



## Health Policy Briefing

February 20, 2018

### White House Releases FY 2019 Budget

The Trump Administration released its budget request for fiscal year (FY) 2019 last week. While lawmakers in Congress will ultimately write their own spending bills, the White House budget is considered an important outline of the President’s legislative priorities. The Administration’s plan would reduce the deficit by \$3.6 trillion over the next decade. The proposal calls for \$1.7 trillion in cuts to mandatory spending and receipts, and a two percent yearly reduction in non-defense discretionary spending after 2019. The Trump budget underwent some last-minute changes to take into account the new spending caps recently passed by Congress in the Bipartisan Budget Act, which provided an additional \$63 billion in nondefense spending for FY 2019.

The White House proposes to provide the **U.S. Department of Health and Human Services (HHS)** with \$68.4 billion in discretionary budget authority, a 21 percent or \$17.9 billion cut from currently enacted levels.

The White House budget includes a total of \$17 billion in **opioid-related spending** for FY 2019, including \$10 billion in new discretionary funding for HHS and \$7 billion that remains unallocated to particular programs but available for key activities. The Administration says that the new funds will be used to expand access to prevention, treatment, and mental health services. While unscored, the budget also includes key proposals for both Medicare and Medicaid. The budget proposes to allow **Medicare** to provide comprehensive coverage for substance abuse treatment, including a per-week-per-patient bundled reimbursement to providers for medication-assisted treatment (MAT). The Administration also proposes to require **Medicaid** to cover all three Food and Drug Administration (FDA)-approved MAT options (i.e., methadone, buprenorphine, and Vivitrol). The Drug Enforcement Administration (DEA) would receive \$2.2 billion in new funding for the agency’s opioid related-activities in FY 2019.

The budget would fund the **National Institutes of Health (NIH)** at the current level of \$33.4 billion in the coming fiscal year. This figure does not include an additional \$750 million for the agency’s role in addressing serious mental illnesses and combating the opioid abuse epidemic. The NIH proposal translates

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to a cut for the agency as a whole and 21 of its 27 institutes. The Administration also proposes to consolidate the Agency for Healthcare Research and Quality (AHRQ), the Centers for Disease Control and Prevention's (CDC) occupational safety center, and the Administration for Community Living's National Institute on Disability, Independent Living, and Rehabilitation into the NIH. Given that NIH is statutorily restricted to only 27 institutes and centers, without further Congressional action, the addition of other institutes would require a reorganization of some of the current institutes and centers.

The Administration requests a cut of nearly \$900 million for the **CDC** in FY 2019. The agency would receive \$11.1 billion in total program-level spending, down from the current \$12 billion spending level. The CDC would receive approximately \$175 million in new funding as a part of the broader allocation through HHS to combat the opioid crisis.

The budget would boost funding at the **FDA** by \$663 million, or 13 percent, for a total of \$5.8 billion. The White House requests \$47 million in new user fees. FDA Commissioner Scott Gottlieb stated that he would use additional funding to develop standards and guidance to encourage the adoption of new manufacturing platforms, which are more likely to be built within the U.S. He also pitched the establishment of an FDA center of excellence for facilities that compound large volumes of drugs and expressed support for the development of clinical trials networks focused on drug development for rare diseases.

The **Office of the National Coordinator for Health Information Technology** (ONC) would receive \$38 million in FY 2019, a decrease from the \$60 million it received under currently enacted spending levels. The budget request states that ONC will focus its work on electronic health data exchange, reducing physician burdens, certifying health IT products, and developing standards to assess product performance. The Health IT Adoption program would be eliminated, and the cuts to ONC would also result in a reduction of office space and staff training.

The Trump budget proposal would transition the **Affordable Care Act** (ACA)'s premium subsidies and Medicaid expansion to a block-grant system run by states, followed by additional reforms to address "unsustainable health-care spending trends." The plan is similar to legislation introduced last year by Senators Lindsey Graham (R-S.C.) and Bill Cassidy (R-La.), which aimed to give states more flexibility to manage their Medicaid programs and health insurance markets.

The budget for the **Office of National Drug Control Policy** (ONDCP) would be cut by approximately 95 percent. The budget only requests \$17 million for ONDCP. The agency's High Intensity Drug Trafficking Areas grant would be moved to the Department of Justice, while the Drug Free Communities Act would be transferred to HHS. The Administration argues that these changes would enable ONDCP to better focus on its core mission to reduce drug use and its consequences.

The budget includes several provisions aimed at reducing the **cost of prescription drugs**. The budget blueprint would mandate that insurance plans share rebates with patients in Medicare Part D. It would also cap Medicare enrollees' out-of-pocket (OOP) costs. Five states would be allowed to join together to negotiate drug prices in their Medicaid programs. The budget would also limit the growth rate of Medicare Part B payments to inflation. The Administration proposes changes to the 340B drug discount program that would increase program transparency and reward those hospitals providing the most charity care.

