



## Health Policy Briefing

May 13, 2024

### House Speaker Mike Johnson Survives Motion to Vacate

The majority of Democrats in the House of Representatives joined with Republicans to block an attempt to oust Mike Johnson (R-La.) as Speaker. The chamber ultimately voted 359-43 to block consideration of the motion to vacate the chair, with 11 Republicans seeking to remove Johnson as speaker. Democrats' support followed Johnson's efforts to secure \$61 billion in aid for Ukraine.

### Ways and Means Marks Up Telehealth, Rural Health Legislation

The House Ways and Means Committee advanced six bills last week aimed at strengthening telehealth access and health care in rural and underserved communities.

- H.R. 8261, the **Preserving Telehealth, Hospital, and Ambulance Access Act**, was advanced 41-0. The bill would expand Medicare telehealth flexibilities for two years, hospital-at-home flexibilities for five years, and Medicare supplemental payments for rural hospitals and ambulance services. While the bill received unanimous support, there was acknowledgement from both sides of the aisle of the need for protect against potential waste, fraud, and abuse. Absent congressional action, many of the telehealth flexibilities currently in place will expire at the end of this year. The legislation is offset by reforms to the pharmacy benefit manager (PBM) industry that would delink PBM income from anything besides bona fide services. The bill also includes new PBM reporting requirements and auditing. It is estimated that these provisions could save up to \$700 million annually.
- H.R. 7931, the **PEAKS Act**, was advanced 24-18. The bill would provide coverage for emergency ambulance services provided by critical access hospital (CAH)-ambulances located in a 15-mile drive in mountainous areas or areas accessible only by secondary roads at a higher payment rate. Democrats opposed the bill due to concerns that the policy's support of CAH-operated ambulances will provide further incentive for private equity to enter the industry.
- H.R. 8245, the **Rural**

### Inside

Marshall Previews Reintroduction of Prior Authorization Bill.....	2
Comer Urges Use of Spending Bills to Gain Compliance with Oversight Requests.....	2
E&C Republicans Question ASPR's Management of SNS.....	3
Blumenauer, Van Duyne Spearhead Letter on Hospice Integrity.....	3
Progressive Senators Write Chamber of Commerce on Opposition to March-In Rights.....	3
2024 Medicare Trustees Report.....	4
Congressional Retirements and Resignations.....	4
Upcoming Congressional Hearings and Markups.....	5
Recently Introduced Health Legislation.....	5

**Hospital Stabilization Act**, was advanced 24-18. The bill would establish stabilization grants for rural hospitals on the brink of closure. Democrats again expressed concerns that the bill could result in funding going to private equity owned entities.

- H.R. 8244, the **Ensuring Seniors' Access to Quality Care Act**, was advanced 25-18. The bill would allow nursing homes to continue operating their certified nursing aid training program if they incur fines, so long as the fines are unrelated to direct resident care. Democrats argued that the bill will permit underperforming facilities to continue to train the health care workforce in voting against the legislation.
- H.R. 8235, the **Rural Physician Workforce Preservation Act**, was advanced 24-16. The bill would ensure 10% of the newly established 1,200 Medicare graduate medical education slots dedicated to rural hospitals go to truly rural hospitals. Democrats are opposed to changing the hospital eligibility structure that exists under current law, which allows certain urban hospitals to be treated as rural if they meet certain criteria.
- H.R. 8246, the **Second Chances for Rural Hospitals Act**, was advanced 24-16. The bill would expand the eligibility requirement for the rural emergency hospital (REH) designation by allowing hospitals that have been closed since 2014 to become a REH and receive the additional funding included with the designation. Democrats reiterated concerns that this legislation would encourage private equity acquisitions that result in the closure of community hospitals.

The House Energy and Commerce Committee is expected to mark up its own slate of telehealth legislation in the coming days.

