



Health Policy Briefing

November 1, 2021

House of Representatives Hopes to Pass Build Back Better, BIF This Week

Negotiations on the scaled-back \$1.75 trillion reconciliation package containing the President’s **Build Back Better** agenda continued over the weekend, with House Democratic leadership pushing to finalize and pass the bill this week. President Joe Biden presented congressional Democrats with a framework for the updated reconciliation package on Thursday. The outline included the creation of a Medicare hearing benefit, an extension of expanded Affordable Care Act (ACA) insurance subsidies, the creation of subsidized insurance plans for individuals residing in states that have not yet expanded their Medicaid programs, and an expansion of home and community-based care. The bill would be offset by tax increases and other revenue increases that total approximately \$2 trillion. The framework has been formally endorsed by the Congressional Progressive Caucus, “in principle” pending legislative text that can be agreed on by all parties including “all 50 Senators.” This endorsement from the Progressives comes despite the Build Back Better framework being significantly smaller than the initially proposed \$3.5 trillion package and the lack of progressive priorities like Medicare dental and vision benefits, paid leave, and higher corporate income tax rates. While the framework calls for the repeal of the Trump-era drug rebate regulation, it excludes mention of the Democrats’ signature drug pricing legislation, H.R.3, which would have established international reference pricing. Latest reports indicate that the bill could apply government negotiation to drugs in Medicare Parts B and D for which exclusivity has expired, with an exclusion for small biotech companies, and may drop the previously proposed excise tax to compel pharmaceutical manufacturers to participate.

House Democratic leadership had targeted Sunday for completing the process of drafting the \$1.75 trillion **Build Back Better** tax and spending package, with the goal of voting on the reconciliation bill and the \$550 billion bipartisan infrastructure framework (BIF) early in the week. Congress recently passed legislation to reauthorize surface transportation programs through December 3, as progressives continue to stand by their commitment to moving the reconciliation and infrastructure bills together.

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The House Rules Committee is expected to meet on Monday, with floor votes on both the Build Back Better and the infrastructure plans expected on Tuesday. Sen. Bernie Sanders (I-Vt.) has stated that he would prefer for the House to first reach a deal with Senate Democrats on what to include in the package, securing an endorsement from potential holdouts Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) before putting reconciliation to a vote in the House.

Appropriators to Begin Discussions on FY22 Omnibus

House and Senate appropriators will begin meeting this week to discuss a fiscal year (FY) 2022 omnibus spending package. The discussion, scheduled for Tuesday, will take place between House Appropriations Chair Rosa DeLauro (D-Conn.) and Ranking Member Kay Granger (R-Texas) and Senate Appropriations Chair Patrick Leahy (D-Vt.) and Ranking Member Richard Shelby (R-Ala.). The current continuing resolution (CR) expires on December 3. Lawmakers have yet to reach an agreement on topline figures, with Democrats pushing for more social spending and Republicans in support of additional defense funds.

Senate Confirms WH Drug Czar

The Senate confirmed Rahul Gupta as Director of the Office of National Drug Control Policy (ONDCP) by voice vote last week. Gupta, a practicing primary care doctor of 25 years, will be the first physician to serve in the role of White House drug czar. He most recently served as the Chief Medical and Health Officer, Interim Chief Science Officer and Senior Vice President at March of Dimes. His focus at ONDCP will be on addressing the opioid epidemic.

Bipartisan Senators Urge CMS to Review MA Prior Authorization Process

Sens. Sherrod Brown (D-Ohio) and John Thune (R-S.D.) led a [letter](#) to the Centers for Medicare and Medicaid Services (CMS) urging the administration to reform the Medicare Advantage (MA) prior authorization process. They request an update on CMS' "recommended next steps for improving and streamlining prior authorization processes in a manner that benefits providers, health plans, and taxpayers, but especially beneficiaries – including MA enrollees," and ask the agency to use its regulatory authority to improve prior authorization across health plans in line with their *Improving Seniors' Timely Access to Care Act*. The bill would make changes to prior authorization in the MA program by establishing an electronic prior authorization process, minimizing the use of prior authorization for services that are routinely approved, requiring plans to report on the extent of their use of prior authorization and the rate of delays and denials, ensuring prior authorization requests are reviewed by qualified medical personnel, and ensuring that plans adhere to evidence-based medicine guidelines. The letter was signed by a bipartisan group of 27 other senators.

