



Health Policy Briefing

January 15, 2024

Leaders Agree to Extend Laddered Short-Term Funding Plan

Congressional leadership have reached an agreement on a second two-step continuing resolution (CR) to avoid January 20 and February 2 partial government shutdowns. Leaders have coalesced around a CR that maintains House Speaker Mike Johnson’s (R-La.) laddered government funding approach, extending appropriations for federal agencies to March 1 and March 8. A section-by-section is available [here](#), and the legislative text is available [here](#). Johnson had previously pledged to not pass another stopgap spending bill. The change of course follows an initial bipartisan agreement reached last week on topline spending amounts. Johnson insists that he is standing by the deal struck with Senate Majority Leader Chuck Schumer (D-N.Y.), despite criticism from far-right members of the House GOP, who have pressured him to abandon it. The deal includes \$1.59 trillion in spending for fiscal year 2024 - \$886 billion in defense and \$704 billion in non-defense spending.

MedPAC Votes on Payment Update Recommendations

The Medicare Payment Advisory Commission (MedPAC) voted on its latest payment update recommendations for physicians, hospitals, and the post-acute care sector during its January meeting last week. The Commission recommends updating 2025 Medicare payments for physicians and other health professional services by the amount specified in current law plus half the Medicare Economic Index increase, and reiterated a prior recommendation to create a non-budget-neutral add-on payment under the Medicare physician fee schedule for services provided to low-income beneficiaries. MedPAC also voted to recommend a positive update for hospitals - current law amount plus 1.5% for 2025. Commissioners voted in support of lower base pay rates for skilled nursing facilities, home health agencies, and inpatient rehabilitation facilities, and recommended that Congress eliminate the 2024 update for hospices in 2025. MedPAC also recommended that Congress update the Medicare end-stage renal disease prospective payment system by the amount under current law.

HELP Chair Launches Investigation Into Pricing of Asthma Inhalers

Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Bernie Sanders (I-Vt.) and Sens. Tammy Baldwin (D-Wis.), Ben Ray Lujan (D-N.M.), and Ed Markey (D-Mass.) have sent [letters](#) to AstraZeneca, Boehringer

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Ingelheim, GSK, and Teva to request details about the “extremely high prices” of the manufacturers’ asthma inhaler products. The letters ask for information on internal strategic communications, patient assistance programs, and the costs involved in the manufacturing of inhalers. “There is no reason for these products to be so expensive,” the lawmakers assert. “The devices have been available since the 1950s and most of the drugs they use have been on the market for more than 25 years.”

Fauci Completes Two Days of Interviews Before House Panel

Dr. Anthony Fauci provided two days of closed-door testimony before the House of Representatives Select Subcommittee on the Coronavirus Pandemic last week. According to reports, panel Republicans focused much of their questioning on the definition of gain of function research funded by the National Institutes of Health (NIH). Fauci was also questioned about the origins of COVID-19 and issues related to the federal government’s pandemic response, including federal records violations, conflicts of interest, and conflicting guidance. While the meetings produced few surprises or new information, Fauci has agreed to testify in a future open session before the committee.

ARPA-H to Solicit Preventive Care Proposals

The Advanced Research Projects Agency for Health (ARPA-H) has launched a program to increase investments in solutions to preventable health challenges in underserved communities. The Health care Rewards to Achieve Improved Outcomes (HEROES) program aims to strengthen investment in community-level preventive care resources, particularly in places that have historically lacked access to medical and health care breakthroughs. A forthcoming HEROES program solicitation will solicit proposals from “Health Accelerators” - groups or organizations such as health consortiums or community health centers – aimed at health challenges in parts of the country where the associated health outcome is worse than the national average. More information about the HEROES program and the scheduled February 13-14 Proposers’ Day can be found [here](#).

HHS Appoints First Ever Chief Competition Officer

Stacy Sanders has been appointed to serve as the first-ever Chief Competition Officer at the U.S. Department of Health and Human Services (HHS). The newly created position will be responsible for coordinating, identifying, and elevating opportunities across HHS to promote competition in health care markets, and will work with the Federal Trade Commission and Department of Justice to address concentration in health care markets through data-sharing, reciprocal training programs, and the further development of additional health care competition policy initiatives. Sanders most recently worked as a counselor to HHS Secretary Xavier Becerra, overseeing the Department’s implementation of the *Inflation Reduction Act*. Earlier in her career, Sanders worked as staff director for the Senate Special Committee on Aging and as federal policy director of the Medicare Rights Center.