### Marshall Previews Reintroduction of Prior Authorization Bill

During a Senate Budget Committee hearing on reducing administrative burdens in the health care industry last week, Sen. Roger Marshall, M.D. (R-Kan.) discussed plans for the reintroduction of the bipartisan, bicameral **Improving Seniors' Timely Access to Care Act** next month. The bill would establish requirements to streamline and standardize the use of prior authorization in the Medicare Advantage program. Marshall noted that he and his colleagues have worked to address the Congressional Budget Office's (CBO) cost estimate of the bill, and that the score of the legislation has been revised to \$0. "We've got the solution. Fifty-three Senate cosponsors, ten senators on this committee, including the chairman, are cosponsors of this legislation... We have 326 House members, we have 550 outside organizations, and we've now got a zero CBO score. So, I speak to the minority and the majority staff... there shouldn't be any reason that everybody on Budget, on HELP, and the Finance Committee shouldn't cosponsor this bill and be passed with unanimous consent," Marshall said in his hearing remarks.

### Comer Urges Use of Spending Bills to Gain Compliance with Oversight Requests

House Oversight Committee Chairman James Comer (R-Ky.) has sent a [letter](#) to new House Appropriations Committee Chairman Tom Cole (R-Okla.) urging him to reduce or withhold funding for agencies that have failed to cooperate with congressional investigations. The letter cites examples from the U.S. Department of Health and Human Services and the Food and Drug Administration, including lawmakers' attempts to gather more information about the infant formula crisis, tobacco and nicotine regulatory programs, and the formulation of alcohol guidelines for the 2025 Dietary Guidelines for Americans. "The appropriations bills for fiscal year 2025 must signal to the administration that its behavior will no longer be tolerated. And they can do that by clearly mandating that failure to comply with congressional oversight requests for documents and information will result in a loss or reduction of funding at a given agency to gain compliance," Comer argues. The letter to Cole was cosigned by 21 other Republican lawmakers.

## E&C Republicans Question ASPR's Management of SNS

Republicans on the House Energy and Commerce Committee have opened an inquiry into the Administration for Strategic Preparedness and Response's (ASPR) management of the Strategic National Stockpile (SNS). The lawmakers point out that more than \$850 million in emergency supplemental funding for the SNS went unused last year in a [letter](#) to U.S. Department of Health and Human Services Assistant Secretary Dawn O'Connell. "The Committee is alarmed by a pattern of fiscal mismanagement and a series of failed acquisitions that have left the SNS dangerously under resourced and likely underprepared to respond to future public health emergencies," the letter states. The panel requests details about the depth and scale of procurement problems at ASPR by May 23, 2024.

## Blumenauer, Van Duyne Spearhead Letter on Hospice Integrity

Reps. Earl Blumenauer (D-Ore.) and Beth Van Duyne (R-Texas) have sent a [letter](#) to the Centers for Medicare and Medicaid Services (CMS) requesting details about actions the agency is taking to address the rising level of fraud and abuse in the hospice industry. "When electing to receive hospice care, individuals and their families must be confident the provider is committed to delivering individualized, compassionate care that optimizes quality of life; however, we continue to hear about instances of pervasive fraud and abuse," the letter states. The lawmakers note that CMS conducted approximately 6,700 hospice program integrity site visits during 2023, but only acted against 28 hospices, and ask the agency why such a small number of hospice certifications have been deactivated/revoked. They also ask about how CMS is using the new enforcement authorities provided by the **Consolidated Appropriations Act, 2021**, (CAA) when the first special focus program participants will be announced, when public reporting of survey results will be made available, and whether the agency has met its target of surveying 98% of hospices within 36 months. In addition to Reps. Blumenauer and Van Duyne, the letter was cosigned by a bipartisan group of 38 lawmakers.

In related news, the Government Accountability Office (GAO) released a [report](#) last week highlighting that CMS has fully implemented five and partially implemented three of the eight provisions related to hospice oversight required through the CAA. GAO found that as of May 2023, about 10% of hospices participating in Medicare for 36 months or more were overdue for a survey. Of the hospices with overdue surveys, over 25% had not had a standard survey in at least five years, 17% had at least one previous serious quality deficiency, and about 11% had a previous complaint that was severe and substantiated. GAO recommends that the agency fully implement the remaining three CAA provisions, and prioritize completion of standard surveys for those hospices that are overdue based on potential risk factors.