Coronavirus Subcommittee Presses FTC on Sites Pushing Misinformation

The House Select Subcommittee on the Coronavirus Crisis has sent a [letter](#) to the Federal Trade Commission (FTC) requesting an investigation into whether certain companies like America's Frontline Doctors and SpeakWithAnMD.com are violating the *FTC Act*, *COVID-19 Consumer Protection Act*, and other relevant statutes in spreading COVID-19 misinformation related to disproven treatments such as hydroxychloroquine and ivermectin. "Misinformation endangers public health and fuels vaccine hesitancy by promoting the false ideas that coronavirus vaccines are unsafe and ineffective and that alternative drugs can prevent or cure coronavirus infections. Exploiting these falsehoods for financial gain puts American lives at risk and sets back our nation's efforts to combat the spread of the coronavirus," the letter states. Chairman Jim Clyburn (D-S.C.) urges the FTC to open an investigation into these matters and appropriately exercise its enforcement authority.

IL Rep. Kinzinger to Retire

Rep. Adam Kinzinger (R-Ill.) has announced that he will not seek re-election. Kinzinger is a member of the House committees on Energy and Commerce and Foreign Affairs. Kinzinger was one of 10 House Republicans who voted to impeach former President Donald Trump, and he currently sits on the House panel investigating the January 6 insurrection. His retirement comes in the wake of the Illinois Legislature's approval of a new Congressional redistricting map for the state's delegation. The new map places Kinzinger in the same district as fellow Republican Congressman Darin LaHood.

FDA Authorizes Pfizer Vaccine for Ages 5-11

The Food and Drug Administration (FDA) has authorized the Pfizer-BioNTech COVID-19 vaccine for emergency use in children ages 5 through 11. The vaccine will be administered as a two-dose series, three weeks apart, at a lower dose (10 micrograms) than that used for individuals 12 years of age and older (30 micrograms). The data supporting the authorization indicates that the immune response of children 5 through 11 is comparable to that of individuals 16 to 25, and that the vaccine is 90.7% effective in preventing COVID-19 in the younger age group. An ongoing study of 3,100 children in this age range reported no serious side effects. The FDA's Vaccines and Related Biological Products Advisory Committee (VRBPAC) had previously voted to recommend the EUA for children with 17 panel members in favor and one abstention. The Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) will meet this week to make their clinical recommendation. The CDC would then issue the agency's final guidance, potentially making pediatric vaccinations available as early as the end of this week.

HRSA Releases Health Workforce Strategic Plan

The U.S. Department of Health and Human Services (HHS) and the Health Resources and Services Administration (HRSA) have released the [Health Workforce Strategic Plan](#), as required by the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*. The framework aims to coordinate efforts to strengthen the health care workforce, and with the goals of expanding the health workforce to meet evolving community needs, improving the distribution of the health workforce to reduce shortages, enhancing health care quality through professional development, collaboration, and evidence-informed practice, and developing and applying data and evidence to strengthen the health workforce. Implementation of the strategic plan will involve evaluating the performance of health workforce development programs, identifying opportunities to strengthen programs, eliminating redundancies where possible, and implementing improvements. HHS will produce a report to Congress on those activities, as required by the *CARES Act*.

