



Health Policy Briefing

August 5, 2019

Two-Year Budget Deal Passes Senate, Signed by President

The Senate passed a two-year bipartisan budget deal (H.R. 3877) to increase budget caps, raise the nation's borrowing limit, and create a path to fiscal year (FY) 2020 government funding. The package was quickly signed into law by President Trump. The measure passed the Senate by a vote of 67-28, with 23 Republicans joining five Democrats in opposition to the bill. It would increase spending by \$320 billion above current levels and lift the debt ceiling for two years; the bill also includes \$77 billion in cuts and revenue raisers to help offset its cost. It adds \$1.7 trillion to the deficit over the next ten years in comparison to the automatic spending cuts known as sequestration that would have otherwise taken place in the absence of an agreement. As part of the negotiations, lawmakers have agreed to not insert any poison pill policies into individual appropriations bills considered before the end of the fiscal year on September 30. The legislation had previously been agreed to by the House of Representatives. The House has already passed 10 spending bills, while the Senate Appropriations Committee plans to begin voting appropriations legislation when the Senate reconvenes early next month. Congress is in recess through the month of August and is scheduled to return after Labor Day on September 9.

Congress Passes Extension of Mental Health Demonstration Program

Congress has passed a short-term extension of funding for the Certified Community Behavioral Health Clinic (CCBHC) demonstration program through September 13, 2019. The clinics, which are located across eight states particularly impacted by the opioid crisis, receive matched federal funding through the Medicaid program to treat mental health and substance abuse. The Empowering Beneficiaries, Ensuring Access, and Strengthening Accountability Act of 2019 (H.R. 3253) would provide an extra \$60 million in funding and was passed by

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the Senate on July 25. The House agreed to the Senate's amendment by unanimous consent last week. Bipartisan leadership of the House Committee on Energy and Commerce issued a statement following passage of the bill urging policymakers to support a longer extension of the CCBHC demonstration program in order to provide time to fully evaluate the program and its impact in responding to the opioid epidemic.

WH Announces Plans for Drug Importation

The Trump Administration has announced plans for a forthcoming policy that would allow for the importation of medicines from other countries in an attempt to reduce the cost of prescription drugs. The U.S. Department of Health and Human Services (HHS) will issue a regulation to allow states and pharmacies to submit drug importation pilot programs for approval. Officials did not outline a timeline for when the regulation would go into effect. Republican lawmakers praised the President's efforts to lower drug prices while stressing the need to continue to ensure the safety and efficacy of pharmaceutical products.

Drug Pricing, Health Care Costs Talks Begin in Senate

Bipartisan leadership of the Senate Finance and Senate Health, Education, Labor, and Pensions (HELP) committees met last week to begin discussions on the integration of their panels' drug pricing and health care costs packages before the measures are brought to the Senate floor for a vote. The lawmakers are also working with relevant committee leadership in the House of Representatives on similar work taking place across the Capitol. They hope to get legislation passed this fall after Congress returns from the five-week August recess. Senate Minority Leader Chuck Schumer (D-N.Y.) has said that Democrats will demand votes on allowing the Medicare program to negotiate drug prices ahead of any floor vote on health care legislation this year.

Finance Chairman Chuck Grassley (R-Iowa) is also working with Sen. Dick Durbin (D-Ill.) to include a provision to require manufacturers to disclose the price of drugs in direct-to-consumer (DTC) advertising. The legislation is not within the jurisdiction of the Senate Finance Committee, and the administration's attempt to implement a similar policy was blocked in court.

Lawmakers Launch Comprehensive Care Caucus

Sens. Jacky Rosen (D-Nev.), John Barrasso (R-Wyo.), Deb Fischer (R-Neb.), and Tammy Baldwin (D-Wis.) announced the launch of the Comprehensive Care Caucus last week. The caucus aims to raise awareness about the benefits of palliative care, address caregiver-specific issues, and improve access to palliative care.

Democrats to Force Vote on Waiver Regulation

Senate Democrats have introduced a Congressional Review Act (CRA) resolution that would roll back the implementation of the administration's 1332 waiver rule, which would allow states to offer subsidies for short-term, limited duration plans and expand the availability of health insurance that is not required to comply with the Affordable Care Act's (ACA) consumer protections. Democrats plan to force a majority-threshold vote on the resolution after August recess to put Republicans on the record regarding their support for protections for pre-existing conditions.