Republican appropriators praised the President's vision, but stressed that the Trump budget is just a starting point for the FY 2019 appropriations process. And, in light of the recent Congressional budget agreement for FY 2018 and FY 2019, lawmakers are more likely to craft proposals based on those agreements.

### ***McCaskill Report Links Opioid Manufacturers and Advocacy Spending***

Sen. Claire McCaskill (D-Mo.) has released a new report detailing \$9 million in payments between 2012 and 2017 from five opioid manufacturers to 14 outside groups that work on issues related to chronic pain and opioids. She argues that the third-party patient and physician organizations, such as the Academy of Integrative Pain Management, the U.S. Pain Foundation, and the American Academy of Pain Medicine, were often advocates for increased opioid use, and were found to have lobbied against prescriber limits and the Centers for Disease Control and Prevention's (CDC) 2016 opioid guidelines. She also notes the lack of transparency around the donations from the opioid manufacturers. Nonprofit patient and physician groups are not currently required to disclose their donors publicly.

In related news, leadership on the Senate Health, Education, Labor, and Pensions (HELP) Committee Lamar Alexander (R-Tenn.) and Patty Murray (D-Wash.) met with a group of insurance company CEOs last week on the subject of combatting the opioid crisis. The group discussed what they are doing to fight opioid abuse, and offered suggestions for additional congressional action. On the House side, Rep. Elijah Cummings (D-Md.), Ranking Member on the House Oversight and Government Reform Committee, has **written** to Committee Chairman Trey Gowdy (R-S.C.) requesting a White House briefing on the status of the Administration's efforts to implement the recommendations of the President's Commission on Combating Drug Addiction and the Opioid Crisis.

### ***House GOP Considers Employer Mandate Repeal***

Republicans in the House are currently discussing repeal of the Affordable Care Act's (ACA) employer mandate, according to House Ways and Means Committee Chairman Kevin Brady (R-Texas). The mandate requires businesses with 50 or more employees to offer health coverage for their workers or face a financial penalty. Chairman Brady has spoken about the idea with both his colleagues as well as U.S. Department of Health and Human Services (HHS) Secretary Alex Azar. Brady supports retroactive repeal of the mandate to prevent employers from being penalized by the provision, which first took effect in 2015. Speaker of the House Paul Ryan (R-Wis.) has made parallel remarks in recent weeks about the need to take an incremental approach to health care reform during the remainder of the 115th Congress.

### ***Good Samaritan Advanced to the House for Consideration***

The House Energy and Commerce Committee advanced H.R. 1876, the Good Samaritan Health Professionals Act, to the full House of Representatives by voice vote. This bill, authored by Rep. Marsha Blackburn (R-Tenn.), would shield health care professionals from liability from harm caused by any act or omission if: (1) the professional is serving as a volunteer in response to a disaster in a declared disaster area and (2) the act or omission occurs during the period of the disaster, in the professional's capacity as a volunteer, and in a good faith belief that the individual being treated is in need of health care services.

### ***CMS Actuary Releases Annual Report***

The Centers for Medicare and Medicaid Services (CMS) Office of the Actuary estimates that national health spending will grow an average of 5.5 percent a year between 2017 and 2026, one percentage point faster than the gross domestic product (GDP). According to the actuary's annual report, by 2026 health spending will reach \$5.7 trillion and account for 19.7 percent of GDP. The economists at CMS argue that the increased health care spending growth is driven by income growth across the country. Prescription drug spending is expected to grow 6.3 percent per year on average over the next decade, the fastest spending growth rate among other health care goods and services. The actuaries partially attribute this fact to the influence of more costly specialty drugs. Medicare spending is projected to grow at an annual average rate of 7.4 percent through 2026, outpacing the spending growth of private health insurance and Medicaid largely due to the increasing enrollment of baby boomers. Private health insurance spending is expected to grow at a rate of 4.7 percent, while Medicaid is projected to growth at an average annual rate of 5.8 percent. While enrollment growth in Medicaid is slowing, per-enrollee costs are expected to become more expensive as the share of the aged and disabled increases as a portion of the overall Medicaid population. The slow growth in private health insurance spending is attributed to the proliferation of high-deductible plans and other employer efforts to manage health care costs, as well as the shifting of baby boomers into Medicare. The number of uninsured people is projected to increase from 28.6 million in 2016 to 37.7 million in 2026.