WH Details Vaccine Requirements for International Travelers

The Biden administration has announced that it will not define a standard proof of vaccination for international travelers to the U.S. but will instead rely on airline carriers to determine if an individual's credentials were issued by an official source. Carriers will also be responsible for confirming that a passenger's name and date of birth match their proof of vaccination. Digital credentials will be accepted if they meet the necessary requirements and technical specifications. Passengers traveling to the U.S. must also align with the Centers for Disease Control and Prevention's (CDC) definition of fully vaccinated. Very limited exceptions will be made for children and people from countries with low levels of vaccine availability (less than a 10% vaccination rate). Once international travel resumes on November 8, foreign travelers will also have to show proof of a negative COVID-19 test taken within three days of flying. In contrast with the planned U.S. verification process, Canada has announced that it will use SMART Health Cards as a national standard, and the E.U. is using a standardized COVID-19 certificate; almost 600 million credentials have already been issued.

Upcoming Congressional Hearings and Markups

Senate Judiciary Committee hearing “Cleaning Up Online Marketplaces: Protecting Against Stolen, Counterfeit, and Unsafe Goods;” 10:00 a.m.; November 2

House Veterans’ Affairs Subcommittee on Technology Modernization hearing “Next Steps: Examining Plans for the Continuation of the Department of Veterans Affairs Electronic Health Record Modernization Program;” 10:00 a.m.; November 2

House Homeland Security Committee hearing “Evolving the U.S. Approach to Cybersecurity: Raising the Bar Today to Meet the Threats of Tomorrow;” 10:00 a.m., November 3

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing “Next Steps: The Road Ahead for the COVID-19 Response;” 10:00 a.m.; November 4

Recently Introduced Health Legislation

H.R.5703 — To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to provide professional counseling services to victims of emergencies declared under such Act, and for other purposes. Sponsor: Rep. Pressley, Ayanna [D-MA-7]; House - Transportation and Infrastructure

H.R.5702 — To prohibit Federal agencies from granting a work authorization to any alien for the purpose of replacing unvaccinated U.S. healthcare workers, and for other purposes. Sponsor: Rep. Perry, Scott [R-PA-10]; Committees: House - Judiciary

H.R.5699 — To expand the definition of qualified persons for purposes of the Public Readiness and Emergency Preparedness Act to include health professional students. Sponsor: Rep. O’Halloran, Tom [D-AZ-1]; Committees: House - Energy and Commerce

H.R.5697 — To authorize the Attorney General to make grants to, and enter into cooperative agreements with, States and units of local government to develop, implement, or expand one or more programs to provide medication-assisted treatment to individuals who have opioid use disorder and are incarcerated within the jurisdictions of the States or units of local government. Sponsor: Rep. Kuster, Ann M. [D-NH-2]; Committees: House – Judiciary

H.R.5694 — To reduce the threshold for mandatory minimum penalties for fentanyl-related offenses under the Controlled Substances Act and the Controlled Substances Import and Export Act, and for other purposes. Sponsor: Rep. Grothman, Glenn [R-WI-6]; Committees: House - Judiciary; Energy and Commerce

H.R.5687 — To authorize a private right of action for an individual who suffers a vaccine-related injury or death as a result of receiving a COVID-19 vaccine, as required by their employer, and for other purposes. Sponsor: Rep. Cloud, Michael [R-TX-27]; Committees: House - Judiciary

H.R.5686 — To permit civil actions against the United States for COVID-19 vaccination mandates. Sponsor: Rep. Cloud, Michael [R-TX-27]; Committees: House - Judiciary

H.R.5678 — To require federally licensed firearms manufacturers, importers, and dealers and their employees to undergo annual training to be eligible to sell a firearm, to require a notice to be posted at retail firearms locations that describes the signs of unlawful firearms purchases, to require such licensees to maintain physical security elements to prevent theft and a minimum level of business liability insurance, and for other purposes. Sponsor: Rep. Crow, Jason [D-CO-6]; Committees: House – Judiciary

H.Res.742 — Supporting the designation of October 23, 2021, as “AADC Deficiency Awareness Day”. Sponsor: Rep. Murphy, Gregory [R-NC-3]; Committees: House - Energy and Commerce