Ways and Means Push Action on Hospice Oversight, Air Ambulance Surprise Billing

House Committee on Ways and Means Chairman Richard Neal (D-Mass.) and Ranking Member Kevin Brady (R-Texas) have sent a [letter](#) to the Centers for Medicare and Medicaid Services (CMS) requesting information on the agency's work to address recent reports from the HHS Office of the Inspector General (OIG) of deficiencies in the quality of hospice care. The OIG's findings indicated that 87 percent of hospices had at least one care deficiency between 2012 and 2016, and 20 percent had at least one serious deficiency, meaning that the health and safety of a beneficiary were in jeopardy or the hospice was limited in its capacity to deliver adequate care. The report also found that CMS lacks sufficient reporting and enforcement requirements. The lawmakers urge CMS to address the recommendations contained in the OIG's report, and request that CMS provide information on its data collection and reporting practices; oversight of patient harm; plans to improve the process for beneficiaries and caregivers to make complaints; and strategies to develop better measures for hospice quality and outcomes. The lawmakers request a response before August 15.

Ways and Means leadership also sent a [letter](#) to the Department of Transportation (DOT), urging Secretary Elaine Chao to convene the Air Ambulance and Patient Billing (AAPB) Advisory Committee. The task force was created by the FAA Reauthorization Act of 2018, and the DOT was charged with establishing the group within 60 days of enactment of the law. The purpose of the task force is to make recommendations to protect patients of air ambulance transports from receiving high-cost bills. The DOT has yet to take any action in regard to the task force except to issue a call for potential membership, which had deadline of January 15.

E&C Makes Inquiries Into Possible Heparin Shortages, Environmental Health at the CDC

Bipartisan leadership of the House Energy and Commerce Committee have [written](#) to Acting Commissioner of Food and Drugs Ned Sharpless to request briefings on potential shortages in the U.S. supply of heparin. Heparin, which is the only anticoagulant used for open-heart surgeries and kidney dialysis, is derived from animal sources. The lawmakers raise concerns about the impact of the current outbreak of African swine fever in China's pig population on heparin supply in the U.S. Nearly 80 percent of the world's heparin ingredient supply is made in China. The letter asks how the Food and Drug Administration (FDA) is monitoring the adequacy of the U.S. heparin supply, and what the agency's plans are to address a potential shortage and the threat of "economically-motivated adulteration."

Chairman of the House Energy and Commerce Committee Frank Pallone (D-N.J.) has [requested](#) a briefing from the Centers for Disease Control and Prevention (CDC) regarding the agency's environmental health division. Rep. Pallone expresses concerns about recent reports that the CDC's reorganization of the division could diminish the effectiveness of certain public health programs, including the Climate and Health Program. He requests a briefing from CDC officials on program changes by August 12, 2019.

Dems Continue Inquiry Into Religious Conscience Protections Rule

Democratic leadership of the House Energy and Commerce Committee, Education and Labor Committee, Oversight and Reform Committee, and Senate HELP Committee have [written](#) to HHS Secretary Alex Azar regarding the administration's recent conscience protections rule which would expand religious protections for health workers. The lawmakers ask for information regarding the policy's potentially discriminatory impact on patients, and what the Department would do to mitigate those effects. They request a response from HHS by Aug. 15.

Senators Urge Caution on FCC Rural Health Program

A bipartisan group of senators is [requesting](#) that the Federal Communications Commission (FCC) delay changes to the Rural Health Care Program, which subsidizes rural health care providers' broadband internet connections. The lawmakers express concerns that a recent proposal from the FCC "does not address the need for more funding, set forth the methodology for calculating rural and urban rates, nor provide adequate maps to determine the rural area boundaries needed to determine pricing"

Lawmakers Release Draft Bill Linking Drug Costs to Federally Funded Research

Sens. Chris Van Hollen (D-Md.) and Rick Scott (R-Fla.) have released draft [legislation](#) that would require pharmaceutical manufacturers to discount products that have benefited from federally-funded research. The bill, which would put price controls on drugs that have patents directly tied to or supported by the National Institutes of Health (NIH), would only impact future medications. A committee of experts would be created to determine a reasonable price for applicable medicines. Sen. Van Hollen has said that the legislation could apply to as much as a quarter of new drugs.