OMB Clears CMS Prior Authorization Regulation

The Office of Management and Budget (OMB) has cleared a final rule from the Centers for Medicare and Medicaid Services (CMS) on prior authorization. The regulation will place new requirements on Medicare Advantage organizations, state Medicaid fee-for-service (FFS) programs, state Children’s Health Insurance Program (CHIP) FFS programs, Medicaid managed care plans, CHIP managed care entities, and Qualified Health Plan issuers on the Federally facilitated Exchanges to improve the electronic exchange of health care data and streamline processes related to prior authorization. The proposed rule, which was first published in December 2022, would also add a new measure for eligible hospitals and critical access hospitals, under the Medicare Promoting Interoperability Program, and for Merit-based Incentive Payment System (MIPS) eligible clinicians, under the Promoting Interoperability performance category of MIPS, to encourage providers to adopt the electronic prior authorization processes. Once the final rule is implemented, it should make it easier for Congress to advance the *Improving Seniors’ Timely Access to Care Act* – bipartisan prior authorization legislation which passed the House during the 117th Congress.

Congressional Retirements and Resignations

Rep. Larry Bucshon, MD (R-Ind.) has announced plans to retire at the end of this year. Bucshon, a cardiothoracic surgeon, has served in the House of Representatives since 2011. He is a member of the GOP Doctors Caucus. During his time in Congress, Bucshon has been a champion of diagnostics reform legislation (the **VALID Act**) as well as other bipartisan health measures, including proposals related to the Medicare physician reimbursement system. He is a member of the Energy and Commerce Committee. Rep. Greg Pence (R-Ind.) has also determined that he will not seek reelection to the House this year. Pence was first elected to represent Indiana's 6th Congressional District in 2018, filling the same seat held by former Vice President Mike Pence before he was elected Indiana governor. He currently serves on the Energy and Commerce Committee. Currently, the number of members who are retiring from Capitol Hill next year currently stands only slightly higher than the average of 34 retirements per election cycle.

California Governor Gavin Newsom (D) has set a special election to fill the seat of retired former House Speaker Kevin McCarthy (R). The all-parties special primary election will take place on March 19, several weeks following the primary scheduled to fill McCarthy's seat for the full two-year term. If no candidate wins a majority of the votes in the March 19th primary, the top two finishers will compete in a May 21 runoff election.

A running list of members of Congress who are retiring or seeking other office can be found below.

SENATE	
Stabenow (D), MI	Braun (R), IN
Cardin (D), MD	Romney (R), UT
Carper (D), DE	
Feinstein (D), CA	
Manchin (D), WV	
HOUSE OF REPRESENTATIVES	
Porter (D), CA	Mooney (R), WV
Lee (D), CA	Banks (R), IN
Gallego (D), AZ	Spartz (R), IN
Schiff (D), CA	Bishop (R), NC
Slotkin (D), MI	Lesko (R), AZ
Allred (D), TX	Granger (R), TX
Trone (D), MD	Buck (R), CO
Blunt Rochester (D), DE	Burgess (R), TX
Napolitano (D), CA	Santos (R), NY (effective Dec. 1, 2023)
Wexton (D), VA	Wenstrup (R), OH
Kim, Andy (D), NJ	McHenry (R), NC
Jackson, Jeff (D), NC	McCarthy (R), CA (effective Dec. 31, 2023)
Sarbanes (D), MD	Johnson, Bill (R), OH (effective Jan. 21, 2023)
Blumenauer (D), OR	Ferguson (R), GA
Kilmer (D), WA	Curtis (R), UT
Spanberger (D), VA	Luetkemeyer (R), MO
Kildee (D), MI	Lamborn (R), CO
Phillips (D), MN	Bucshon (R), IN
Cardenas (D), CA	Pence (R), IN
Eshoo (D), CA	
Manning (D), NC	
Higgins (D), NY (effective Feb. 2, 2024)	
Nickel (D), NC	

Upcoming Congressional Hearings and Markups

Senate Homeland Security & Governmental Affairs Committee hearing "The Cyber Safety Review Board: Expectations, Outcomes, and Enduring Questions;" 10:00 a.m.; January 17