## Progressive Senators Write Chamber of Commerce on Opposition to March-In Rights

Sens. Elizabeth Warren (D-Mass.), Jeff Merkley (D-Ore.), and Bernie Sanders (I-Vt.) have sent a [letter](#) to the Chamber of Commerce regarding the organization's formation of the Business Alliance to Stop Innovation Confiscation earlier this year. The stated goal of the coalition is to stop any attempts to use Bayh-Dole Act as a means "to impose price controls by using 'march-in' rights to seize business patents." Late last year, the Biden administration released a proposed framework that would use the Bayh-Dole Act to allow the government to issue its own licenses for drugs developed with taxpayer funding. "This proposal — which has not yet been finalized — is an important step forward. It clarifies that taxpayers have a backstop when drug manufacturers charge extortionate prices for drugs that were developed with public funds," the lawmakers wrote. "But instead of working to support thousands of your members who stand to benefit from efforts to end drug company profiteering, the Chamber has opened a shadowy campaign...to 'stymie the White House's drug pricing initiatives.'"

## 2024 Medicare Trustees Report

The latest annual Social Security and [Medicare Trustees](#) reports were released last week. As in prior years, the trustees concluded that the Social Security and Medicare programs both continue to face significant financing issues. Latest projections indicate that the Hospital Insurance Trust Fund will be able to pay 100% of total scheduled benefits until 2036, five years later than reported last year. At that point, the fund's reserves will become depleted and continuing program income will be sufficient to pay 89% of total scheduled benefits. The improvement was due to several factors, including a policy change correcting for the way medical education expenses are accounted for in Medicare Advantage rates, higher payroll tax income, and actual 2023 expenditures that were lower than expected. The Supplementary Medical Insurance (SMI) Trust Fund is adequately financed into the indefinite future because its main financing sources are automatically adjusted each year to cover costs for the upcoming year. The Medicare Trustees note that although "the financing is assured, the rapidly rising SMI costs have been placing steadily increasing demands on beneficiaries and general taxpayers." The report recommends that lawmakers take action sooner rather than later to reduce or eliminate long-term financing shortfalls to allow consideration of a broader range of solutions and to provide more time to phase in changes.

## Congressional Retirements and Resignations

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	
Butler (D), CA	
Manchin (D), WV	
Sinema (I), AZ	
HOUSE OF REPRESENTATIVES	
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 (effective March 22, 2024)
Trone (D), MD	Burgess, MD (R), TX
Blunt Rochester (D), DE	Wenstrup, DPM (R), OH
Napolitano (D), CA	McHenry (R), NC
Wexton (D), VA	McCarthy (R), CA (effective Dec. 31, 2023)
Kim, Andy (D), NJ	Johnson (R), OH (effective Jan. 21, 2024)
Jackson, Jeff (D), NC	Ferguson, IV, DMD, PC (R), GA
Sarbanes (D), MD	Curtis (R), UT
Blumenauer (D), OR	Luetkemeyer (R), MO
Kilmer (D), WA	Lamborn (R), CO
Spanberger (D), VA	Bucshon, MD (R), IN
Kildee (D), MI	Pence (R), IN
Phillips (D), MN	Duncan (R), SC
Cardenas (D), CA	Armstrong (R), ND
Eshoo (D), CA	McMorris Rodgers (R), WA
Manning (D), NC	Gallagher (R), WI (effective April 19, 2024)
Higgins (D), NY (effective Feb. 2, 2024)	LaTurner (R), KS
Nickel (D), NC	
Ruppersberger (D), MD	
Sablan (D), MP	
Kuster (D), NH	

## Upcoming Congressional Hearings and Markups

House Veterans' Affairs Subcommittee on Health field hearing "Iowa: A Leader in Veteran Healthcare Innovation;" 10:00 a.m.; May 13

