

Health Care Policy Newsletter - Week of May 28, 2019

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This Week in Health Care Policy

Congress

Legislation and Committee Activity

Senate Passes Opioid Measure – On Wednesday, the Senate passed *the Ensuring Patient Access to Substance Use Disorder Treatments Act of 2018* (S. 916) which amends the *Controlled Substances Act* to direct the Drug Enforcement Administration (DEA) to register an emergency medical services (EMS) agency in order to administer controlled substances if the agency submits an application demonstrating that it is authorized to conduct such activity in the state in which the agency practices. [Read More](#)

Hatch, Wyden Praise Introduction of Medicare, Medicaid & Human Services Bills to Address Opioid Epidemic - On Wednesday, Senate Finance Committee Chairman Orrin Hatch (R-Utah) and Ranking Member Ron Wyden (D-Ore.) praised the introduction of 22 bipartisan bills to address the nation's opioid crisis. [Read More](#)

Senate Judiciary Marks up 6 Opioid Bills – On Thursday, the Senate Judiciary Committee advanced six opioid related bills. [Read More](#)

Attorneys General Urge Senate To Pass Opioid-Related Legislation – A bipartisan coalition of 39 state and territory attorneys general sent the following letter to the chair and ranking member of the US Senate Health, Education, Labor and Pensions Committee and the Judiciary Committee. The letter asks the senators to pass the Comprehensive Addiction and Recovery Act (CARA) 2.0 and the Comprehensive Addiction Reform, Education, and Safety (CARES) Act. [Read More](#)

Bloomberg Law: Lawmakers at Work on Bill to Spur Generic Drugs – Lawmakers are in talks to pass legislation meant to spur generic drug competition, possibly as part of a package of bills meant to fight the opioid epidemic. Sen. Charles Grassley (R-IA) told reporters he's in talks with "Big Pharma" about passing legislation that would stop branded drug companies from using FDA-mandated risk plans to block generic competition. He said he wants to couple that bill with a change to Medicare Part D that could save drugmakers nearly \$12 billion over the next decade. [Read More](#)

NPR: House Passes 'Right-To-Try' Bill for Experimental Drugs – Legislation that would allow terminally ill patients to get access to experimental drugs is headed to the president's desk. The House on Tuesday passed a "right-to-try" bill that was approved by the Senate in 2017. "People who are terminally ill should not have to go from country to country to find a cure," said Rep. Michael Burgess (R-TX), on the House floor Tuesday. The bill, which President Trump is expected to sign, has patient advocates divided. [Read More](#)

The Hill: Dem Letter Calls for Rolling Back Move Targeting Drug Companies – Two House Democrats are circulating a letter calling for rolling back a change that shifted costs onto drug companies — a change that was supported by many other Democrats, who called it a rare victory over the pharmaceutical industry. The letter from Reps. Robin Kelly (D-Ill.) and Brad Schneider (D-Ill.) calls for rolling back a change from February's budget deal that shifted more costs onto drug companies as part of closing a gap in Medicare coverage known as the "donut hole." [Read More](#)

Washington Post: Congress Sends Massive Veterans Bill to Trump, Opening Door to More Private Health Care On Wednesday, the Senate gave overwhelming approval to a massive bill that expands access for veterans to private doctors at the taxpayer's expense, sending President Trump a victory that helps cement one of his biggest campaign promises. [Read More](#)

Reauthorization of the Children's Hospital Graduate Medical Education Program – On Wednesday, the House Energy and Commerce Health Subcommittee held a hearing on the Reauthorization of the Children's Hospital Graduate Medical Education Program. Members signaled they're supportive of a bill reauthorization language (H.R. 5385) to extend the program for five years at \$330 million per year. A similar bill was approved by a Senate panel in April. [Read More](#)

Washington Post: The Health 202: Democrats Are No Longer Cheering Obamacare Plans – Congress's official scorekeeper says Obamacare premiums will rise more slowly next year and the marketplaces will be stable in most parts of the country. But don't expect Republicans or surprisingly, even Democrats to be doing any wild cheering. [Read More](#)

