



Health Policy Briefing

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E&C Gather Stakeholder Input on Surprise Billing

House Energy and Commerce Committee staff held a bipartisan briefing between health aides and stakeholders earlier this month on the issue of surprise medical bills. Participants included the Federation of American Hospitals, the American Medical Association, Families USA, and America's Health Insurance Plans. Surprise bills are one issue that Chairman Frank Pallone (D-N.J.) hopes to address in a bipartisan manner this Congress. The House Ways and Means Committee and Education and Workforce Committee have also expressed interest in tackling surprise medical bills this year. The Senate appears to be further along in the legislative process, with a bipartisan group working to revise draft legislation released last September. Senate Health, Education, Labor, and Pensions (HELP) Committee leadership continue to await a response from the Congressional Budget Office (CBO) to their letter outlining policy options for analysis.

The Congressional Research Service (CRS) released a new report on surprise billing last week, warning lawmakers that any forthcoming federal legislation should consider existing state laws on the issue as well as the potential for litigation over payment rates. Given that fifteen states have already passed bills to address the problem of surprise medical bills, the agency recommends that Congress clarify the parameters of federal preemption of state laws. CRS suggests that Congress include an enforcement mechanism to address the violation of any potential federal legislation. According to the report, lawmakers should also expect surprise billing regulations to face legal challenges in court.

OIG To Review Use of Prior Authorization in Medicaid MCOs

The U.S. Department of Health and Human Services (HHS) Office of the Inspector General (OIG) will begin a review of whether Medicaid managed care organizations (MCOs) are in compliance with federal requirements on prior authorization. The OIG investigation follows a letter from Sen. Bob Casey (D-Pa.), member of the Senate Finance and HELP Committees, outlining his concerns on the issue.

In his letter to the OIG, Casey referenced reports of unnecessary red tape that resulted in the denial of medical and dental services as well as prescription drugs for those in need of care.

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Lawmakers Release Patent Reform Framework

Lawmakers have released a bipartisan, bicameral legislative [framework](#) for reform of Section 101 of U.S. patent law, which determines patent eligibility. The framework would eliminate the requirement that any invention or discovery be both “new and useful.” Senate Judiciary Intellectual Property Subcommittee Chair Thom Tillis (R-N.C.) and Ranking Member Chris Coons (D-Del.) argue that such requirements inhibit innovation in certain areas of technology, such as medical diagnostics and personalized medicine. The framework is also backed by Rep. Hank Johnson (D-Ga.), chairman of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet, as well as by Reps. Doug Collins (R-Ga.), and Steve Stivers (R-Ohio).

Senate to Prioritize Appropriations in Coming Weeks

Senate Majority Leader Mitch McConnell’s (R-Ky.) top priority when lawmakers return to Washington on April 29 is to reach an agreement on top-line federal spending levels. Negotiations are currently stalled due to Democratic demands for an increase in funding for domestic programs, while Republicans and the White House push to increase defense spending. Without a spending deal, lawmakers will have to pass a stopgap continuing resolution (CR) to keep funding at current levels or default to the sequestration cuts of the Budget Control Act (BCA), which are set to take effect in January 2020. Congress and President Trump will also have to strike a deal on raising the nation’s borrowing limit before the fall.

Number of Uninsured Increases by One Million

A new report from the Congressional Budget Office (CBO) indicates that more than one million Americans have lost health insurance coverage since 2016, with the number of uninsured individuals rising from 27.5 million in 2016 to 28.9 million in 2018. The CBO found that a reduction of the number of Americans purchasing coverage on the individual market outside of the federal and state-run exchanges was a main source of the decline. The number of people who bought unsubsidized insurance through the exchanges also declined slightly. CBO posted four new reports last week detailing its new [approach](#) for projecting health insurance coverage and premiums. The changes revise how the agency models consumers’ and employers’ behavior.

McConnell to Introduce Bill Raising Tobacco Purchasing Age

Senate Majority Leader Mitch McConnell (R-Ky.) announced plans to introduce legislation that would raise the minimum age to buy tobacco from 18 to 21. The policy would cover all tobacco products, including vaping devices, but would have exemptions for individuals who serve in the military. Eleven states have already enacted laws raising the age required to buy tobacco. McConnell’s legislation is expected to be introduced sometime in May. The Majority Leader has said that he is motivated by the rising popularity of vaping products among teenagers, and that he expects the policy to receive bipartisan support in the Senate. The change of tobacco purchasing age is supported by Altria, one of the largest U.S. tobacco companies.