HHS Personnel Update

Administrator of the Health Resources and Services Administration (HRSA) George Sigounas is expected to soon depart from his position in the administration. Sigounas is a longtime cancer researcher who has served as the director of HRSA since May 2017. Brian LeClair, former Minnesota state senator, currently serves as HRSA's principle deputy administrator.

Upcoming Congressional Hearings and Markups

Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights oversight hearing to examine enforcement of the antitrust laws; 2:30 p.m., 226 Dirksen Bldg.; September 17

Recently Introduced Health Legislation

H.R.4086 — To direct the Secretary of Veterans Affairs to determine presumptions of service connection for illnesses associated with open burn pits, and for other purposes; Sponsor: Rep. Bilirakis, Gus M. [R-FL-12]; Committees: House - Veterans' Affairs, Armed Services

S.2304 — A bill to amend the Public Health Service Act to enhance efforts to address antibiotic resistance, and for other purposes; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Health, Education, Labor, and Pensions

S.2305 — A bill to amend title XIX of the Social Security Act to provide a consistent standard of health care to the incarcerated, and for other purposes; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate - Finance

S.2308 — A bill to intensify stem cell research showing evidence of substantial clinical benefit to patients, and for other purposes; Sponsor: Sen. Wicker, Roger F. [R-MS]; Committees: Senate - Health, Education, Labor, and Pensions

S.2317 — A bill to amend title II of the Social Security Act to credit individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service, and to support State medical training programs for caregivers; Sponsor: Sen. Murphy, Christopher [D-CT]; Committees: Senate - Finance

S.2324 — A bill to direct the Secretary of Defense and the Secretaries of the military departments to encourage women members of the Armed Forces who separate or retire from the Armed Forces during fiscal year 2020 to participate in the Women's Health Transition Training Program of the Department of Veterans Affairs, and for other purposes; Sponsor: Sen. Cortez Masto, Catherine [D-NV]; Committees: Senate - Armed Services

S.2326 — A bill to amend titles XI and XVIII of the Social Security Act to provide for expedited coding and coverage of novel medical products, and for other purposes; Sponsor: Sen. Burr, Richard [R-NC]; Committees: Senate - Finance

S.2328 — A bill to amend title 10, United States Code, to provide the Secretary of Defense and the Secretary of Veterans Affairs authority to enter into agreements for the planning, design, and construction, or leasing, of facilities to be operated as shared medical facilities, and for other purposes; Sponsor: Sen. Sullivan, Dan [R-AK]; Committees: Senate - Veterans' Affairs

H.R.4096 — To amend title 38, United States Code, to require an annual report on veteran access to gender specific services under community care contracts, and for other purposes; Sponsor: Rep. Correa, J. Luis [D-CA-46]; Committees: House - Veterans' Affairs

H.R.4100 — To amend title XVIII of the Social Security Act to encourage the development and use of DISARM antimicrobial drugs, and for other purposes; Sponsor: Rep. Davis, Danny K. [D-IL-7]; Committees: House - Ways and Means, Energy and Commerce

H.R.4106 — To amend the Federal Food, Drug, and Cosmetic Act to restrict direct-to-consumer drug advertising; Sponsor: Rep. DeLauro, Rosa L. [D-CT-3]; Committees: House - Energy and Commerce

H.R.4111 — To authorize State opioid response grants, and for other purposes; Sponsor: Rep. Gibbs, Bob [R-OH-7]; Committees: House - Energy and Commerce

H.R.4126 — To amend title II of the Social Security Act to credit individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service, and to support State medical training programs for caregivers; Sponsor: Rep. Lowey, Nita M. [D-NY-17]; Committees: House - Ways and Means, Energy and Commerce