CBO: Federal Subsidies for Health Insurance Coverage for People Under Age 65: 2018 to 2028 – Yesterday, the Congressional Budget Office released revised estimates on the impact of repealing the Affordable Care Act's individual mandate. The federal government subsidizes health insurance for most Americans through a variety of programs and tax provisions. In 2018, net subsidies for noninstitutionalized people under age 65 will total \$685 billion, the Congressional Budget Office and the staff of the Joint Committee on Taxation (JCT) estimate. [Read More](#)

Senators Collins, Casey Introduce Legislation to Address Critical Shortage of Geriatric Health Professionals – On Monday, Sens. Susan Collins (R-ME) and Bob Casey (D-PA) introduced *the Geriatrics Workforce Improvement Act* to amend Title VII of *the Public Health Service Act* to reauthorize programs that support interprofessional geriatric education, training, and advance research to develop a geriatric-capable workforce, improving health outcomes for a growing and diverse aging American population and their families. [Read More](#)

Administration

HHS

Modern Healthcare: HHS 340B Rule Delay Would Put Hospitals at Risk For High Drug Prices – Safety-net hospitals urged HHS not to postpone a rule setting new ceiling prices for the 340B drug discount program, saying the delay would leave them defenseless against rising costs. Although HHS was supposed to set ceiling prices starting July 1, the agency wants to hold off on the rule for a year. The request is the fifth time the rule has been postponed, and providers had until Tuesday to comment on the proposal. [Read More](#)

2017 National HIV/AIDS Strategy (NHAS) Progress Report Released – The nation has continued to make important progress in reducing new HIV infections, improving health outcomes among people living with HIV, and reducing some HIV-related disparities, according to a new report from the U.S. Department of Health and Human Services. [Read More](#)

Modern Healthcare: HHS Unveils Title X Regulations to Ban Abortion Referrals, Defund Planned Parenthood – HHS late Tuesday released proposed regulations to block Planned Parenthood and other abortion providers from receiving Title X family planning funds, as well as ban any abortion referrals. [Read More](#)

CMS

HCA News: CMS Inks \$44M Deal to Uncover Improper Medicaid, CHIP Payments – NCI, an information technology (IT) solutions firm, has landed a 5-year, \$44 million contract to scrutinize Medicaid and Children's Health Insurance Program (CHIP) claims, to help CMS report and reduce improper payments, according to an announcement from the company. [Read More](#)

Bloomberg Law: Asking Permission First Can Save Big on Medicare Services – Children are taught to always ask an adult's permission before doing anything that's even mildly risky, and that mindset could lead to serious Medicare savings. A recent report found that Medicare saved as much as \$1.9 billion over the course of five years thanks to four programs that required physicians to get Medicare approval before providing certain services. The so-called prior authorization programs covered everything from oxygen therapy to power wheelchairs and ran from 2012 through 2017. None of the programs are currently active, and the Government Accountability Office report recommended that Medicare renew them and expand the concept to all of Medicare. [Read More](#)

FDA

Regulatory Focus: Senate Committee Advances Bill Boosting FDA's FY2019 Budget by \$159M – The Senate Appropriations Committee on Thursday signed off on a \$159 million increase in discretionary funding for the US Food and Drug Administration (FDA), though that increase was about \$150 million less than the increase proposed in the House. [Read More](#)

Veteran Affairs

Modern Healthcare: The VA/Cerner contract is signed. Now What? – Despite dry ink on a \$10 billion contract between the Veterans Affairs Department and Cerner, concerns about the project persist. Some of those concerns stem from the Department of Defense's own Cerner electronic

health record project, MHS Genesis, which is struggling with functionality as it's gradually rolled out, a process that began in 2017. [Read More](#)

