



## Health Policy Briefing

September 12, 2022

### House Returns from August Recess

The House of Representatives is scheduled to reconvene on Tuesday, and Majority Leader Steny Hoyer (D-Md.) previewed the chamber’s agenda for the coming weeks in a recent [Dear Colleague](#) letter. On Wednesday, the House is scheduled to consider the ***Improving Seniors’ Timely Access to Care Act*** ([H.R. 3173](#)) under suspension of the rules. The bill would establish requirements with respect to the use of prior authorization under Medicare Advantage plans. During the September legislative work period, the House will also consider a continuing resolution (CR) to fund the federal government through December to give lawmakers additional time to complete the annual appropriations process. The CR currently under discussion would extend spending at the fiscal year 2022 levels through December 16. Senate Republicans have already stated that they will oppose the White House’s request to attach additional funding for COVID-19 or monkeypox response to the CR. Congress also faces a September 30 deadline to reauthorize medical product user-fee programs at the Food and Drug Administration (FDA). Senate Health, Education, Labor, and Pensions Committee Ranking Member Richard Burr (R-N.C.) supports attaching a clean reauthorization bill to the stopgap spending legislation. FDA Commissioner Robert Califf has stated that carryover funding could be used to delay personnel furloughs through approximately the first week of November if Congress does not pass a user fee reauthorization before the current September 30th expiration.

### Senate Passes Mobile Health Clinic Legislation

The Senate passed the ***MOBILE Health Care Act*** ([S. 958](#)) last week by unanimous consent. The bill would expand an existing grant program to support health centers in establishing mobile medical clinics to care for underserved populations. Health centers may use funds to construct or renovate buildings or to set up mobile medical clinics. In addition, a mobile clinic may qualify for grant funding as a new delivery site regardless of whether it is associated with a permanent, full-time site.

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## Lawmakers Ask How to Stabilize Medicare Payments

Eight bipartisan members of the House of Representatives have sent an open letter requesting input about the implementation of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) and associated payment mechanisms. The lawmakers ask for “feedback on actions Congress could take to stabilize the Medicare payment system, without dramatic increases in Medicare spending, while ensuring successful value-based care incentives are in place.” The letter was signed by Ami Bera (D-Calif.), Larry Bucshon (R-Ind.), Kim Schrier (D-Wash.), Michael Burgess (R-Texas), Earl Blumenauer (D-Ore.), Brad Wenstrup (R-Ohio), Bradley Schneider (D-Ill.) and Mariannette Miller-Meeks (R-Iowa). Responses are requested to be in PDF format and should be directed to [macra.rfi@mail.house.gov](mailto:macra.rfi@mail.house.gov) no later than October 31, 2022.

## Lawmakers Push for Medicare Extension of Audio-Only Telehealth Services

Reps. Lori Trahan (D-Mass.), Ann Kuster (D-N.H.), and Peter Welch (D-Vt.) have [written](#) to the Centers for Medicare and Medicaid Services asking the agency to extend Medicare’s audio-only telehealth coverage beyond the conclusion of the COVID-19 public health emergency. The letter requests clarity on the calendar year 2023 Medicare Physician Fee Schedule as it relates to audio-only telehealth services. The lawmakers urge CMS to “consider how ending coverage for audio-only telehealth for most services will compromise the provider-patient relationship and disproportionately impact populations who face barriers to accessing care.”

## OIG Releases Report on Risk of Telehealth Fraud

The U.S. Department of Health and Human Services Office of the Inspector General (OIG) has released new [data](#) indicating that only a small fraction of Medicare telehealth claims during the COVID-19 pandemic were at high risk of being fraudulent. OIG’s report examined claims from 742,000 providers and found only 0.2% were at a high risk to Medicare for fraud, waste, or abuse. Amongst other characteristics, providers were characterized as higher risk if they billed for a significant number of telehealth hours or frequently offered medical equipment as a result of a virtual visit. Providers of concern billed Medicare for \$127 million for 500,000 patients between March 1, 2020, and February 28, 2021. OIG recommends that the Centers for Medicare and Medicaid Services strengthen its oversight of telehealth companies and their associated providers.

## Feinstein, Padilla Urge CDC to Invest in West Coast Laboratories

Sens. Dianne Feinstein (D-Calif.) and Alex Padilla (D-Calif.) have sent a [letter](#) to the Centers for Disease Control and Prevention (CDC) urging the agency to invest in federal laboratory capacity on the West Coast. “We saw early in the COVID-19 pandemic that CDC’s reliance on one reference laboratory in Atlanta, Georgia, limited the agency’s capacity and agility,” the lawmakers state. “The substantial delays in getting test results back to states could have been mitigated if the agency had additional capabilities on the West Coast, providing more time for health measures to be put in place to slow COVID-19’s spread.”