Measles Cases on the Rise

The Centers for Disease Control and Prevention (CDC) has reported that the number of confirmed measles cases increased by 90 during the second week of April. This marks the third week in a row that the health officials have added to the list of people sickened by the disease, bringing the total number to 555 – the highest infection rate in the past five years and the second-greatest number of cases reported since 2000, when the CDC announced that the country was rid of measles. Twenty states have reported measles cases in 2019, but the majority of cases have been isolated to New York City, where officials have declared a public health emergency and ordered mandatory measles vaccinations or a \$1,000 fine. The outbreak has been concentrated among Haredi -Orthodox Jews in Brooklyn; such insular communities have been particularly susceptible to anti-vaccine propaganda. The six current outbreaks across the U.S. are linked to travelers bringing back measles from other countries like Israel, Ukraine, and the Philippines, which are currently experiencing large measles outbreaks. Almost all states allow exemptions from vaccination requirements for people who have religious beliefs against vaccinations, with seventeen states allowing for both religious and personal or philosophical belief exemptions.

The World Health Organization (WHO) has reported that there are four times as many measles cases so far this year as there were at this time last year and has declared vaccine hesitancy as a top ten threat to global health. A total of 170 countries have reported 112,163 measles cases so far in 2019, with WHO estimating that less than 1 in 10 cases are actually reported. The measles vaccine is 97 percent effective, but a lack of access to the vaccine in poorer countries has resulted in recent outbreaks. Up to ninety percent of people who are not immune to measles will become infected if they are exposed to the virus; for every 1,000 children who get measles, one or two will die as a result. The disease can also have long-term effects on health.

FDA Commissioner Sharpless to Continue FDA's Current Agenda

Acting Commissioner of Food and Drugs Ned Sharpless made his first address to the agency last week at an all-employee meeting. One of his first acts in the position of acting commissioner will be to make product recalls and safety alerts more accessible on the Food and Drug Administration's (FDA) website. Sharpless also stated that he will push for the use of real-world evidence (RWE) in the evaluation of medical device safety and in regulatory decision making. He stressed that the recent change in leadership will not impact the FDA's priorities for prescription drug competition, e-cigarettes, and opioids, and that he would continue work to expedite generic and biosimilar drug and gene and cell therapy approvals, strengthen vaccine messaging, and build a diverse workforce at the agency.

Recently Introduced Health Legislation

H.R.2292 — To amend the Patient Protection and Affordable Care Act to provide funding for American Health Benefit Exchanges navigator programs and outreach and promotional activities; Sponsor: Rep. Waters, Maxine [D-CA-43]; Committees: House - Energy and Commerce

H.R.2293 — To amend title XVIII of the Social Security Act to exclude complex rehabilitative manual wheelchairs from the Medicare competitive acquisition program, and for other purposes; Sponsor: Rep. Larson, John B. [D-CT-1]; Committees: House - Energy and Commerce, Ways and Means

H.R.2294 — To amend the Employee Retirement Income Security Act of 1974 to establish additional criteria for determining when employers may join together in a group or association of employers that will be treated as an employer under section 3(5) of such Act for purposes of sponsoring a group health plan, and for other purposes; Sponsor: Rep. Walberg, Tim [R-MI-7]; Committees: House - Education and Labor

H.R.2296 — To require reporting regarding certain drug price increases, and for other purposes; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Energy and Commerce

H.R.2300 — To establish a grant to provide mental health services and behavioral health services to at-risk youth, and for other purposes; Sponsor: Rep. Cardenas, Tony [D-CA-29]; Committees: House - Judiciary, Education and Labor

H.R.2306 — To amend titles XI and XIX of the Social Security Act to strengthen the Medicaid program in Puerto Rico, and for other purposes; Sponsor: Rep. Gonzalez-Colon, Jenniffer [R-PR-At Large]; Committees: House - Energy and Commerce

H.R.2308 — To amend the VA MISSION Act of 2018 to expand the veterans healing veterans medical access and scholarship program to include more students and schools; Sponsor: Rep. Gonzalez-Colon, Jenniffer [R-PR-At Large]; Committees: House - Veterans' Affairs

H.R.2310 — To amend title XVIII of the Social Security Act to eliminate late enrollment penalties under part B of the Medicare program for individuals residing in Puerto Rico if such individuals enroll within 5 years of becoming entitled to benefits under part A of such program; Sponsor: Rep. Gonzalez-Colon, Jenniffer [R-PR-At Large]; Committees: House - Energy and Commerce, Ways and Means

H.R.2312 — To amend the Older Americans Act of 1965 to establish the Office of Inclusivity and Sexual Health and a rural outreach grant program carried out by that Office, and for other purposes; Sponsor: Rep. Haaland, Debra A. [D-NM-1]; Committees: House - Education and Labor

H.R.2316 — To amend title XIX of the Social Security Act to require a Federal medical assistance percentage of 100 percent for urban Indian organizations, and for other purposes; Sponsor: Rep. Lujan, Ben Ray [D-NM-3]; Committees: House - Energy and Commerce