



UnityPoint Health Federal Update – September 2021

August 27, 2021 – September 17, 2021

September 17, 2021

Congress

Key House Committees Completed Markups of Infrastructure-related Reconciliation Bills. The markups were a key step in advancing Democratic human infrastructure priorities through a reconciliation bill. The House Committees on Energy & Commerce (E&C) and Ways & Means (W&M) each spent several days debating dozens of Republican-proposed amendments, none of which passed. One roadblock occurred during the E&C markup when three Democrats—Reps. Kurt Schrader (OR), Kathleen Rice (NY) and Scott Peters (CA)—crossed the aisle and voted against the prescription drug pricing reform subtitle, which would provide \$700 billion in savings by, among other things, authorizing Medicare to negotiate prices with drug manufacturers. Because W&M passed the same prescription drug pricing language, the bill that will be considered by the full House can still include drug pricing reform, but given very slim Democratic majorities in the House, it calls into question overall support for a key priority of the package. House Democrats are relying heavily on drug pricing reform savings to finance other major healthcare priorities that include: permanent expanded ACA subsidies; adding dental, hearing and vision benefits for Medicare beneficiaries; investments in Home and Community Based Services through Medicaid; and closing the Medicaid coverage gap in states that have not expanded Medicaid.

Congress Looks to Address Funding Deadline. While the non-binding September 27 date to vote on the bipartisan infrastructure bill and human infrastructure reconciliation bill is just under two weeks away, Congress must now also quickly draft and pass a Continuing Resolution (CR) to keep the government funded ahead of September 30, which is when the federal government's fiscal year ends and current funding runs out. This imperative is likely to be the core focus of the House next week and may overtake the goal of voting on the infrastructure bills by September 27. The CR is a necessary measure with an inflexible deadline – if Congress does not enact legislation to fund the government by then, the government will shut down – and it will shift the spotlight to another divisive issue: the debt ceiling. Republican leadership has maintained that Republicans are not interested in facilitating more spending by raising the debt ceiling. Yet, Democrats will need Republican votes in the Senate to achieve a 60-vote threshold to withstand a filibuster and vote to increase the debt limit. This is a high stakes battle with potential to lead to a government shutdown, making it front and center next for at least the next week.

September 10, 2021

Congress

Key Health Committees Released Legislative Recommendations for Reconciliation. The House Ways and Means Committee (W&M) released legislative language on the first set of their health proposals and began the markup process Thursday, September 9 continuing through Friday, September 10. W&M will soon release legislative language for the additional topics in their jurisdiction, such as taxes, in advance of ongoing markups next week. In what has been released so far, the language includes a phased-in approach for dental, hearing and vision benefits to Medicare. The W&M text would wait until 2028 to add dental benefits, including preventive and routine services with 20% cost sharing and major services with 50% cost sharing (phased in through 2032), while deferring to state law on the types of providers allowed to offer these services. It adds vision benefits in 2022, including vision exams and limited payments for glasses and contact lenses. Finally, it would add hearing services and prescribed, non-over-the-counter hearing aids in 2023. The language also [proposed](#) two new Health Professions Opportunity Grant programs aimed at increasing the workforce for allied health professionals (e.g., licensed practical nurses, certified nursing assistants) in mental and



maternal health fields. The W&M text also outlined measures that increase oversight of skilled nursing facilities' staffing ratios and cost reporting while establishing grant programs for training long-term care workers as well as support for area agencies on aging and elder justice programs.

E&C also [put forward text](#) outlining the key provisions of their committee's reconciliation package. On healthcare, the provisions include the drug pricing reforms laid out in H.R. 3 (the Democrats' major drug pricing legislation), which allows Medicare to negotiate drug prices, tie drug prices to inflation and cap Part D premiums at \$2,000 per beneficiary. The proposal also extends negotiation to the commercial market. The E&C text also includes a \$190 billion proposal for investment in home and community-based services (HCBS), much lower than initially sought by the Biden Administration. It also includes several Medicaid reforms. First, to close the "Medicaid coverage gap," the E&C package would expand Affordable Care Act (ACA) premium tax credits to below 100% of the federal poverty level in 2022 through 2024 and reduce cost sharing for these individuals as well. It would then establish a federal Medicaid program by 2025 in states that have not yet expanded their programs under the ACA. The E&C proposal would also provide funds for states to create reinsurance programs or other direct efforts to lower health insurance premiums and deductibles. In addition, it would permanently extend the Children's Health Insurance Program (CHIP); require continuous twelve-month coverage for children in Medicaid and CHIP; and make permanent one full year of postpartum Medicaid coverage for pregnant women. The bill also includes \$15 billion in new investments for pandemic preparedness and \$3 billion to establish the Advanced Research Projects Agency for Health (ARPA-H), which is intended to support breakthrough research in medicine and health. E&C proposals also included provisions analogous to W&M's addition of dental, hearing and vision benefits to Medicare.

