$653 billion in non-defense discretionary spending, a 10.1% increase over FY 2022, and \$850 billion in defense discretionary spending, an 8.7% increase over FY 2022 and consistent with the bipartisan National Defense Authorization Act passed by the House. The funding legislation would also decouple money for the Department of Veterans Affairs (VA) health programs from the broader spending bill, providing \$118.7 billion for VA medical care, a 22% increase over FY 2022.

The package also includes \$21 billion in emergency supplemental funding to provide the necessary resources to prepare for the next phase of the COVID-19 pandemic and to address other emerging diseases that pose a significant threat to public health. The supplemental appropriations bill provides \$16 billion in emergency funding through the Public Health and Social Services Emergency Fund, including:

- \$9 billion to the Biomedical Advanced Research Development Authority for advanced research and development, manufacturing, production, purchase, and distribution of medical countermeasures against COVID-19 including vaccines, therapeutics, tests, diagnostics, and medical products and supplies;
- \$6.25 billion in flexible funding to allow the U.S. Department of Health and Human Services to purchase and distribute vaccines, therapeutics, and diagnostics to ensure a sufficient supply to meet demand if a new variant or surge of infections emerges; and
- \$750 million for research and clinical trials for vaccines focused on emerging coronavirus strains and to support domestic manufacturing capacity.

The bill also provides \$5 billion in emergency funding to support the global response to the COVID-19 pandemic.

Of note, the Labor-Health and Human Services-Education appropriations bill includes:

- \$46.959 billion for the National Institutes of Health (NIH), a \$2 billion increase or 4.4% over FY22 levels,
- \$1 billion for the Advanced Research Projects Agency for Health (ARPA-H), the same funding level as enacted in FY22,
- \$10.5 billion for the Centers for Disease Control and Prevention (CDC), a \$2.1 billion increase or 24.97% over FY22 levels,
- \$3.55 billion for the Food and Drug Administration (FDA), a \$230 million increase or 6.94% over FY22 levels,
- \$10.34 billion for the National Science Foundation (NSF), a \$1.5 billion increase or 16.97% over FY22 levels, and
- \$385 million for the Agency for Healthcare Research and Quality (AHRQ), a \$35 million increase or 10% over FY22 levels.

Senate appropriators do not plan to mark up the legislation released last week. Given Republican opposition to overall funding levels and the absence of language restricting funding for abortion, Congress is expected to rely on a continuing resolution (CR), i.e., stopgap spending bill, to avoid a government shutdown at the end of the fiscal year on September 30.

Ways and Means Advances Prior Authorization Bill

The House Ways and Means Committee advanced legislation to overhaul the Medicare Advantage (MA) program's prior authorization process last week. The *Improving Seniors' Timely Access to Care Act* ([H.R. 8487](#)) would require MA plans to establish an electronic prior authorization process that provides more timely coverage decisions for routinely requested items and services. It also includes measures to require plans to publish prior authorization data and to encourage plans to base prior authorization decisions on consultations with physicians and evidence-based medical guidelines. The committee advanced the legislation by voice vote, teeing it up for a House floor vote in the fall. The original legislation ([H.R. 3173](#)) has over 300 cosponsors or 70% of the House. Bill sponsors introduced the new version of the legislation to preserve the ability to go to the floor with H.R. 3173 should they encounter any delays with the marked-up legislation.

Biden Tests Positive in Rebound Case of COVID-19

President Joe Biden tested positive for COVID-19 again on Saturday. Such rebound cases of the virus are sometimes seen in individuals who complete a course of the antiviral drug Paxlovid. Biden is not experiencing any symptoms but will resume isolation at the White House. The Centers for Disease Control and Prevention recommends that people who test positive again after receiving Paxlovid treatment isolate for at least five days.

In Absence of UFA Deal, Pink Slips Expected Early Sept.