Supreme Court

Bloomberg Law: High Court Arbitration Ruling a Boon for Health-Care Sector – The Supreme Court's decision holding that employers can enforce individual arbitration agreements may provide health-care providers facing wage and hour class actions with some relief. The Supreme Court held May 21 in a 5-4 decision that employers can bar workers from going to court or joining together in class actions via agreements that require employees to individually arbitrate claims. Attorneys say the decision has impacts for class action litigation in the health-care industry, which has been vulnerable to wage and hour litigation that can drain providers of millions of dollars. [Read More](#)

States

Governor Larry Hogan Announces Federal Approval of “Maryland Model” All-Payer Contract – Governor Larry Hogan, together with the Maryland Department of Health and the Centers for Medicare and Medicaid Services (CMS), announced the federal approval of Maryland's Total Cost of Care All-Payer Model, known as the “Maryland Model,” contract. This innovative approach to health care provider payment is unique to Maryland and made possible via a contract between CMS and the state. [Read More](#)

Bloomberg Law: HHS Rejects Ohio's Request to Eliminate Obamacare Mandate – Ohio's request for an exemption from Obamacare's individual mandate was rejected by the Trump administration, at least temporarily. The March 30 application from the Ohio Department of Insurance doesn't include any provisions for providing coverage that meets the requirements of the Affordable Care Act, the Centers for Medicare & Medicaid Services said in a May 17 letter to the Ohio agency. The CMS letter, signed by Center for Consumer Information & Insurance Oversight Director Randy Pate, said the CMS is “happy to work with states to revise and re-submit their waiver applications.” [Read More](#)

Primaries

Vox: Every May 22 Primary Election You Should Know About – The final big primary day in May 2018 will send four states to the polls: Texas (for runoff elections), Georgia, Kentucky, and Arkansas. [Read More](#)

Washington Post: Primary Results – On May 22, Arkansas, Georgia, Kentucky, and Texas headed to the polls. [Read More](#)

On June 5, Alabama, California, Iowa, Mississippi, Montana, New Jersey, New Mexico, and South Dakota will head to the polls.

The Resurgence of the Ambulatory Surgery Center: Seven Considerations for Ownership – After a prolonged period of stagnant growth primarily due to a glut of capacity coupled with flat or declining revenue growth, we're beginning to see a resurgence of Ambulatory Surgery Centers (ASCs). In fact, experts are forecasting a significant growth spurt in the ASC industry including de novo growth. This growth is likely precipitated by the move toward outpatient care, especially into more focused, efficient, and cost effective settings, such as ASCs. [Read More](#)

Kentucky's New Telehealth Law Expands Insurance Coverage and Reimbursement – Kentucky health care providers and patients will soon enjoy a revamped, and significantly improved, telehealth commercial insurance coverage law. Kentucky Governor Matt Bevin signed SB 112 into law on April 26, 2018, imposing both telehealth coverage and payment parity requirements for Kentucky Medicaid, Medicaid managed care organizations, and commercial health plans in the Bluegrass State. The law is effective July 1, 2019. [Read More](#)

DOJ Announces Policy to Promote Fairness When Multiple Authorities Investigate the Same Misconduct – On May 9, 2018, the U.S. Department of Justice (DOJ) announced a policy related to resolutions of criminal and civil corporate enforcement. The new “Policy on Coordination of Corporate Resolution Penalties” was issued by Deputy Attorney General Rod Rosenstein, and instructs prosecutors to “consider the totality of fines, penalties, and/or forfeiture imposed by all [DOJ] components as well as other law enforcement agencies and regulators in an effort to achieve an equitable result.” While the policy appears to largely codify existing practice and contains few specifics, the new policy will likely encourage coordination between the DOJ and other law enforcement agencies, both in the United States and abroad, when resolving both civil and criminal corporate enforcement actions against a company being investigated by multiple authorities for the same misconduct. [Read More](#)

Looking Ahead

The House and Senate are in recess and will return on Monday, June 4.

Senate Health Committee Announces Hearing on President Trump's Drug Pricing Plan -Senate health committee Chairman Lamar Alexander (R-TN) announced the committee will hold a hearing on June 12 at 10:00 am EDT with Secretary of Health and Human Services Alex Azar, to examine President Trump's drug pricing blueprint. [Read More](#)

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