S.3057 — A bill to amend title 18, United States Code, to enhance criminal penalties for health related stalking, and for other purposes; Sponsor: Sen. Klobuchar, Amy [D-MN]; Committees: Senate – Judiciary

S.3061 — A bill to amend title XVIII of the Social Security Act to eliminate the 190-day lifetime limit on inpatient psychiatric hospital services under the Medicare Program; Sponsor: Sen. Collins, Susan [R-ME]; Committees: Senate – Finance

S.3062 — 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, 2022, and for other purposes; Sponsor: Sen. Murray, Patty [D-WA]; Committees: Senate – Appropriations

H.R.5710 — To amend title 18, United States Code, to enhance criminal penalties for health related stalking, and for other purposes; Sponsor: Rep. Jackson Lee, Sheila [D-TX-18]; Committees: House – Judiciary

H.R.5719 — To require the Secretary of Health and Human Services to publicly disclose information regarding adverse effects of COVID-19 vaccines; Sponsor: Rep. Perry, Scott [R-PA-10]; Committees: House - Energy and Commerce

H.R.5721 — To amend title 38, United States Code, to improve research conducted within the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Takano, Mark [D-CA-41]; Committees: House - Veterans’ Affairs

S.3064 — A bill to authorize a White House Conference on Food, Nutrition, Hunger, and Health, and for other purposes; Sponsor: Sen. Booker, Cory [D-NJ]; Committees: Senate - Agriculture, Nutrition, and Forestry

S.3065 — A bill to establish national data privacy standards in the United States, and for other purposes; Sponsor: Sen. Cortez Masto, Catherine [D-NV]; Committees: Senate - Commerce, Science, and Transportation

S.3073 — A bill to prohibit discrimination in health care and require the provision of equitable health care, and for other purposes; Sponsor: Sen. Padilla, Alex [D-CA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3079 — A bill to exempt essential workers from Federal COVID-19 vaccine mandates; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.5724 — To authorize a White House Conference on Food, Nutrition, Hunger, and Health, and for other purposes; Sponsor: Rep. McGovern, James P. [D-MA-2]; Committees: House - Agriculture; Rules

H.R.5728 — To prohibit the Secretary of Labor from using funds to draft, promulgate, or enforce a rule mandating that employers require employees to be vaccinated against COVID-19, and for other purposes; Sponsor: Rep. Cawthorn, Madison [R-NC-11]; Committees: House - Education and Labor

H.R.5730 — To amend part E of title IV of the Social Security Act to require States to prohibit genital surgery on foster children with variations in sex characteristics who are under six years of age as a condition of receiving grants under such part; Sponsor: Rep. Garcia, Sylvia R. [D-TX-29]; Committees: House - Ways and Means

H.R.5741 — To provide an exemption to any Federal COVID-19 vaccine mandate for any Federal employee or contractor who provides proof of COVID-19 antibodies, and for other purposes; Sponsor: Rep. Newhouse, Dan [R-WA-4]; Committees: House - Oversight and Reform

H.R.5742 — To prohibit discrimination in health care and require the provision of equitable health care, and for other purposes; Sponsor: Rep. Schiff, Adam B. [D-CA-28]; Committees: House - Energy and Commerce; Ways and Means

S.3080 — A bill to amend the Employee Retirement Income Security Act of 1974 to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide for cost-sharing for oral anticancer drugs on terms no less favorable than the cost-sharing provided for anticancer medications administered by a health care provider; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.3085 — A bill to assist in the transition of a certain hospital to a Medicare rural emergency hospital, and for other purposes; Sponsor: Sen. Inhofe, Jim [R-OK]; Committees: Senate - Finance

S.3087 — A bill to amend the Internal Revenue Code of 1986 to provide authority to add additional vaccines to the list of taxable vaccines; Sponsor: Sen. Casey, Bob [D-PA]; Committees: Senate - Finance