House Committee on Education and the Workforce hearing "Examining the Policies and Priorities of the Department of Health and Human Services;" witness: HHS Secretary Xavier Becerra; 10:15 a.m.; May 15

Senate Committee on Veterans' Affairs hearing "Frontier Health Care: Ensuring Veterans' Access No Matter Where They Live;" 3:30 p.m.; May 15

House Select Subcommittee on the Coronavirus Pandemic hearing "Overseeing the Overseers: A Hearing with NIH Deputy Director Lawrence Tabak;" 9:00 a.m.; May 16

House Science, Space, and Technology Subcommittee on Research and Technology hearing "Oversight and Examination of the National Science Foundation's Priorities for 2025 and Beyond;" 10:00 a.m.; May 16

Senate Committee on Health, Education, Labor, and Pensions hearing "Examining the Dental Care Crisis in America: How Can We Make Dental Care More Affordable and More Available?" 10:00 a.m.; May 16

Senate Committee on Finance hearing "Rural Health Care: Supporting Lives and Improving Communities;" 10:00 a.m.; May 16

Senate Health, Education, Labor, and Pensions Subcommittee on Primary Health and Retirement Security hearing "Feeding a Healthier America: Current Efforts and Potential Opportunities for Food is Medicine;" 2:30 p.m.; May 21

House Energy and Commerce Subcommittee on Health hearing "Check Up: Examining FDA Regulation of Drugs, Biologics, and Devices;" 10:30 a.m.; May 22

## Recently Introduced Health Legislation

H.Res.1193 — Recognizing Maternal Mental Health Awareness Week to raise awareness about maternal mental health and its effects on maternal-child health; Sponsor: Kim, Young [Rep.-R-CA-40]; Committees: House - Energy and Commerce

H.Res.1195 — Expressing support for the goals and ideals of National Speech-Language-Hearing Month; Sponsor: Cammack, Kat [Rep.-R-FL-3]; Committees: House - Energy and Commerce

H.Res.1200 — Expressing support for the designation of the week of May 5, 2024, through May 11, 2024, as "Tardive Dyskinesia Awareness Week"; Sponsor: Peters, Scott H. [Rep.-D-CA-50]; Committees: House - Energy and Commerce

H.Res.1203 — Expressing support for the designation of July 17, 2024, as "Glioblastoma Awareness Day"; Sponsor: Williams, Roger [Rep.-R-TX-25]; Committees: House - Energy and Commerce

H.R.8244 — To amend titles XVIII and XIX of the Social Security Act ensure appropriate approval for certain skilled nursing facility and nursing facility nursing aide training and competency evaluation programs under the Medicare and Medicaid program; Sponsor: Estes, Ron [Rep.-R-KS-4]; Committees: House - Ways and Means; Energy and Commerce

H.R.8245 — To amend title XVIII of the Social Security Act to establish the Rural Hospital Stabilization Pilot Program to provide grants to rural hospitals for purposes of ensuring local access to services; Sponsor: Feenstra, Randy [Rep.-R-IA-4]; Committees: House - Ways and Means

H.R.8246 — To amend title XVIII of the Social Security Act to modify the criteria for designation of rural emergency hospitals; Sponsor: Arrington, Jodey C. [Rep.-R-TX-19]; Committees: House - Ways and Means

H.R.8247 — To authorize the Secretary of Health and Human Services to award grants to increase early detection of and intervention for uterine fibroids, and for other purposes; Sponsor: Brown, Shontel M. [Rep.-D-OH-11]; Committees: House - Energy and Commerce

H.R.8250 — To direct the Administrator of the Environmental Protection Agency to implement the recommendations described in a GAO report relating to replacing legacy air quality data systems, and for other purposes; Sponsor: Connolly, Gerald E. [Rep.-D-VA-11]; Committees: House - Energy and Commerce

H.R.8251 — To direct the Secretary of Health and Human Services to streamline regulatory oversight of human cell and tissue products, and for other purposes; Sponsor: Crenshaw, Dan [Rep.-R-TX-2]; Committees: House - Energy and Commerce

