



Health Policy Briefing

November 27, 2023

Arrington, Burgess Question CBO About Drug Development Analysis

House Budget Committee Chairman Jodey Arrington (R-Texas) and Budget Committee Health Care Task Force Chair Michael Burgess (R-Texas) have sent a [letter](#) to the Congressional Budget Office (CBO) regarding CBO's process for analyzing the impact of policy proposals on U.S. drug development. The lawmakers specifically inquire about CBO's review of the drug pricing provisions contained in last year's *Inflation Reduction Act* (IRA). The letter points out that while CBO's analysis suggested that the IRA would result in a total of 13 fewer drugs coming to market over the next 30 years, independent assessments and related studies have suggested that number is significantly higher. "With the growing impact of health spending on the federal budget, we appreciate that CBO recognizes the power of innovation to reduce health care costs," the letter states. "Accordingly, it is increasingly important that CBO's analysis of policies that impact drug development in the U.S is incorporating the latest and most accurate information to ensure policymakers are fully aware of the impact legislation will have on patient access to new drugs."

Oversight Panel to Probe FTC's Handling of Amgen Merger

House Oversight Committee Chairman James Comer (R-Ky.) has launched an [investigation](#) into the Federal Trade Commission's (FTC) protection of confidential corporate information. Comer highlighted the FTC's apparent misuse of confidential information in the premerger process of Amgen's merger with Horizon Therapeutics. "Left unaddressed, these actions could have a chilling effect on the willingness of companies to engage the Commission in non-adversarial reviews of proposed mergers thereby creating more resource-intensive litigation paid for by taxpayers," Comer states.

AHA Urges CMS to Address MA Plan Violations

The American Hospital Association has sent a [letter](#) to the Centers for Medicare and Medicaid Services (CMS) expressing concerns about Medicare Advantage organizations' (MAO) compliance with Medicare Advantage (MA) coverage regulations. The letter provides examples of plan practices that circumvent the requirements detailed in the calendar year 2024 MA final rule and expresses concerns that these practices "will result in the maintenance of the status quo where MAOs apply their own coverage criteria that is more restrictive than Traditional Medicare proliferating the very behavior that CMS sought to address in the

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final rule, resulting in inappropriate denials of medically necessary care and disparities in coverage between beneficiaries in MA and those in the Traditional Medicare program.” AHA urges CMS to:

- Clarify that coverage criteria for inpatient admissions are fully established under Traditional Medicare;
- Clarify that the flexibility for MA plans to supplement Traditional Medicare rules with additional internal coverage criteria is not applicable for medical necessity reviews of inpatient admissions and level of care decisions and should only be used in certain limited circumstances;
- Reinforce expectations to MAOs and confirm MAO compliance with public accessibility and evidentiary standards for internal coverage criteria; and
- Take swift action to correct MA plan policies that do not comply with CMS rules.

Congress Retirements and Resignations

Several more lawmakers have added their names to the group of individuals who will not be returning to their elected positions next Congress:

- Rep. Tony Cárdenas (D-Calif.) will retire from Congress at the end of his current term. Cárdenas was first elected to the House of Representatives in 2012, and currently serves as a member of the Energy and Commerce Committee.
- Rep. Anna Eshoo (D-Calif.) also announced plans to retire. Eshoo currently serves as the top Democrat on the Energy and Commerce Subcommittee on Health. During her more than three decades in Congress, Eshoo has played a key role in the development of health care policy. She sponsored the bills that led to the creation of the Biomedical Advanced Research and Development Authority and the Advanced Research Projects Agency for Health. She was also a champion of the original ***Pandemic and All Hazards Preparedness Act***.
- Rep. Bill Johnson (R-Ohio) will not seek reelection in 2024. He announced last week that he has accepted an offer to become the new president of Youngstown State University. He will continue serving in the House “for several more months.” Johnson is a member of the Energy and Commerce Committee.
- Rep. Dean Phillips (D-Minn.) will not seek reelection to Congress amidst his 2024 presidential campaign. Phillips was first elected to Congress in 2018 and is a member of the House Problem Solvers Caucus. He has pitched himself as a younger alternative to President Joe Biden in his presidential primary challenge.

A running list of members of Congress who are retiring or seeking other office can be found below.

