



## Health Policy Briefing

February 12, 2024

### House Passes Bill to Expand Prohibition on QALYs

The House of Representatives passed legislation (H.R. 485) along party lines last week to prohibit the use of quality-adjusted life years (QALYs) and similar metrics in Medicaid and other federal health programs. While supporters of the *Protecting Health Care for All Patients Act* argue that QALYs discriminate against people with disabilities, congressional Democrats have voiced concerns that the bill’s language is too vague and could impact a broader set of comparative effectiveness analysis used in federal drug price negotiations. Republicans have countered that the legislation mirrors language in the *Affordable Care Act*, which banned the use of QALYs to determine coverage in the Medicare program.

### Oversight Panel Advances PBM Reform Bill

The House Oversight and Accountability Committee advanced the *Delinking Revenue from Unfair Gouging (DRUG) Act* (H.R. 6283) last week. The bipartisan legislation introduced by Reps. Mariannette Miller-Meeke (R-Iowa) and Nanette Diaz Barragan (D-Calif.) would prohibit pharmacy benefit managers (PBMs) from tying fees or other types of remuneration to the price of a medicine and instead require fees to be structured as a flat fee based on the fair market value of PBM services. Additionally, the *DRUG Act* would ban the practices of spread pricing and patient steering, and prohibit PBMs from paying affiliated pharmacies more than independent community pharmacies for the same services. The bill was favorably reported by a 29-11 vote.

### Budget Committee Marks Up Preventive Health Savings Act

The House Budget Committee unanimously advanced the bipartisan *Preventive Health Savings Act* (H.R. 766) last week in a 30-0 vote. The bill, which was introduced by Reps. Michael Burgess (R-Texas) and Diana DeGette (D-Colo.), directs the Congressional Budget Office (CBO) to more accurately reflect the long term and cost-saving potential of preventive health care initiatives. It also encourages the use of data-informed preventive health measures, and instructs the agency to extend its analysis from the existing 10-year budget window to a 30-year budget window to more sufficiently reflect the potential impact of preventive health policies.

### Inside

- [Democrats Urge White House to Finalize March-In Rights Guidance.....](#)2
- [E&C Subpoenas NIH for Documents Related to Sexual Harassment Investigation.....](#)2
- [CBO Releases Latest Deficit Projections.....](#)2
- [Congressional Retirements and Resignations.....](#)2
- [Upcoming Congressional Hearings and Markups.....](#)4
- [Recently Introduced Health Legislation.....](#)4

## Democrats Urge White House to Finalize March-In Rights Guidance

A group of more than 70 congressional Democrats sent a [letter](#) to Biden administration officials last week in support of the White House's proposal to exercise march-in rights to ensure reasonable prices for taxpayer-funded inventions. The lawmakers offer comments for how the administration's "Interagency Guidance Framework for Considering the Exercise of March-In Rights" might be strengthened, and urge the administration to finalize the draft framework without delay. "Reining in out-of-control prescription drug prices is one of the most pressing challenges facing the United States, and taxpayers are investing more than ever in biomedical research, sometimes funding 80 to 100 percent of the cost of developing a new medical product," the letter states. "While we recognize the important role of the private sector in research and development and support the ability to make a reasonable profit, industry interests should not outweigh meeting health and safety needs for all consumers and providing accountability to taxpayers." In addition to the letter from congressional Democrats, more than 500 comments were received from the public during the notice and comment period for the proposal, which ended on February 6.

## E&C Subpoenas NIH for Documents Related to Sexual Harassment Investigation

The House Energy and Commerce Committee is subpoenaing the National Institutes of Health (NIH) for information related to allegations of sexual harassment within the agency and its grantees. An investigation led by Chair Cathy McMorris Rodgers (R-Wash.) found at least 300 cases of harassment since 2018. "As the largest public funder of biomedical research, the NIH is uniquely positioned to transform the culture of science to prevent sexual harassment and mitigate its detrimental impacts," Chair Rodgers stated. "Unfortunately, the NIH has failed to comply adequately with requests for information and documents related to its handling of sexual harassment complaints."