Senate Health, Education, Labor, and Pensions hearing "Addressing Long COVID: Advancing Research and Improving Patient Care;" 10:00 a.m.; January 18

S.3560 — A bill to amend title 38, United States Code, to authorize pre-enrollment of certain combat service members of the Armed Forces in the system of annual patient enrollment of the Department of Veterans Affairs; Sponsor: King, Angus S., Jr. [Sen.-I-ME]; Committees: Senate - Veterans' Affairs

S.3573 — A bill to amend title XVIII of the Social Security Act to increase data transparency for supplemental benefits under Medicare Advantage; Sponsor: Warner, Mark R. [Sen.-D-VA]; Committees: Senate – Finance

S.3575 — A bill to amend the Public Health Service Act to give a preference, with respect to project grants for preventive health services, for States that allow all trained individuals to carry and administer epinephrine, and for other purposes; Sponsor: Braun, Mike [Sen.-R-IN]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.6936 — To require Federal agencies to use the Artificial Intelligence Risk Management Framework developed by the National Institute of Standards and Technology with respect to the use of artificial intelligence; Sponsor: Lieu, Ted [Rep.-D-CA-36]; Committees: House - Oversight and Accountability; Science, Space, and Technology

S.3578 — A bill to amend title XIX of the Social Security Act to prohibit Federal Medicaid funding for the administrative costs of providing health benefits to individuals who are unauthorized immigrants; Sponsor: Cassidy, Bill [Sen.-R-LA]; Committees: Senate – Finance

S.3583 — A bill to address patent thickets; Sponsor: Welch, Peter [Sen.-D-VT]; Committees: Senate – Judiciary

H.R.6956 — To amend title XIX of the Social Security Act to prohibit the Secretary of Health and Human Services from treating any Medicaid-related funds recovered from one or more pharmaceutical companies or drug distributors with respect to opioid litigation as an overpayment under such title, and for other purposes; Sponsor: Kaptur, Marcy [Rep.-D-OH-9]; Committees: House - Energy and Commerce

H.R.6960 — To amend the Public Health Service Act to reauthorize the Emergency Medical Services for Children program; Sponsor: Carter, Earl L. “Buddy” [Rep.-R-GA-1]; Committees: House - Energy and Commerce

H.R.6961 — To amend title XVIII of the Social Security Act to provide coverage of medical nutrition therapy services for individuals with eating disorders under the Medicare program; Sponsor: Chu, Judy [Rep.-D-CA-28]; Committees: House - Energy and Commerce; Ways and Means

H.R.6963 — To direct the Secretary of Health and Human Services to enter into agreements with drug manufacturers to establish reserve supplies of covered pediatric cancer drugs, and for other purposes; Sponsor: Eshoo, Anna G. [Rep.-D-CA-16]; Committees: House - Energy and Commerce

H.R.6965 — To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to establish requirements with respect to cost sharing for epinephrine injectors under group health plans and group and individual health insurance coverage; Sponsor: Frost, Maxwell [Rep.-D-FL-10]; Committees: House - Energy and Commerce; Ways and Means; Education and the Workforce

H.R.6968 — To direct the Secretary of Health and Human Services to give marriage and family therapists participating in the National Health Service Corps Loan Repayment Program the option of completing a postgraduate degree clinical training program that is accredited by the State in which the program is located in lieu of such a program that is accredited by the Commission on Accreditation for Marriage and Family Therapy Education; Sponsor: Harder, Josh [Rep.-D-CA-9]; Committees: House - Energy and Commerce

H.R.6977 — To amend the Public Health Service Act to provide for a demonstration project for the development and publication of independent value assessments for drugs, and for other purposes; Sponsor: Nadler, Jerrold [Rep.-D-NY-12]; Committees: House - Energy and Commerce

H.R.6979 — To amend the Internal Revenue Code of 1986 to provide a credit to small businesses for research activities related to the mitigation of certain drug threats; Sponsor: Neguse, Joe [Rep.-D-CO-2]; Committees: House - Ways and Means

H.R.6980 — To amend the Immigration and Nationality Act to provide for the reallocation of unused waivers of the foreign residency requirement for certain J-visa holders; Sponsor: Nehls, Troy E. [Rep.-R-TX-22]; Committees: House – Judiciary