SENATE	
Stabenow (D), MI	Braun (R), IN
Cardin (D), MD	Sasse (R), NE
Carper (D), DE	Romney (R), UT
Feinstein (D), CA	
Butler (D), CA	
Manchin (D), WV	
HOUSE OF REPRESENTATIVES	
Porter (D), CA	Mooney (R), WV
Lee (D), CA	Banks (R), IN
Gallego (D), AZ	Spartz (R), IN
Schiff (D), CA	Bishop (R), NC
Slotkin (D), MI	Lesko (R), AZ
Allred (D), TX	Granger (R), TX
Trone (D), MD	Buck (R), CO
Blunt Rochester (D), DE	Burgess (R), TX
Napolitano (D), CA	Santos (R), NY
Wexton (D), VA	Wenstrup (R), OH
Kim, Andy (D), NJ	Johnson, Bill (R), OH (effective after March 2024)
Jackson, Jeff (D), NC	
Sarbanes (D), MD	
Blumenauer (D), OR	
Kilmer (D), WA	
Spanberger (D), VA	
Kildee (D), MI	
Jackson Lee (D), TX	
Phillips (D), MN	
Cárdenas (D), CA	
Eshoo (D), CA	
Higgins (D), NY (effective Feb. 2, 2024)	

Upcoming Congressional Hearings and Markups

Senate Judiciary Committee hearing “The Gun Violence Epidemic: A Public Health Crisis;” 10:00 a.m.; November 28

House Energy and Commerce Subcommittee on Health hearing “Understanding How AI is Changing Health Care;” 10:30 a.m.; November 29

House Energy and Commerce Subcommittee on Oversight and Investigations hearing “Unmasking Challenges CDC Faces in Rebuilding Public Trust Amid Respiratory Illness Season;” 10:00 a.m.; November 30

Recently Introduced Health Legislation

H.Res.874 — Expressing support for the designation of “Prematurity Awareness Month”. Sponsor: McClellan, Jennifer L. [Rep.-D-VA-4]; Committees: House - Energy and Commerce

H.Con.Res.77 — Expressing support for the designation of the week of November 13 through November 19, 2023, as “National Caregiving Youth Week” to raise awareness and encourage national recognition of children and adolescents under 18 years of age who serve as a primary or secondary caregiver for family or household members. Sponsor: Frankel, Lois [Rep.-D-FL-22]; Committees: House - Education and the Workforce

H.R.6445 — To amend title XVIII of the Social Security Act to improve coverage of audiology services under the Medicare program, and for other purposes. Sponsor: Bilirakis, Gus M. [Rep.-R-FL-12]; Committees: House - Energy and Commerce; Ways and Means

H.R.6451 — To amend the Public Health Service Act to authorize grants to States, Indian Tribes, Tribal 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: Porter, Katie [Rep.-D-CA-47]; Committees: House - Energy and Commerce; Judiciary

H.Con.Res.78 — Expressing the sense of Congress that public health professionals should be commended for their dedication and service to the United States on Public Health Thank You Day, November 20, 2023; Sponsor: Wittman, Robert J. [Rep.-R-VA-1]; Committees: House - Energy and Commerce

H.R.6459 — To amend title XI of the Social Security Act to limit demonstration projects related to abortion under Medicaid and CHIP; Sponsor: Brecheen, Josh [Rep.-R-OK-2]; Committees: House - Energy and Commerce

H.R.6460 — To prohibit the Secretary of Health and Human Services from issuing, finalizing, implementing, or enforcing any rule or guidance to facilitate abortions or access to abortions for an unaccompanied alien child; Sponsor: Brecheen, Josh [Rep.-R-OK-2]; Committees: House - Judiciary

H.R.6461 — To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes; Sponsor: Cartwright, Matt [Rep.-D-PA-8]; Committees: House - Education and the Workforce; Ways and Means

H.R.6465 — To amend title XVIII of the Social Security Act to provide a phase-in for plasma-derived products under the manufacturer discount program; Sponsor: Hudson, Richard [Rep.-R-NC-9]; Committees: House - Energy and Commerce; Ways and Means

H.R.6475 — To provide for the designation of areas as Health Disparity Zones to reduce health disparities and improve health outcomes in such areas, and for other purposes; Sponsor: Thanedar, Shri [Rep.-D-MI-13]; Committees: House - Energy and Commerce; Ways and Means