H.R.8260 — To amend title XVIII of the Social Security Act to extend acute hospital care at home waiver flexibilities; Sponsor: Wenstrup, Brad R. [Rep.-R-OH-2]; Committees: House - Ways and Means

S.Res.676 — A resolution supporting the goals and ideals of National Nurses Week, to be observed from May 6 through May 12, 2024; Sponsor: Merkley, Jeff [Sen.-D-OR]; Committees: Senate - Health, Education, Labor, and Pensions

S.4276 — A bill to amend the Public Health Service Act to reauthorize the Project ECHO Grant Program, to establish grants under such program to disseminate knowledge and build capacity to address Alzheimer's disease and other dementias, and for other purposes; Sponsor: Klobuchar, Amy [Sen.-D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

H.Res.1206 — Expressing support for the designation of May 2024 as "Mental Health Awareness Month"; Sponsor: Napolitano, Grace F. [Rep.-D-CA-31]; Committees: House - Energy and Commerce

H.Res.1208 — Supporting the goals and ideals of National Nurses Week, to be observed from May 6 through May 12, 2024; Sponsor: Joyce, David P. [Rep.-R-OH-14]; Committees: House - Energy and Commerce

H.J.Res.137 — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Labor relating to "Short-Term, Limited-Duration Insurance and Independent, Noncoordinated Excepted Benefits Coverage"; Sponsor: Self, Keith [Rep.-R-TX-3]; Committees: House - Energy and Commerce; Education and the Workforce; Ways and Means

H.R.8261 — To amend title XVIII of the Social Security Act to extend certain flexibilities and payment adjustments under the Medicare program, and for other purposes; Sponsor: Schweikert, David [Rep.-R-AZ-1]; Committees: House - Ways and Means; Energy and Commerce

H.R.8267 — To amend titles XVIII and XIX of the Social Security Act to provide that priority research drugs shall not be treated as line extensions of existing drugs for purposes of calculating manufacturer rebates under the Medicare and Medicaid programs, and for other purposes; Sponsor: Davis, Donald G. [Rep.-D-NC-1]; Committees: House - Energy and Commerce; Ways and Means

H.R.8278 — To amend title XVIII of the Social Security Act to extend certain telehealth flexibilities with respect to hospice care under the Medicare program, and to establish a modifier for recertifications of hospice care eligibility conducted through telehealth; Sponsor: Miller, Carol D. [Rep.-R-WV-1]; Committees: House - Ways and Means

H.R.8283 — To amend title XI of the Social Security Act to provide for a demonstration project to support automatic claim submissions under Medicare, and for other purposes; Sponsor: Schweikert, David [Rep.-R-AZ-1]; Committees: House - Energy and Commerce; Ways and Means

H.R.8284 — To amend title XI of the Social Security Act to exclude providers of certain abortion services from participation in the Medicare program; Sponsor: Steube, W. Gregory [Rep.-R-FL-17]; Committees: House - Ways and Means; Energy and Commerce

S.4278 — A bill to require the Secretary of Health and Human Services to issue regulations to ensure due process rights for physicians before any termination, restriction, or reduction of the professional activity of such physicians or staff privileges of such physicians; Sponsor: Marshall, Roger [Sen.-R-KS]; Committees: Senate - Health, Education, Labor, and Pensions

S.4280 — A bill to amend titles XVIII and XIX of the Social Security Act to require skilled nursing facilities, nursing facilities, intermediate care facilities for the intellectually disabled, and inpatient rehabilitation facilities to permit essential caregivers access during any period in which regular visitation is restricted; Sponsor: Blumenthal, Richard [Sen.-D-CT]; Committees: Senate - Finance