## CBO Releases Latest Deficit Projections

The Congressional Budget Office (CBO) has released its latest [Budget and Economic Outlook](#), covering the period of 2024 to 2034. CBO estimates that the federal budget deficit will grow by \$1 trillion over the next decade, largely driven by federal spending on entitlement programs like Medicare, Medicaid, and Social Security. The agency projects that the deficit will grow from 5.6% of gross domestic product in 2024 to 6.1% in 2034. CBO notes that, since the Great Depression, deficits have exceeded that level only during and shortly after World War II, the 2007–2009 financial crisis, and the coronavirus pandemic.

## Congressional Retirements and Resignations

After two decades in Congress, Chairwoman of the House Energy and Commerce Committee Cathy McMorris Rodgers (R-Wash.) announced that she will not run for reelection this year. McMorris Rodgers is a former Republican Conference Vice Chair. During her time as Energy and Commerce Republican leader, she helped advance the latest package of Food and Drug Administration user fee agreement reauthorizations and authored transparency legislation. Rep. Michael Burgess (R-Texas), the second-most-senior Republican on the Committee, previously announced his plan to retire this year. The next most senior Republican, Rep. Bob Latta (R-Ohio), is expected to run for the top seat on the panel. Health Subcommittee Chairman Brett Guthrie (R-Ky.) has also confirmed that he will run to lead the committee.

Rep. Mike Gallagher (R-Wisc.), who was first elected to the House in 2017, announced that he will not seek reelection. Before joining the House of Representatives, Gallagher served in the Marine Corps, staffed the Senate Foreign Relations Committee, and worked in the private sector. Currently, he chairs the House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party, and the House Armed Services Subcommittee on Cyber, Information Technologies, and Innovation. He also serves on the Permanent Select Committee on Intelligence.

Rep. Matt Rosendale (R-Mont.) has announced his bid for the GOP nomination to challenge Sen. Jon Tester (D-Mont.) for his seat in the upper chamber. Rosendale has served in the House of Representatives since 2021 and currently sits on the Veterans Affairs Committee. He will face Tim Sheehy, a retired Navy SEAL in the primary.

Rep. Victoria Spartz (R-Ind.) has reversed her decision to retire from Congress and will run for reelection this November.

Former Maryland Governor Larry Hogan (R) announced that he plans to run for the Maryland Senate seat currently held by retiring Senator Ben Cardin (D).

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

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

## Upcoming Congressional Hearings and Markups

House Select Committee on the Chinese Communist Party field hearing “Growing Stakes: The Bioeconomy and American National Security;” 8:30 a.m.; February 13

House Energy and Commerce Subcommittee on Health legislative hearing “Legislative Proposals to Support Patients and Caregivers;” 10:00 a.m.; February 14

House Veterans’ Affairs Subcommittee on Technology Modernization hearing “Electronic Health Record Modernization Deep Dive: Can the Oracle Pharmacy Software Be Made Safe and Effective?;” 8:00 a.m.; February 15

House Veterans’ Affairs Subcommittee on Health hearing “Artificial Intelligence at VA: Exploring its Current State and Future Possibilities;” 10:00 a.m.; February 15

House Oversight and Accountability Select Subcommittee on the Coronavirus Pandemic hearing “Assessing America’s Vaccine Safety Systems, Part 1;” 10:00 a.m.; February 15

## Recently Introduced Health Legislation

H.R.7218 — To amend title III of the Public Health Service Act to extend the program for promotion of public health knowledge and awareness of Alzheimer’s disease and related dementias, and for other purposes; Sponsor: Guthrie, Brett [Rep.-R-KY-2]; Committees: House - Energy and Commerce

H.R.7222 — To amend the Internal Revenue Code of 1986 to allow expenses for parents to be taken into account as medical expenses, and for other purposes; Sponsor: Buchanan, Vern [Rep.-R-FL-16]; Committees: House - Ways and Means