H.Res.749 — Recognizing the outstanding contributions of respiratory therapists to patient care during “National Respiratory Care Week”; Sponsor: Rep. Raskin, Jamie [D-MD-8]; Committees: House - Energy and Commerce

H.R.5745 — To clarify Medicare coverage for COVID-19 testing and to provide support for cellular immune response research for COVID-19, and for other purposes; Sponsor: Rep. Dunn, Neal P. [R-FL-2]; Committees: House - Energy and Commerce; Ways and Means

H.R.5747 — To amend the Internal Revenue Code of 1986 to include certain over-the-counter dietary supplement products as qualified medical expenses; Sponsor: Rep. Boyle, Brendan F. [D-PA-2]; Committees: House - Ways and Means

H.R.5750 — To amend the Public Health Service Act to authorize certain grants (for youth suicide early intervention and prevention strategies) to be used for school personnel in elementary and secondary schools and students in secondary schools to receive student suicide awareness and prevention training, and for other purposes; Sponsor: Rep. Cleaver, Emanuel [D-MO-5]; Committees: House - Energy and Commerce; Education and Labor

H.R.5753 — To assist in the transition of a certain hospital to a Medicare rural emergency hospital, and for other purposes; Sponsor: Rep. Lucas, Frank D. [R-OK-3]; Committees: House - Ways and Means; Energy and Commerce

H.R.5754 — To amend title 38, United States Code, to improve the ability of veterans to electronically submit complaints about the delivery of health care services by the Department of Veterans Affairs; Sponsor: Rep. McClain, Lisa C. [R-MI-10]; Committees: House - Veterans' Affairs

H.R.5755 — To amend title 38, United States Code, to improve the assignment of patient advocates at medical facilities of the Department of Veterans Affairs; Sponsor: Rep. Moolenaar, John R. [R-MI-4]; Committees: House - Veterans' Affairs

H.R.5758 — To amend title 10, United States Code, to authorize non-medical counseling services, provided by certain mental health professionals, to military families; Sponsor: Rep. Slotkin, Elissa [D-MI-8]; Committees: House - Armed Services

S.Con.Res.17 — A concurrent resolution celebrating the first anniversary of the coalition of signatory countries to the Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family; Sponsor: Sen. Daines, Steve [R-MT]; Committees: Senate - Foreign Relations

S.3098 — A bill to provide for a national public health education campaign, grant program, and task force for recommended preventive health care services during the COVID-19 pandemic and future pandemics; Sponsor: Sen. Klobuchar, Amy [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.3105 — A bill to amend the Public Health Service Act to establish a hospital revitalization program to assist certain health facilities in constructing and modernizing their facilities and to support community development; Sponsor: Sen. Bennet, Michael [D-CO]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.5769 — To amend title XXVII of the Public Health Service Act to prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from imposing cost-sharing requirements or treatment limitations with respect to diagnostic examinations for breast cancer that are less favorable than such requirements with respect to screening examinations for breast cancer; Sponsor: Rep. Dingell, Debbie [D-MI-12]; Committees: House - Energy and Commerce

H.R.5772 — To authorize the Director of the National Science Foundation to award grants to support research on neurological and psychiatric illnesses associated with COVID-19 infection, and for other purposes; Sponsor: Rep. Gonzalez, Anthony [R-OH-16]; Committees: House - Energy and Commerce; Science, Space, and Technology

H.R.5787 — To direct the Secretary of Veterans Affairs to develop a strategy for telehealth furnished by the Veterans Health Administration and submit a report on end-user devices distributed by the Secretary to veterans to facilitate such telehealth; Sponsor: Rep. Rosendale Sr., Matthew M. [R-MT-At Large]; Committees: House - Veterans' Affairs

H.R.5789 — To direct the Secretary of Veterans Affairs to improve the ability of veterans to make appointments for mental health care furnished by the Secretary; Sponsor: Rep. Steil, Bryan [R-WI-1]; Committees: House - Veterans' Affairs