The Food and Drug Administration (FDA) will begin sending layoff warnings by early September if Congress has not reached an agreement to reauthorize the agency's medical product user fees. Commissioner Robert Califf stated at an event last week that the FDA will not have the money to pay employees and the agency's public health mission will be put at risk if reauthorizing legislation is not passed before the current user fee agreements expire on September 30. Senate Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Richard Burr (R-N.C.) recently introduced his own clean version of the reauthorization legislation that does not include provisions to overhaul the accelerated approval pathway or regulation of cosmetics, dietary supplements, and laboratory-developed tests – measures that are a part of the version of the bill ([S. 4348](#)) advanced by the Senate HELP Committee in June. He has stated that he is in ongoing discussions with other congressional leaders on a potential compromise.

Upcoming Congressional Hearings and Markups

Senate Homeland Security and Governmental Affairs Subcommittee on Emerging Threats and Spending Oversight hearing “Revisiting Gain of Function Research: What the Pandemic Taught Us and Where Do We Go from Here;” 2:30 p.m.; August 3

Senate Finance Committee hearing “A System in Need of Repair: Addressing Organizational Failures of the U.S.’s Organ Procurement and Transplantation Network;” 2:30 p.m.; August 3

Recently Introduced Health Legislation

S.Res.718 — A resolution designating the week of July 19 through July 25, 2022, as “Black Maternal Mental Health Awareness Week” and supporting the goal of raising awareness and understanding around maternal mental health conditions as they affect Black individuals; Sponsor: Sen. Ossoff, Jon [D-GA]; Committees: Senate – Judiciary

S.4605 — A bill to amend title XVIII of the Social Security Act to ensure stability in payments to home health agencies under the Medicare program; Sponsor: Sen. Stabenow, Debbie [D-MI]; Committees: Senate – Finance

S.4612 — 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 – Judiciary

S.4616 — A bill 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 strengthen parity in mental health and substance use disorder benefits; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4618 — A bill to improve access to opioid use disorder treatment services under the Medicare program; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate – Finance

H.Res.1258 — Of inquiry directing the Secretary of Health and Human Services to provide certain documentation to the House of Representatives relating to the calculation of certain expenditure limitations applicable to Federal funding of the Medicaid program in Puerto Rico; Sponsor: Rep. Dunn, Neal P. [R-FL-2]; Committees: House - Energy and Commerce

H.Res.1263 — Of inquiry directing the President to provide certain documents in the President’s possession to the House of Representatives relating to COVID-19 funding; Sponsor: Rep. Bucshon, Larry [R-IN-8]; Committees: House - Energy and Commerce

H.Res.1267 — Of inquiry directing the President to provide certain documents in the President’s possession to the House of Representatives relating to the oversight of the Wuhan Institute of Virology laboratory by the Director of the National Institutes of Health; Sponsor: Rep. Griffith, H. Morgan [R-VA-9]; Committees: House - Energy and Commerce

H.Res.1268 — Of inquiry directing the President to provide certain documents in the President’s possession to the House of Representatives relating to actions taken by the Secretary of Health and Human Services related to the COVID-19 pandemic response; Sponsor: Rep. Guthrie, Brett [R-KY-2]; Committees: House - Energy and Commerce

H.Res.1275 — Of inquiry directing the President to provide certain documents in the President’s possession to the House of Representatives relating to communications by staff of the White House regarding the implications of revoking the public health orders commonly referred to as “title 42”; Sponsor: Rep. Lesko, Debbie [R-AZ-8]; Committees: House - Energy and Commerce

H.Res.1284 — Of inquiry directing the Secretary of Health and Human Services to provide certain documentation to the House of Representatives relating to the negotiation of prices for prescription drugs under the Medicare prescription drug program; Sponsor: Rep. McMorris Rodgers, Cathy [R-WA-5]; Committees: House - Energy and Commerce

H.Res.1285 — Requesting the President to transmit certain information to the House of Representatives relating to a waiver of intellectual property commitments under the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights; Sponsor: Rep. Smith, Adrian [R-NE-3]; Committees: House - Ways and Means

H.Res.1286 — Expressing the sentiment of Congress that the Department of Health and Human Services should declare the monkeypox outbreak a public health emergency; Sponsor: Rep. Torres, Ritchie [D-NY-15]; Committees: House - Energy and Commerce

