



## Health Policy Briefing

June 25, 2018

### Senate Blocks WH Rescission Request

The Senate rejected a request from President Trump to rescind \$15 billion in unspent funds last week. The procedural vote on H.R. 3 to discharge the bill from the Senate Appropriations Committee failed 48-50. A simple majority was needed to advance the measure. Republicans Susan Collins (R-Maine) and Richard Burr (R-N.C.) joined Democrats in voting against the legislation, which had already been passed by the House of Representatives. Sen. Collins warned against ceding spending authority to the White House, while Sen. Burr was unable to get an assurance that his amendment regarding the Land and Water Conservation Fund would receive a vote. The claw back plan would have impacted \$8 billion at the U.S. Department of Health and Human Services (HHS), largely from the Children’s Health Insurance Program (CHIP). Friday was the deadline for Congress to act on the rescissions package. The White House’s plan to make additional claw back requests may no longer be realistic in light of last week’s vote.

### Opioid-Related News Update

The House of Representatives completed two-weeks of scheduled votes on more than 70 opioid-related bills on Friday. The effort culminated in passage of H.R. 6, the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, by a vote of 396-14. Thirteen Republicans and one Democrat voted against the legislation. This bipartisan bill aims to advance addiction treatment and recovery initiatives, improve prevention, and strengthen efforts to combat synthetic opioids like fentanyl. The package is comprised of 58 individual bills previously approved by the House. While the majority of legislation considered by the House had bipartisan support, many Democrats complained that the response did not go far enough to address the crisis. H.R. 6 is now expected to be sent to the Senate for consideration. It is unclear when it could receive a vote by the upper chamber, which has been working on its own legislative solutions to the opioid crisis. The White House issued a statement urging the Senate

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to “swiftly pass” the SUPPORT for Patients and Communities Act.

The Substance Abuse and Mental Health Services Administration (SAMHSA) announced last week that they are accepting applications for Tribal Opioid Response Grants. The \$50 million will go to tribes and tribal organizations to fund prevention, treatment, and recovery activities in response to the opioid crisis. The grants were appropriated through the omnibus spending bill approved in March 2018.

### ***House Passes Firefighter Cancer Registry Bill***

The House of Representatives passed H.R. 931, the Firefighter Cancer Registry Act of 2017, by unanimous consent last week. The legislation requires the Centers for Disease Control and Prevention (CDC) to develop and maintain a voluntary registry to collect data on the incidence of cancer among firefighters. This data will allow researchers to increase their understanding of the health impacts of smoke inhalation and other occupational hazards in the hope of reaching better treatment options. The bill now heads to the President’s desk for his signature.

### ***Senate Committee Examine Medicaid Fraud***

Republicans on the Senate Homeland Security and Governmental Affairs Committee released a report last week accusing the Centers for Medicare and Medicaid Services (CMS) of not conducting adequate oversight of the Medicaid program. Their report indicates that Medicaid overpayments have increased from \$14.4 billion in 2013 to \$37 billion in 2017. The Committee has been attempting to schedule a hearing on the subject of Medicaid fraud and abuse. The hearing has already been rescheduled twice and is now planned for June 27. CMS Administrator Seema Verma has not been able to accommodate repeated requests to testify. In related news, Sen. Mike Enzi (R-Wy.) and nine of his Republican colleagues have [written](#) to Secretary Alex Azar regarding improper payments across the Medicare and Medicaid programs. They ask the Secretary to explain what actions he is taking to tighten spending in his department.

### ***Senators Ask FTC to Study Pay-for-Delay***

Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) and Sen. Amy Klobuchar (D-Minn.) have [written](#) to the Federal Trade Commission (FTC) asking the agency to examine whether biologics manufacturers use strategies such as ‘pay-for-delay’ to stall biosimilar competition from entering the market. The lawmakers “urge the FTC to examine global patent settlements relating to biosimilars to ensure they are not in violation of antitrust laws.” In related news, FTC Chairman Joseph Simons told reporters last week that he still plans to form a task force on drug prices.