House committee markups are scheduled to be completed next week. Then, work will begin behind the scenes to package them into one bill for consideration in the House. Timing of that vote is uncertain, but the target is to complete this by the September 27 agreed upon date to consider it in tandem with the bipartisan infrastructure package. It is important to note that there is still no public Congressional Budget Office score for this package, nor is it clear that all provisions will be able to survive the Senate Parliamentarian's scrutiny under the confines of the Byrd rule. There is still a long way to go in this process.

Administration

HHS Secretary Xavier Becerra Released Drug Pricing Proposal. The [report](#) entitled "Comprehensive Plan for Addressing High Drug Prices: A Report in Response to the Executive Order on Competition in the American Economy" was directed by President Biden's [Executive Order 14036](#), "Promoting Competition in the American Economy" (the Competition EO). The EO identified a lack of competition as a key driver for problems across economic sectors, including the pharmaceutical industry. While not binding on Congress, the recommendations in the report could be influential in the development of drug pricing legislation. Key legislative proposals include price negotiation for drug prices in Medicare Parts B and D, with these negotiated prices extended to the commercial market. The report also recommends banning Medicaid spread pricing, prohibiting "pay-for-delay" agreements between drug companies and capping out-of-pocket costs for Part D beneficiaries. HHS also recommended administrative actions that included the development of value-based purchasing models for Parts B and D and implementation of two of the U.S. Food and Drug Administration's competition plans. These non-legislative recommendations, which the Biden Administration can carry out through regulatory and executive action, could be implemented regardless of the outcome of reconciliation negotiations.

President Biden Launched Expansive COVID-19 Vaccination Requirements. Under the new Executive Orders and the "Path out of the Pandemic: President Biden's COVID-19 [Action Plan](#)," all federal [workers](#) and [contractors](#) and



more than 17 million healthcare staff working in facilities will be required to get vaccinated under forthcoming regulations from CMS or face enforcement action. The Administration had previously required federal workers to attest to vaccination, or be regularly tested, and wear masks if they did not. At this time, it is unclear how the Administration will ensure compliance with these expansive regulations. In a separate rule, the Administration will require that all businesses with 100 or more employees ensure that their workers are fully vaccinated or require regular testing. Overall, the six-part plan includes strategies aimed at vaccinating more individuals, increasing the use of mitigation efforts like testing and masking, and ensuring continued economic recovery. An interim final rule from CMS implementing the healthcare requirements is expected in October, while the employer rule will need to be promulgated by the Occupational Safety and Health Administration (OSHA).

September 3, 2021

Congress

House Committees Began Legislative Markups for Reconciliation. The Oversight Committee and Natural Resources Committee kicked off the markup sprint this week, which the House aims to complete by September 15. While Oversight completed its markup, Natural Resources will continue into next week with some 140 amendments still pending consideration. Expect to see similarly long markups when the health provisions are on tap. Key committees of jurisdiction for healthcare-related items are scheduled for markups in the coming weeks, with Education and Labor on September 9, Energy and Commerce on September 13 (and possibly September 14) and Ways and Means on September 9-10 and 14-15.

Administration

Delayed Medicare Trustees Report Maintained 2026 Insolvency Projection. The [annual report](#), published more than 150 days late this year, forecasts the outlook and factors affecting the overall financial stability of two main funds that pay for Medicare: the Hospital Insurance (HI) Trust Fund (covering Part A benefits) and the Supplementary Medical Insurance Trust Fund (Part B and D benefits). Most dollars in the HI Trust fund come from payroll taxes, and the suspension of this tax during COVID-19 raised concerns that it could quicken the pace of insolvency as early as 2023 or 2024. However, the report states that the most significant impacts of COVID-19 will be realized in the short-term. Accordingly, the financial condition of the HI Trust Fund remains largely the same as it did before the pandemic due to offsets created by reductions in other Medicare spending last year. Despite no significant changes in the trust fund's outlook, the report will likely be used by Congressional Republicans for arguments against adding new benefits (i.e., dental, vision and hearing coverage) to Medicare—a priority that Democrats are expected to include in the upcoming reconciliation package.