H.R.8487 — To amend title XVIII of the Social Security Act to establish requirements with respect to the use of prior authorization under Medicare Advantage plans, and for other purposes; Sponsor: Rep. DelBene, Suzan K. [D-WA-1]; Committees: House - Ways and Means; Energy and Commerce

H.R.8489 — To amend title XVIII of the Social Security Act to extend certain telehealth services and requirements, and for other purposes; Sponsor: Rep. Schweikert, David [R-AZ-6]; Committees: House - Ways and Means; Energy and Commerce

H.R.8491 — To amend title XVIII of the Social Security Act to expand eligible practitioners to furnish telehealth services; Sponsor: Rep. Kelly, Mike [R-PA-16]; Committees: House - Energy and Commerce; Ways and Means

H.R.8492 — To authorize the Secretary of Health and Human Services to award grants to States to provide safety measures to social workers, health workers, and human services professionals performing services placing such individuals in high-risk and potentially dangerous situations, and for other purposes; Sponsor: Rep. Brownley, Julia [D-CA-26]; Committees: House - Education and Labor; Energy and Commerce

H.R.8493 — To amend title XVIII of the Social Security Act to remove geographic requirements and expand originating sites for telehealth services; Sponsor: Rep. Buchanan, Vern [R-FL-16]; Committees: House - Energy and Commerce; Ways and Means

H.R.8497 — To amend title XVIII of the Social Security Act to remove in-person requirements under Medicare for mental health services furnished through telehealth and telecommunications technology; Sponsor: Rep. Hern, Kevin [R-OK-1]; Committees: House - Energy and Commerce; Ways and Means

H.R.8501 — To prohibit abortion sanctuary States from receiving funds from the Department of Health and Human Services, and for other purposes; Sponsor: Rep. Lamborn, Doug [R-CO-5]; Committees: House - Energy and Commerce; Education and Labor; Natural Resources; Ways and Means

H.R.8505 — To amend title XVIII of the Social Security Act to permit the use of telehealth for purposes of recertification of eligibility for hospice care; Sponsor: Rep. Miller, Carol D. [R-WV-3]; Committees: House - Ways and Means

H.R.8506 — To amend title XVIII of the Social Security Act to extend telehealth services for federally qualified health centers and rural health clinics; Sponsor: Rep. Murphy, Gregory [R-NC-3]; Committees: House - Energy and Commerce; Ways and Means

H.R.8508 — To amend title XVIII of the Social Security Act to support rural residency training funding that is equitable for all States, and for other purposes; Sponsor: Rep. O'Halleran, Tom [D-AZ-1]; Committees: House - Ways and Means; Energy and Commerce

H.R.8512 — 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 strengthen parity in mental health and substance use disorder benefits; Sponsor: Rep. Porter, Katie [D-CA-45]; Committees: House - Energy and Commerce; Education and Labor; Ways and Means; Oversight and Reform

H.R.8515 — To amend title XVIII of the Social Security Act to allow for the furnishing of audio-only telehealth services; Sponsor: Rep. Smith, Jason [R-MO-8]; Committees: House - Energy and Commerce; Ways and Means

S.4633 — A bill to improve outcomes for Medicaid beneficiaries with major depressive disorder or other mental health conditions; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate – Finance

S.4635 — A bill to amend the Social Security Act to establish an optional State-administered program to provide fully integrated, comprehensive, coordinated care for full-benefit dual eligible individuals under the Medicare and Medicaid programs, and for other purposes; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate – Finance

S.4638 — A bill to allow women greater access to safe and effective oral contraceptive drugs intended for routine use; Sponsor: Sen. Ernst, Joni [R-IA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4641 — A bill to amend the Foreign Assistance Act of 1961 to authorize the use of funds for comprehensive reproductive health care services, and for other purposes; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate - Foreign Relations

H.R.8523 — To amend the Public Health Service Act to require a State receiving a block grant for prevention and treatment of substance use disorders to describe the State's efforts to encourage and promote work and employment to improve mental health and well-being; Sponsor: Rep. Budd, Ted [R-NC-13]; Committees: House - Energy and Commerce