### ***Senators Request Recommendations on Drug Shortages***

A bipartisan group of senators have written to the Food and Drug Administration (FDA) requesting recommendations on how Congress can tackle nationwide drug shortages. “Shortage medications include local anesthetics, injectable opioids, ophthalmic diagnostics, and even sterile IV fluids necessary for delivering nearly every drug used in an emergency department or surgical setting,” the lawmakers write. “These are essential products used every day, and for many of them there are no suitable alternatives that are readily available.” The letter asks the agency to convene its Drug Shortages Task Force to examine the causes of shortages and draft recommendations to fix them by no later than the end of 2019. The letter was led by Sens. Chris Murphy (D-Conn.) and Bill Cassidy (R-La.) and signed by 29 of their Senate colleagues. In related news, the FDA issued a [press](#) statement last week, providing an update on key shortages, especially as it related to IV fluids, Epipens, and injectable opioid analgesics.

### ***House VA Creates IT Subcommittee***

The House Veterans Affairs Committee is creating a new subcommittee to oversee the Department of Veterans Affairs efforts to modernize its electronic health record (EHR) system and other IT related issues. The creation of a new subcommittee will be considered during a business meeting scheduled for July 12.

### ***WH Releases Proposal to Reorganize Federal Government***

The Trump administration formally released its plan to reorganize parts of the federal government last week. The proposal from the Office of Management and Budget (OMB) aims to merge agencies with overlapping or duplicative responsibilities and eliminate agencies deemed unnecessary as a means of modernizing the federal government. The U.S. Department of Health and Human Services (HHS) would become the Department of Health and Public Welfare and would absorb nutrition assistance programs into its mission. The plan would create a Council on Public Assistance within the department, which would likely work to advance the administration's recent efforts to impose and strengthen work requirements in safety net assistance programs. The Food and Drug Administration's (FDA) food-related responsibilities would be moved to the Department of Agriculture, and the FDA would be renamed the Federal Drug Administration. The White House also calls for moving the Agency for Healthcare Research and Quality (AHRQ), the National Institute for Occupational Safety and Health, and the National Institute on Disability, Independent Living, and Rehabilitation Research into the National Institutes of Health (NIH). Many of the proposals would require congressional approval. Republican lawmakers have said that they would review the administration's plan, but it is unlikely the proposal will be a high priority in the coming months. The plan faces significant opposition from Democrats.

### ***Regulation to Allow Association Health Plans Released***

The Department of Labor released a final rule last week that will make it easier for small businesses and individuals to create association health plans (AHPs), which are exempt from certain Affordable Care Act (ACA) consumer protection requirements. The plans allow small groups to band together to purchase health insurance and do not have to comply with essential health benefit (EHB) standards that dictate which health care services a plan must cover. The rule will allow small businesses and self-employed individuals in the same industry, state, or region to obtain health coverage as if they were a single large employer. Previously, a much greater "commonality of interest" was required among entities that wished to be treated as a large group when buying insurance. The new plans will be allowed to start taking effect beginning on September 1. Democrats strongly oppose the move and characterize the plans as "junk" insurance, while Republican lawmakers and the administration argue that the rule will enable more coverage options and more affordable alternatives under Obamacare. State insurance regulators have raised concerns about fraud and abuse; historically, such plans have been criticized for unscrupulous business practices. The Congressional Budget Office (CBO) estimates that four million people will join the new AHPs. Because AHP enrollees are likely to be healthier people with higher incomes, premiums for people remaining in Obamacare's individual market are expected to rise two to three percent. New York and Massachusetts plan to sue the federal government, arguing that the expansion of AHPs will lead to fewer critical consumer health protections. A separate rule related to short-term health plans, which would also be exempt from many Obamacare requirements, is expected to be released in the coming weeks.