H.R.4129 — To provide for a Medicare demonstration project to evaluate the fiscal impact of covering low vision devices as durable medical equipment under part B of the Medicare program; Sponsor: Rep. Maloney, Carolyn B. [D-NY-12]; Committees: House - Energy and Commerce, Ways and Means

H.R.4130 — To amend the Internal Revenue Code of 1986 to repeal the ceiling on the sum of the annual deductible and the other annual out-of-pocket expenses required to be paid under a high deductible health plan; Sponsor: Rep. Marchant, Kenny [R-TX-24]; Committees: House - Ways and Means

H.R.4131 — To amend the Controlled Substances Act to clarify the eligibility of certain community mental health centers to register for purposes of the practice of telemedicine, and for other purposes; Sponsor: Rep. Matsui, Doris O. [D-CA-6]; Committees: House - Energy and Commerce, Judiciary

H.R.4137 — To amend title 38, United States Code, to provide for the eligibility of certain individuals exposed to burn pits for hospital care, medical services, and nursing home care furnished by the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Veterans' Affairs

H.R.4138 — To amend title XVIII of the Social Security Act to deem certain State Veterans homes meeting certain health and safety standards as meeting conditions and requirements for skilled nursing facilities under the Medicare and Medicaid programs; Sponsor: Rep. Suozzi, Thomas R. [D-NY-3]; Committees: House - Ways and Means, Energy and Commerce

S.Res.300 — A resolution supporting the goals and ideals of National Public Health Week; Sponsor: Sen. Udall, Tom [D-NM]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Voice Vote.

S.J.Res.52 — A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Secretary of the Treasury and the Secretary of Health and Human Services relating to "State Relief and Empowerment Waivers"; Sponsor: Sen. Warner, Mark R. [D-VA]; Committees: Senate - Finance

S.2354 — A bill to direct the Director of the National Science Foundation to support research on opioid addiction, and for other purposes; Sponsor: Sen. Coons, Christopher A. [D-DE]; Committees: Senate - Commerce, Science, and Transportation

S.2365 — A bill to amend the Indian Health Care Improvement Act to authorize urban Indian organizations to enter into arrangements for the sharing of medical services and facilities, and for other purposes; Sponsor: Sen. Udall, Tom [D-NM]; Committees: Senate - Indian Affairs

S.2366 — A bill to streamline the employer reporting process and strengthen the eligibility verification process for the premium assistance tax credit and cost-sharing subsidy; Sponsor: Sen. Warner, Mark R. [D-VA]; Committees: Senate - Finance

S.2373 — A bill to amend the Public Health Service Act to improve obstetric care in rural areas; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.2377 — A bill to apply the Medicaid asset verification program to all applicants for, and recipients of, medical assistance in all States and territories, and for other purposes; Sponsor: Sen. Inhofe, James M. [R-OK]; Committees: Senate - Finance

S.2379 — A bill to amend title XIX of the Social Security Act to clarify the authority of State Medicaid fraud and abuse control units to investigate and prosecute cases of Medicaid patient abuse and neglect in any setting, and for other purposes; Sponsor: Sen. Crapo, Mike [R-ID]; Committees: Senate - Finance

S.2387 — A bill to establish a process by which reasonable drug prices may be determined, and for other purposes; Sponsor: Sen. Van Hollen, Chris [D-MD]; Committees: Senate - Health, Education, Labor, and Pensions

S.2392 — A bill to amend title 38, United States Code, to provide for the circumstances under which the Secretary of Veterans Affairs shall provide reimbursement for emergency ambulance services; Sponsor: Sen. Cramer, Kevin [R-ND]; Committees: Senate - Veterans' Affairs

S.2406 — A bill to amend the Public Health Service Act to establish the National Health Service Corps Rural Provider Loan Repayment Program, and for other purposes; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Health, Education, Labor, and Pensions

S.2408 — A bill to amend the Public Health Service Act to establish a national telehealth program, and for other purposes; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Health, Education, Labor, and Pensions

S.2411 — A bill to amend the Public Health Service Act to establish a rural health center innovation awards program and a rural health department enhancement program, and for other purposes; Sponsor: Sen. Blackburn, Marsha [R-TN]; Committees: Senate - Health, Education, Labor, and Pensions