

McDermottPlus Check-Up: April 29, 2022

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This Week's Dose

Congress returned from its two-week recess, held budget hearings and resumed attempts to address COVID-19 funding and additional aid to Ukraine.

Congress

COVID-19 Aid Debate Continues. A path forward on the \$10 billion COVID-19 package that failed to advance prior to the Congressional recess is still in flux. On April 28, the President sent a request for an additional \$33 billion aid package for Ukraine. Senate Democrats may seek to combine aid for Ukraine and the additional COVID-19 relief into one legislative package to try to increase likelihood that both can pass.

However, Senate Republican efforts, along with support from some Democrats, to tie Title 42 border restrictions to the package continue to create political challenges. As a reminder, Title 42 is a pandemic-related policy that has allowed the Administration to restrict immigration from the southern border during the Public Health Emergency (PHE) based on perceived public health needs. The Administration has announced it will seek to rescind the policy by May 23. Yet, on April 27, a federal judge in Louisiana issued a temporary restraining order against the Biden Administration from phasing out Title 42, which could further delay the Biden Administration's actions and continue the political gridlock on this issue.

Leadership in both bodies is considering how best to advance both proposals, recognizing that a delay in Ukraine aid is likely untenable.

Next Steps for Build Back Better? Despite a pause in negotiations, Senator Joe Manchin (D-WV) talked to the press about what a revised reconciliation bill might look like. This week he laid out tax changes, deficit reduction and prescription drug reform as his key priorities. It is too early to tell if the conversation will progress, but all eyes are on Senators Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ) to see if there is a path forward for a more targeted reconciliation package to deliver on some of the promises of the Biden Administration.

Administration

HHS Issues Climate Change Call to Action. On April 24, the Department of Health and Human Services (HHS), in conjunction with the White House, [issued](#) a "Call to Action" for health care stakeholders to sign a climate change pledge. The Administration is seeking a public commitment from hospitals, health systems, suppliers, pharmaceutical companies and other health care stakeholders to reduce greenhouse gas emissions and increase climate resilience. The voluntary pledge asks signees to, at a minimum, commit to reducing their organization's emissions (by 50%

by 2030 and to net zero by 2050) and publicly report on their progress; complete an inventory of supply chain emissions; and develop climate resilience plans for their facilities and communities. The deadline to sign on is June 3, 2022. This effort follows on a number of health initiatives related to climate change by the Biden Administration, including a request for information seeking future reforms in the Inpatient Prospective Payment System proposed rule for FY 2023.

CMS Again Reweights 2021 MIPS Cost Performance. On April 25, the Centers for Medicare & Medicaid Services (CMS) [announced](#) that it will reweight the cost performance category under the Merit-Based Incentive Payment System (MIPS) for the 2021 performance period, for a second year, due to the impact of COVID-19. The cost performance category will be reweighted from 20% to 0% of the total MIPS score. The 20% cost performance category will be redistributed to other MIPS performance categories, including quality performance, improvement activities, and promoting interoperability. Cost reweighting applies to all MIPS eligible clinicians, whether participating as an individual, group or virtual group. Cost is already weighted at 0% for clinicians in a MIPS Alternative Payment Model (APM) who are reporting the APM Performance Pathway (APP), and for APM Entities reporting traditional MIPS.

CMS Releases ACA Marketplace Rule. The 2023 Notice of Benefits and Payment Parameters [Final Rule](#) (Final 2023 Payment Notice), released on April 28, makes regulatory changes in the ACA's individual and small group health insurance markets and establishes requirements issuers need to design plans and set rates for the 2023 plan year. Highlights include: implementation of new network adequacy requirements related to time and distance in 2023 and moving to wait time limitations for primary care in 2024; establishment of standardized plan options for consumers; and expansion of the threshold of essential community providers required to be included in plan networks from 20% to 35%. A fact sheet is available [here](#).

Hearings

- Senate Health, Education, Labor & Pensions Committee held a [hearing](#) on April 26, entitled "FDA User Fee Agreements: Advancing Medical Product Regulation and Innovation for the Benefit of Patients," where the committee discussed reauthorization and accelerating development of new medical products.
- House Energy & Commerce Committee held a [hearing](#) on April 27, entitled "The Fiscal Year 2023 HHS Budget," where the Committee heard from the Secretary of Department of Health and Human Services (HHS), Xavier Becerra, regarding the agency's budget requests for FY 2023.
- House Ways & Means Committee held a [hearing](#) on April 28, entitled the "Proposed Fiscal Year 2023 Budget with Health & Human Services Secretary Becerra," where the Committee heard from HHS Secretary Xavier Becerra on the agency's budget requests for FY 2023.

Quick Hits

- The Department of Justice [announced](#) on April 25 that it will appeal the U.S. District Court ruling in favor of the Texas Medical Association in a dispute over the Biden Administration's surprise billing rules.

- The HHS Office of Inspector General on April 27 published a [report](#) critiquing the use of prior authorization by Medicare Advantage plans finding “Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care.”
- CMS Office of Minority Health on April 28 released a [report](#) on the “2022 Racial, Ethnic & Gender Disparities in Health Care in Medicare Advantage.”
- CMS hosted a National Stakeholder Call with Administrator Chiquita Brooks-LaSure and leadership team on April 26, where they discussed the agency’s strategic vision, details, and key accomplishments during the first quarter of 2022. Recording to be posted [here](#).

Health Policy Breakroom Podcast

The Department of Health and Human Services extended the current COVID-19 public health emergency was extended for an additional 90 days and now is expected to extend until at least mid-July. Today, our discussion focuses on the issue of Medicaid renewals and redetermination, where more than 14 million low-income Americans may lose healthcare coverage when the PHE comes to an end. Joining Debbie Curtis and Rodney Whitlock as a special guest this week is Jennifer Babcock, Senior Vice President for Medicaid Policy at the Association for Community Affiliated Plans (ACAP).

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