### ***CMS Requests Information on Stark Law Regulations***

The Centers for Medicare and Medicaid Services (CMS) is soliciting feedback on how to reduce the regulatory burden of physician self-referral rules known as the Stark Law. The Stark Law bans doctors from referring patients to care settings where the provider to benefit from financial gain. Supporters of Stark Law reform argue that the statute is preventing efforts to coordinate care and lower health care spending. Public comments are due by August 24.

## Upcoming Congressional Meetings and Markups

*Senate Finance Committee hearing “Prescription Drug Affordability and Innovation: Addressing Challenges in Today’s Market;” 9:30 a.m., 215 Dirksen Bldg.; June 26*

*House Committee on Veterans’ Affairs hearing “VA Electronic Health Record Modernization: The Beginning of the Beginning;” 10:00 a.m., 334 Cannon Bldg.; June 26*

*House Appropriations Committee markup of FY19 Labor, Health and Human Services, Education, and Related Agencies appropriations bill; 10:00 a.m., 1100 Longworth Bldg.; June 26*

*Senate Appropriations Subcommittee markup of FY 19 Labor, Health and Human Services, and Education, and Related Agencies appropriations bill; 11:00 a.m., 138 Dirksen Bldg.; June 26*

*Senate Health, Education, Labor, and Pensions Committee executive session to consider legislation, including S.3029, Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act (PREEMIE Act), S.1112, to support States in their work to save and sustain the health of mothers during pregnancy, childbirth, and in the postpartum period, to eliminate disparities in maternal health outcomes for pregnancy-related and pregnancy-associated deaths, to identify solutions to improve health care quality and health outcomes for mothers, and S.808, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; 2:30 p.m., 430 Dirksen Bldg.; June 26*

*Senate Health, Education, Labor, and Pensions Committee hearing “How to Reduce Health Care Costs: Understanding the Cost of Health Care in America;” 10:00 a.m., 430 Dirksen Bldg.; June 27*

*House Committee on Oversight and Government Reform hearing “Examining the Administration’s Government-wide Reorganization Plan;” 10:00 a.m., 2154 Rayburn Bldg.; June 27*

*Senate Homeland Security and Government Affairs Committee hearing “Medicaid Fraud and Overpayments: Problems and Solutions;” 10:00 a.m., 342 Dirksen Bldg.; June 27*

*Senate Veterans’ Affairs Committee hearing on the nomination of Robert Wilkie, to be Secretary of Veterans Affairs; 2:30 p.m., G50 Dirksen Bldg.; June 27*

*House Veterans’ Affairs Health Subcommittee hearing on pending legislation; 3:00 p.m., 334 Cannon Bldg.; June 27*

*Senate Appropriations Committee markup of FY19 Labor, Health and Human Services, Education, and Related Agencies appropriations bill and Department of Defense appropriations bill; 10:30 a.m., 106 Dirksen Bldg.; June 28*

**Recently Introduced Health Legislation**

*H.R.6123 — To amend the Immigration and Nationality Act to provide that an alien physician who is coming to the United States to practice medicine in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals is not required to pass the National Board of Medical Examiners Examination, and for other purposes; Sponsor: Rep. Sensenbrenner, F. James, Jr. [R-WI-5]; Committees: House – Judiciary*

*H.R.6128 — To amend the Internal Revenue Code of 1986 to allow certain kinds of insurance and health care for individuals allowed a deduction for contributions to a health savings account; Sponsor: Rep. Kelly, Mike [R-PA-3]; Committees: House - Ways and Means*

*S.3079 — A bill to amend title XVIII of the Social Security Act to provide for the application of Medicare secondary payer rules to certain workers' compensation settlement agreements and qualified Medicare set-aside provisions; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate – Finance*

*H.R.6133 — To deter opioid abuse and addiction through the development of high-quality, evidence-based opioid analgesic prescribing guidelines, and for other purposes; Sponsor: Rep. Meadows, Mark [R-NC-11]; Committees: House - Energy and Commerce*