H.R.7224 — To amend the Public Health Service Act to reauthorize the Stop, Observe, Ask, and Respond to Health and Wellness Training Program; Sponsor: Cohen, Steve [Rep.-D-TN-9]; Committees: House - Energy and Commerce

H.R.7226 — To require research with respect to fentanyl and xylazine test strips, to authorize the use of grant funds for such test strips, and for other purposes; Sponsor: Crockett, Jasmine [Rep.-D-TX-30]; Committees: House - Energy and Commerce

H.R.7239 — To amend the Controlled Substances Act to enhance the penalties applicable with respect to certain violations involving the use of interactive computer service to distribute a controlled substance, and for other purposes; Sponsor: Pfluger, August [Rep.-R-TX-11]; Committees: House - Judiciary; Energy and Commerce

S.3733 — A bill to require the Secretary of Health and Human Services to conduct a national, evidence-based education campaign to increase public and health care provider awareness regarding the potential risks and benefits of human cell and tissue products transplants, and for other purposes; Sponsor: Peters, Gary C. [Sen.-D-MI]; Committees: Senate - Health, Education, Labor, and Pensions

S.3740 — A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the residential substance use disorder treatment program, and for other purposes; Sponsor: Cornyn, John [Sen.-R-TX]; Committees: Senate - Judiciary

S.3741 — A bill to prohibit the Secretary of Health and Human Services from restricting funding for pregnancy centers; Sponsor: Scott, Tim [Sen.-R-SC]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.1000 — Expressing support for the designation of February 4, 2024, as “National Cancer Prevention Day”; Sponsor: Dingell, Debbie [Rep.-D-MI-6]; Committees: House - Energy and Commerce

H.R.7248 — To amend the Federal Food, Drug, and Cosmetic Act to establish a process for the qualification of nonclinical testing methods to reduce and replace the use of animals in nonclinical research, improve the predictivity of nonclinical testing methods, and reduce development time for a biological product or other drug, and for other purposes; Sponsor: Carter, Earl L. “Buddy” [Rep.-R-GA-1]; Committees: House - Energy and Commerce

H.R.7254 — To direct the Administrator of the Centers for Medicare and Medicaid to clarify that fully implanted active middle ear hearing devices are prosthetics and are not subject to the hearing aid coverage exclusion under the Medicare program; Sponsor: Fischbach, Michelle [Rep.-R-MN-7]; Committees: House - Energy and Commerce; Ways and Means

H.R.7258 — To amend the Public Health Service Act to provide community-based training opportunities for medical students in rural areas and medically underserved communities, and for other purposes; Sponsor: Miller, Carol D. [Rep.-R-WV-1]; Committees: House - Energy and Commerce

H.Res.1004 — Expressing support for the designation of February 4 through February 10, 2024, as “National Burn Awareness Week”; Sponsor: Thompson, Mike [Rep.-D-CA-4]; Committees: House - Oversight and Accountability

H.R.7265 — To authorize the Secretary of Health and Human Services to award grants to establish or expand programs to implement evidence-aligned practices in health care settings for the purpose of reducing the suicide rates of covered individuals, and for other purposes; Sponsor: Underwood, Lauren [Rep.-D-IL-14]; Committees: House - Energy and Commerce; Education and the Workforce

H.R.7266 — To amend the Public Health Service Act to authorize grants to support schools of nursing in increasing the number of nursing students and faculty and in program enhancement and infrastructure modernization, and for other purposes; Sponsor: Underwood, Lauren [Rep.-D-IL-14]; Committees: House - Energy and Commerce

H.R.7267 — To amend title XIX of the Social Security Act to provide a temporary higher Federal medical assistance percentage for Federal expenditures under the Medicaid program that are associated with the cost of compliance with certain Federal regulations with respect to services furnished in certain intermediate care facilities or home and community-based services furnished to individuals with intellectual and developmental disabilities; Sponsor: Tonko, Paul [Rep.-D-NY-20]; Committees: House - Energy and Commerce