### ***Azar Open to Gun Violence Research***

Secretary of the U.S. Department of Health and Human Services (HHS) Alex Azar stated that he would allow federal research to be conducted into the causes of gun violence. The comments were made following a mass shooting at a Florida school on Wednesday, which left 17 people dead and 14 others injured. While Azar was testifying before several congressional committees on the President's budget, a number of Democratic lawmakers expressed concerns about current restrictions that prevent the Centers for Disease Control and Prevention (CDC) from conducting research into gun violence. The CDC's ability to study gun violence has been limited by an appropriations provision known as the Dickey amendment, which was devised in 1996 and states "none of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control." Azar explained that it was his understanding that the two-decades old provision prevents the CDC from taking an advocacy position on the issue, but does not impede the CDC's ability to conduct research. "We're in the science business and the evidence-generating business," Azar stated, "and so I will have our agency certainly working in this field, as they do across the broad spectrum of disease control and prevention." Azar also made comments in line with the response of the President and GOP leadership to the shooting, focusing on the need for mental health reform.

### ***McCain and Baldwin Urge WH Action on Drug Prices***

Sens. John McCain (R-Ariz.) and Tammy Baldwin (D-Wis.) have **written** to President Trump calling on him to take substantive action to reduce the cost of prescription drugs. They ask that the Administration support their legislation that would require pharmaceutical manufacturers to justify their pricing decisions and be more transparent in providing taxpayers with information on the cost of drug R&D, marketing, and advertising before increasing a medicine's cost.

**Recently Introduced Health Legislation**

*H.R. 4978 (introduced by Rep. Diane Black): A bill to amend the Internal Revenue Code of 1986 to permit high deductible health plans to provide chronic disease prevention services to plan enrollees prior to satisfying their plan deductible; Ways and Means*

*H.R. 4987 (introduced by Rep. Michael C. Burgess): A bill to amend title XVIII of the Social Security Act to provide for technical amendments to the Merit-based Incentive Payment System under Medicare; Energy and Commerce, Ways and Means*

*H.R. 4993 (introduced by Rep. Mike Kelly): A bill to amend the Internal Revenue Code of 1986 to authorize the designation of additional taxable vaccines; Ways and Means*

*S.Res.403 (introduced by Sen. Mazie Hirono): A resolution designating February 2018 as “American Heart Month” and February 2, 2018, as “National Wear Red Day”; submitted, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

*S.2415 (introduced by Sen. Chuck Grassley): A bill to amend title XIX of the Social Security Act to streamline enrollment of certain Medicaid providers and suppliers across State lines, and for other purposes; Finance*

*H.R.4998 (introduced by Rep. Karen Bass): To amend title XIX of the Social Security Act to ensure health insurance coverage continuity for former foster youth; Energy and Commerce*

*H.R.5002 (introduced by Rep. Debbie Dingell): ACE Research Act; Energy and Commerce*

*H.R.5009 (introduced by Rep. Tim Walberg): To include information concerning a patient’s opioid addiction in certain medical records; Energy and Commerce*

*S.2422 (introduced by Sen. Elizabeth Warren): A bill to require a study on the health impacts of air traffic noise and pollution; Commerce, Science, and Transportation*

*H.R.5021 (introduced by Rep. Sean Patrick Maloney): To require the Administrator of the Drug Enforcement Administration to make publicly available on the website of the Drug Enforcement Administration a report on the sale of controlled substances and controlled substance analogues by means of the Internet; Energy and Commerce, Judiciary*

*H.R.5041 (introduced by Rep. Tim Walberg): To amend the Controlled Substances Act to authorize the employees of a hospice program to handle controlled substances in the residence of a deceased hospice patient to assist in disposal; Energy and Commerce, Judiciary*

*H.R.5047 (introduced by Rep. Gus M. Bilirakis): To direct the Secretary of Veterans Affairs to carry out a demonstration program to provide expanded access to medical services through partnerships between Department of Veterans Affairs medical centers and Federally qualified health centers, and for other purposes; Veterans’ Affairs*

*H.R.5052 (introduced by Rep. David P. Joyce): To amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nurse staffing levels at certain Medicare providers, and for other purposes; Energy and Commerce, Ways and Means*

*H.R.5062 (introduced by Rep. Eric Swalwell): To provide for a study by the National Academy of Medicine on the use of genetic and genomic testing to improve health care, and for other purposes; Energy and Commerce*

*S.2437 (introduced by Sen. Tammy Baldwin): A bill to reauthorize and improve the 21st Century Cures opioid grant program; Health, Education, Labor, and Pensions*

*S.2438 (introduced by Sen. Edward J. Markey): A bill to conduct or support further comprehensive research for the creation of a universal influenza vaccine; Health, Education, Labor, and Pensions*

*S.2446 (introduced by Sen. Jeff Merkley): A bill to amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nurse staffing levels at certain Medicare providers, and for other purposes; Finance*