*H.R.6138 — To amend title XVIII of the Social Security Act to provide for ambulatory surgical center representation during the review of hospital outpatient payment rates under part B of the Medicare program, and for other purposes; Sponsor: Rep. Nunes, Devin [R-CA-22]; Committees: House - Energy and Commerce, Ways and Means*

*H.R.6142 — To authorize a joint action plan and report on drug waste; Sponsor: Rep. Doggett, Lloyd [D-TX-35]; Committees: House - Energy and Commerce*

*H.R.6143 — To ensure that health insurance issuers and group health plans do not prohibit pharmacy providers from providing certain information to enrollees; Sponsor: Rep. Doggett, Lloyd [D-TX-35]; Committees: House - Energy and Commerce*

*H.R.6144 — To amend title XVIII of the Social Security Act to prohibit health plans and pharmacy benefit managers from restricting pharmacies from informing individuals regarding the prices for certain drugs and biologicals; Sponsor: Rep. Doggett, Lloyd [D-TX-35]; Committees: House - Energy and Commerce, Ways and Means*

*H.R.6151 — To direct the Secretary of Veterans Affairs to notify qualifying veterans of a covered change of service reducing or eliminating a medical service provided at a medical facility of the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Donovan, Daniel M., Jr. [R-NY-11]; Committees: House - Veterans' Affairs*

*H.R.6154 — To establish a pilot program for emergency medical systems, and for other purposes; Sponsor: Rep. Torres, Norma J. [D-CA-35]; Committees: House - Energy and Commerce*

*H.R.6155 — To amend the Investment Advisers Act of 1940 to require investment advisers who advise a private fund that owns an emergency services company to disclose to the Securities and Exchange Commission the average response times of emergency vehicles deployed by such company in response to 9-1-1 calls, and for other purposes; Sponsor: Rep. Torres, Norma J. [D-CA-35]; Committees: House - Financial Services*

*S.Res.554 — A resolution designating the month of June 2018 as “National Post-Traumatic Stress Awareness Month” and June 27, 2018, as “National Post-Traumatic Stress Awareness Day”; Sponsor: Sen. Heitkamp, Heidi [D-ND]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

*S.3095 — A bill to amend the Public Health Service Act to help build a stronger health care workforce; Sponsor: Sen. Reed, Jack [D-RI]; Committees: Senate - Health, Education, Labor, and Pensions*

*S.3099 — A bill to require the review of durations of use of approved indications of medically-important antibiotics labeled for use in animals; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions*

*H.R.6165 — To improve the treatment of opioids under the pharmacy benefits program of the Department of Defense; Sponsor: Rep. O'Halleran, Tom [D-AZ-1]; Committees: House - Armed Services*

*S.3105 — A bill to require manufacturers of drugs to post the names of the countries in which their drugs are manufactured on their internet websites; Sponsor: Sen. McCaskill, Claire [D-MO]; Committees: Senate - Health, Education, Labor, and Pensions*

*S.3106 — A bill to authorize the Secretary of Education to establish an Advisory Commission on Serving and Supporting Students with Mental Health Disabilities in Institutions of Higher Education, and for other purposes; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Health, Education, Labor, and Pensions*

*S.3114 — A bill to provide for the establishment of a national registry to track cases of coccidioidomycosis, and for other purposes; Sponsor: Sen. Harris, Kamala D. [D-CA]; Committees: Senate - Health, Education, Labor, and Pensions*

*H.R.6174 — To authorize funding for the creation and implementation of infant mortality pilot programs in standard metropolitan statistical areas with high rates of infant mortality, and for other purposes; Sponsor: Rep. Cohen, Steve [D-TN-9]; Committees: House - Energy and Commerce*

*H.R.6180 — To require the Federal Government to provide mental health services to each child who has been separated from one or more parent as a result of implementation of the Trump Administration's zero tolerance policy at the United States border, and for other purposes; Sponsor: Rep. Barragan, Nanette Diaz [D-CA-44]; Committees: House - Energy and Commerce, Judiciary*