H.R.8524 — Protect Sexual and Reproductive Health Act of 2022 – To establish the Office of Sexual and Reproductive Health and Well-Being within the Department of Health and Human Services, to generate a whole-of-government approach to protecting and affirming sexual and reproductive rights, and for other purposes; Sponsor: Rep. Bush, Cori [D-MO-1]; Committees: House - Energy and Commerce

H.R.8530 — To amend title XIX of the Social Security Act to reduce Federal financial participation for certain States that require political subdivisions to contribute towards the non-Federal share of Medicaid; Sponsor: Rep. Jacobs, Chris [R-NY-27]; Committees: House - Energy and Commerce

H.R.8540 — To amend the Public Health Service Act to provide for the designation of institutions of higher education as Centers of Excellence in Cannabis Research, and for other purposes; Sponsor: Rep. Peters, Scott H. [D-CA-52]; Committees: House - Energy and Commerce; Judiciary

H.R.8542 — To amend the Public Health Service Act to authorize grants to States, Indian Tribes, Tribal organizations, Urban Indian organizations, and political subdivisions thereof to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes; Sponsor: Rep. Porter, Katie [D-CA-45]; Committees: House - Energy and Commerce; Judiciary

H.R.8546 — To amend title XXVII of the Public Health Service Act to require out-of-network coverage for qualified individuals participating in approved clinical trials, and for other purposes; Sponsor: Rep. Speier, Jackie [D-CA-14]; Committees: House - Energy and Commerce; Ways and Means

S.4659 — A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2023, and for other purposes; Sponsor: Sen. Murray, Patty [D-WA]; Committees: Senate – Appropriations

S.4661 — A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2023, and for other purposes; Sponsor: Sen. Baldwin, Tammy [D-WI]; Committees: Senate – Appropriations

S.4677 — A bill to increase language access to mental health services at certain health centers, and for other purposes; Sponsor: Sen. Heinrich, Martin [D-NM]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.8552 — 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: Rep. Allred, Colin Z. [D-TX-32]; Committees: House - Education and Labor; Energy and Commerce

H.R.8565 — To amend title XVIII of the Social Security Act to permanently extend the Medicare-dependent hospital and low-volume hospital programs under the Medicare program; Sponsor: Rep. Graves, Sam [R-MO-6]; Committees: House - Ways and Means

H.R.8576 — Travel Nursing Agency Transparency Study Act – To require a study on the effects of travel nurse agencies on the health industry during the COVID-19 pandemic; Sponsor: Rep. Murphy, Gregory [R-NC-3]; Committees: House - Energy and Commerce

H.R.8580 — To amend the Coronavirus Aid, Relief, and Economic Security Act to provide for a 12-month extension of the Medicare long-term care hospital waiver of the site-neutral IPPS payment rate; Sponsor: Rep. Sewell, Terri A. [D-AL-7]; Committees: House - Ways and Means

H.R.8581 — To amend title XVIII of the Social Security Act to ensure stability in payments to home health agencies under the Medicare program; Sponsor: Rep. Sewell, Terri A. [D-AL-7]; Committees: House - Ways and Means; Energy and Commerce

H.R.8585 — To direct the Secretary of Health and Human Services to carry out a national project to prevent and cure Parkinson's, to be known as the National Parkinson's Project, and for other purposes; Sponsor: Rep. Tonko, Paul [D-NY-20]; Committees: House - Energy and Commerce

H.R.8586 — To allow the Secretary of Health and Human Services to deny approval of a new drug application for an opioid analgesic drug on the basis of such drug not being clinically superior to other commercially available drugs; Sponsor: Rep. Trone, David J. [D-MD-6]; Committees: House - Energy and Commerce

H.R.8588 — To address the high costs of health care services, prescription drugs, and health insurance coverage in the United States, and for other purposes; Sponsor: Rep. Westerman, Bruce [R-AR-4]; Committees: House - Energy and Commerce; Ways and Means; Education and Labor; Judiciary; Oversight and Reform; Rules; Budget; Armed Services; House Administration