S.4286 — A bill to provide emergency assistance to States, territories, Tribal nations, and local areas affected by substance use disorder, including the use of opioids and stimulants, and to make financial assistance available to States, territories, Tribal nations, local areas, public or private nonprofit entities, and certain health providers, to provide for the development, organization, coordination, and operation of more effective and cost efficient systems for the delivery of essential services to individuals with substance use disorder and their families; Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4289 — A bill to cancel existing medical debt, and for other purposes; Sponsor: Sanders, Bernard [Sen.-I-VT]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.8294 — To amend title XVIII of the Social Security Act to provide for a waiver of certain criteria with respect to the designation of a critical access hospital; Sponsor: Van Orden, Derrick [Rep.-R-WI-3]; Committees: House - Ways and Means

H.R.8299 — To require the Secretary of Health and Human Services, in consultation with the Secretary of Commerce, the Council for Technology and Innovation of the Centers for Medicare & Medicaid Services, and the Commissioner of Food and Drugs, to carry out a program to facilitate and coordinate efforts between the United States and Israel to expand and enhance collaboration on the development and delivery of health care products and services; Sponsor: Buchanan, Vern [Rep.-R-FL-16]; Committees: House - Energy and Commerce

H.R.8311 — To cancel existing medical debt, and for other purposes; Sponsor: Khanna, Ro [Rep.-D-CA-17]; Committees: House - Energy and Commerce; Financial Services

H.R.8317 — To amend title XIX of the Social Security Act to provide coverage under the Medicaid program for services provided by doulas and midwives, and for other purposes; Sponsor: Moore, Gwen [Rep.-D-WI-4]; Committees: House - Energy and Commerce

H.R.8323 — To provide emergency assistance to States, territories, Tribal nations, and local areas affected by substance use disorder, including the use of opioids and stimulants, and to make financial assistance available to States, territories, Tribal nations, local areas, public or private nonprofit entities, and certain health providers, to provide for the development, organization, coordination, and operation of more effective and cost efficient systems for the delivery of essential services to individuals with substance use disorder and their families; Sponsor: Raskin, Jamie [Rep.-D-MD-8]; Committees: House - Energy and Commerce; Natural Resources; Judiciary; Oversight and Accountability

H.R.8325 — To require the Secretary of Health and Human Services to issue regulations to ensure due process rights for physicians before any termination, restriction, or reduction of the professional activity of such physicians or staff privileges of such physicians; Sponsor: Ruiz, Raul [Rep.-D-CA-25]; Committees: House - Energy and Commerce

H.R.8327 — To amend title XI of the Social Security Act to provide for the redistribution of unused territorial cap amounts under the Medicaid program; Sponsor: Sablan, Gregorio Kilili Camacho [Del.-D-MP-At Large]; Committees: House - Energy and Commerce

H.R.8330 — To amend the Public Health Service Act to increase access to accelerated nursing degree programs, and for other purposes; Sponsor: Stevens, Haley M. [Rep.-D-MI-11]; Committees: House - Energy and Commerce

H.R.8331 — To amend titles XVIII and XIX of the Social Security Act to require skilled nursing facilities, nursing facilities, intermediate care facilities for the intellectually disabled, and inpatient rehabilitation facilities to permit essential caregivers access during any period in which regular visitation is restricted; Sponsor: Tenney, Claudia [Rep.-R-NY-24]; Committees: House - Energy and Commerce; Ways and Means

S.Res.681 — A resolution supporting the designation of May 10, 2024, as “National Asian American, Native Hawaiian, and Pacific Islander Mental Health Day”; Sponsor: Hirono, Mazie K. [Sen.-D-HI]; Committees: Senate - Health, Education, Labor, and Pensions

S.4304 — A bill to amend title XIX of the Social Security Act to provide coverage under the Medicaid program for services provided by doulas and midwives, and for other purposes; Sponsor: Warren, Elizabeth [Sen.-D-MA]; Committees: Senate - Finance

S.4312 — A bill to establish a United States Senate Commission on Mental Health for the purpose of providing to Congress and the President independent, expert policy recommendations to improve access to and affordability of mental health care services; Sponsor: Fetterman, John [Sen.-D-PA]; Committees: Senate - Health, Education, Labor, and Pensions