H.R.7268 — To amend the Public Health Service Act to authorize the Secretary of Health and Human Services to carry out a program of research, training, and investigation related to Down syndrome, and for other purposes; Sponsor: McMorris Rodgers, Cathy [Rep.-R-WA-5]; Committees: House - Energy and Commerce

H.R.7274 — To amend title XVIII of the Social Security Act to provide for outreach and education to Medicare beneficiaries to simplify access to information for family caregivers through 1-800-MEDICARE, and for other purposes; Sponsor: Carey, Mike [Rep.-R-OH-15]; Committees: House - Ways and Means; Energy and Commerce

H.R.7279 — To amend title XVIII of the Social Security Act to reduce the administrative burden on physicians and physical and occupational therapists, with respect to plan of care certification and recertification requirements; Sponsor: Davis, Donald G. [Rep.-D-NC-1]; Committees: House - Energy and Commerce; Ways and Means

H.R.7282 — To amend title XIX of the Social Security Act to provide States with an option to provide medical assistance to individuals between the ages of 22 and 64 for inpatient services to treat substance use disorders at certain facilities, and for other purposes; Sponsor: Foster, Bill [Rep.-D-IL-11]; Committees: House - Energy and Commerce

- H.R.7283 — To direct the Comptroller General of the United States to evaluate and report on the inpatient and outpatient treatment capacity, availability, and needs of the United States; Sponsor: Foster, Bill [Rep.-D-IL-11]; Committees: House - Energy and Commerce; Natural Resources
- H.R.7292 — To amend title XI of the Social Security Act to lower barriers to increase patient access to health care; Sponsor: Moore, Blake D. [Rep.-R-UT-1]; Committees: House - Energy and Commerce; Ways and Means
- H.R.7300 — To amend title V of the Social Security Act to extend funding for the family-to-family health information centers; Sponsor: Sherrill, Mikie [Rep.-D-NJ-11]; Committees: House - Energy and Commerce
- H.R.7301 — To amend the Protecting Access to Medicare Act of 2014 to clarify the meaning of psychiatric rehabilitation services under demonstration programs to improve community mental health services, and for other purposes; Sponsor: Torres, Ritchie [Rep.-D-NY-15]; Committees: House - Energy and Commerce
- H.R.7305 — To direct the Secretary of Defense to provide to the Committees on Armed Services of the Senate and House of Representatives a report and briefing on anomalous health incidents affecting members of the Armed Forces and civilian employees of the Department of Defense; Sponsor: Wenstrup, Brad R. [Rep.-R-OH-2]; Committees: House - Armed Services
- S.3744 — A bill to amend title XI of the Social Security Act to lower barriers to increase patient access to health care; Sponsor: Cassidy, Bill [Sen.-R-LA]; Committees: Senate – Finance
- S.3756 — A bill to establish a new pilot program that would test coverage of outpatient observation services furnished outside a hospital under the Acute Hospital Care at Home initiative; Sponsor: Rubio, Marco [Sen.-R-FL]; Committees: Senate – Finance
- S.3757 — A bill to reauthorize the congenital heart disease research, surveillance, and awareness program of the Centers for Disease Control and Prevention, and for other purposes; Sponsor: Durbin, Richard J. [Sen.-D-IL]; Committees: Senate - Health, Education, Labor, and Pensions
- S.3765 — A bill to amend the Public Health Service Act to reauthorize the Emergency Medical Services for Children program; Sponsor: Casey, Robert P., Jr. [Sen.-D-PA]; Committees: Senate - Health, Education, Labor, and Pensions
- S.3766 — A bill to amend title XVIII of the Social Security Act to provide for outreach and education to Medicare beneficiaries to simplify access to information for family caregivers through 1-800-MEDICARE, and for other purposes; Sponsor: Tillis, Thomas [Sen.-R-NC]; Committees: Senate – Finance