## Breakthrough COVID-19 Cases on The Hill

Rep. Bobby Scott (D-Va.) has tested positive for COVID-19 in a breakthrough case of the virus. The congressman was experiencing mild symptoms and planned to self-isolate and follow the directive of his physician. On the Senate side, Sens. Jon Ossoff (D-Ga.), Jacky Rosen (D-Nev.), and Robert Menendez (D-N.J.) have also recently tested positive for COVID-19.

## Judge Rules on Constitutionality of ACA's PrEP Coverage Mandate, USPSTF

A federal judge in Texas has ruled that the Affordable Care Act's (ACA) coverage mandate for HIV pre-exposure prophylactic (PrEP) drugs "substantially burdens" the religious freedom of a Christian-owned company. The company – Braidwood Management Inc. – argued that mandatory coverage of HIV prevention drugs forces Christians to subsidize "homosexual behavior." U.S. District Court Judge Reed O'Conner stated that the government failed to demonstrate a state interest in drug coverage that overcame the company's religious objections. The judge reserved a decision on the "appropriate remedy" for resolving the case. He also ruled that the U.S. Preventive Services Task Force (USPSTF) is unconstitutional because its members wield power that resembles legislative authority without being appointed by the President and confirmed by the Senate. Depending on how O'Conner decides to resolve the case, his remedy could put at risk the ACA's entire preventive services mandate and requirements for no-cost access to services.

## Upcoming Congressional Hearings and Markups

Senate Agriculture, Nutrition, & Forestry Subcommittee on Food and Nutrition, Specialty Crops, Organics, and Research hearing "Food as Medicine: Current Efforts and Potential Opportunities;" 10:00 a.m.; September 13

Senate HELP Committee hearing "Stopping the Spread of Monkeypox: Examining the Federal Response;" 10:00 a.m.; September 14

Senate Judiciary Subcommittee on Immigration, Citizenship, and Border Safety hearing "Flatlining Care: Why Immigrants Are Crucial to Bolstering Our Health Care Workforce;" 10:00 a.m.; September 14

House Science, Space, and Technology Subcommittee on Investigations and Oversight hearing "The Fountain of Youth? The Quest for Aging Therapies;" 10:00 a.m.; September 15

House Ways and Means Committee hearing "Preparing America's Health Care Infrastructure for the Climate Crisis;" 11:00 a.m.; September 15

## Recently Introduced Health Legislation

H.R.8768 — To rescind and transfer funds available for the Office of the Director of the National Institutes of Health to accounts for pediatric cancer research, awareness, and survivorship, to reduce the deficit, and for other purposes. Sponsor: Norman, Ralph [Rep.-R-SC-5]; Committees: House – Appropriations

H.Res.1330 — Expressing support for the designation of September 2022 as "Sickle Cell Disease Awareness Month" in order to educate communities across the United States about sickle cell disease and the need for research, early detection methods, effective treatments, and preventative care programs with respect to complications from sickle cell disease and conditions related to sickle cell disease. Sponsor: Davis, Danny K. [Rep.-D-IL-7]; Committees: House - Energy and Commerce

S.4790 — A bill to increase funding for the Patient Navigator Research Program of the National Cancer Institute; Sponsor: Kennedy, John [Sen.-R-LA]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.8774 — To require the Director of the National Institutes of Health to conduct an evaluation of menopause-related research (including gaps in research and knowledge regarding the causes, symptoms, and treatments for menopause), to develop a strategic plan to resolve gaps in knowledge and research, and identify topics in need of further research relating to potential treatments for menopause-related symptoms, and for other purposes; Sponsor: McKinley, David B. [Rep.-R-WV-1]; Committees: House - Energy and Commerce

S.4792 — A bill to amend the Higher Education Act of 1965 to establish fair and consistent eligibility requirements for graduate medical schools operating outside the United States and Canada; Sponsor: Durbin, Richard J. [Sen.-D-IL]; Committees: Senate - Health, Education, Labor, and Pensions

S.4794 — A bill to amend the Public Health Service Act with respect to opioid overdose reversal medication access, education, and co-prescribing grant programs, and for other purposes; Sponsor: Baldwin, Tammy [Sen.-D-WI]; Committees: Senate - Health, Education, Labor, and Pensions

S.4804 — A bill to provide for civil monetary penalties for violations of mental health parity requirements; Sponsor: Murphy, Christopher [Sen.-D-CT]; Committees: Senate - Health, Education, Labor, and Pensions