CMS Appointed Two New Directors and Added Dental Chief. This week, CMS [announced](#) that Dr. Ellen Montz, a veteran of the Obama Administration, joined the agency as a Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight (CCIIO). In this role, Montz will support the Biden Administration's efforts to build on the Affordable Care Act, as well as implementation of surprise medical billing regulations set to go into effect at the beginning of 2022. CMS also appointed Dr. Natalia Chalmers as its first Chief Dental Officer—a role that could be increasingly integral as Democrats look to add dental benefits to Medicare through reconciliation this fall. Finally, the agency also tapped Dara Corrigan as Deputy Administrator and Director of the Center for Program Integrity (CPI), filling a key oversight role. These key administrative appointments will provide essential regulatory support for implementing changes to CMS programs.



Department of Health and Human Services Established a Climate and Equity Office. The new Office of Climate Change and Health Equity (OCCHE) is responsive to President Biden's [executive order](#) on climate change and will carry out policies at the intersection of climate and healthcare. According to HHS, OCCHE's mission is "to protect vulnerable communities who disproportionately bear the brunt of pollution and climate-driven disasters, such as drought and wildfires, at the expense of public health." OCCHE will engage in research, regulatory efforts, innovation, and programmatic coordination, including reducing greenhouse emissions by hospitals and health systems. Dr. John Balbus, a senior advisor the director of the National Institute for Environmental Health Sciences, will be the interim director.

August 27, 2021

Congress

House Rule Advanced Senate Budget Agenda and Set Date for Bipartisan Infrastructure Vote. The rule, which passed Tuesday on a party-line vote of 220-212, deemed the Senate's Democratic budget passed by the House and set September 27, 2021 as the anticipated date for a full House vote on the Senate's bipartisan infrastructure package. Passage of the Democratic budget resolution by both the House and the Senate allows work to proceed on the up to \$3.5T partisan reconciliation bill. The action starts in the House where Democrats will now begin to translate President Biden's "Build Back Better" plan into actual legislation making significant investments in childcare, healthcare, and education. Anticipated healthcare policies include the addition of dental, hearing and vision benefits to Medicare; permanent extension of Affordable Care Act subsidies enacted under the American Rescue Plan; closing the Medicaid coverage gap for states that have yet to expand their Medicaid programs; and new investments in home and community-based services. Democrats have not yet spelled out how they will pay for these policies, though drug pricing reform, tax policy changes, and other health policy changes are all expected to be major sources for offsets. House committees intend to start working on their sections of the reconciliation bill as soon as September 2 with a goal of wrapping up by September 15. This timetable would allow the House to bring the reconciliation bill to the House floor for a full vote by September 27. Adhering to this timetable will be important for the Speaker because House Progressives remain insistent that Congress pass the reconciliation bill before passing the bipartisan infrastructure package. That means September 27 is the effective deadline for getting reconciliation onto the House floor so the two bills (i.e., the \$3.5T soft infrastructure bill and the Bipartisan Infrastructure Bill) can be considered at the same time. While House committees work to draft the legislation, there are also ongoing discussions with Senate Democrats in an effort to align policy as much as possible before House members vote on the reconciliation bill at the end of next month.

Administration

FDA Approved Pfizer-BioNTech COVID-19 Vaccine. The agency's full marketing approval of Comirnaty (the vaccine's brand name) on Monday was the first granted to a COVID-19 vaccine. The FDA has authorized Pfizer's vaccine for emergency use since December 2020. The announcement comes less than a week after the White House issued a vaccine mandate for nursing home employees and announced that booster shots would be available starting September 20, 2021. Public health officials and policymakers are hopeful that full FDA approval will spur a new wave of vaccinations among hesitant individuals as the Delta variant surges. This announcement comes alongside the Centers for Medicare and Medicaid Services' announcement that it will increase reimbursement for COVID-19 shots administered in the home (including assisted living facilities) by \$35 per dose. On Wednesday, Moderna filed for full approval of its COVID-19 vaccine under the brand name Spikevax, while Pfizer filed for full approval of its vaccine for booster shots amid mounting evidence that they may be needed as early as six months after completing the initial doses.