

HALL RENDER'S THIS WEEK IN WASHINGTON - SEPTEMBER 14, 2018

SENATE AND HOUSE APPROPRIATORS NAIL DOWN HHS FUNDING BILL

On September 13, a conference committee of House and Senate appropriators finalized details of the fiscal year 2019 Health and Human Services ("HHS") spending bill, [H.R. 6157](#), which was combined with legislation to fund the Department of Defense.

The conference agreement paves a path for Congress to send the two largest and often controversial annual spending bills to the White House before federal funding expires on September 30. Additionally, congressional leadership announced plans to attach a stopgap funding bill through December 7 to avoid a partial shutdown of agencies without full-year funding by October 1.

Certain controversial provisions were dropped in the compromise package, such as House-passed language to block any federal money for Planned Parenthood and providing conscience protections for health professionals who refuse to provide abortions. Further, the conferees dropped the Senate-passed provision providing funding for HHS to develop regulations requiring drug companies to include prices in their advertisements. This provision was not included even though it had wide-ranging support from HHS Secretary Alex Azar and a bipartisan group of senators.

HEALTH SUBCOMMITTEE EXAMINES VALUE-BASED ARRANGEMENTS IN QUALITY CARE IMPROVEMENT

On September 13, the House Energy and Commerce Health Subcommittee held a [hearing](#) to evaluate the use of value-based models and arrangements in the Medicare program. The hearing focused on how value-based initiatives currently operate and ways Congress can help health providers transition to new payment systems with the goal of emphasizing the quality of care over volume of services. Witnesses at the hearing outlined how several laws and existing regulations were getting in the way of increasing value-based care models.

Dr. Nishant Anand, Chief Medical Officer for Adventist Health System, identified the Stark Law as one such barrier and said that the risks posed by violating the law prevent health providers from participating in the care arrangements Congress envisioned. Other witnesses in the hearing also urged Congress to make changes to the Stark Law, like creating an exception that would allow for testing of a value-based care model while it is pending approval. Health Subcommittee Chairman Rep. Michael Burgess (R-TX) indicated Congress might examine potential barriers like this but also noted there is not much time left on this year's legislative calendar to get much done.

HOSPITAL GROUPS SUE HHS SEEKING IMPLEMENTATION OF 340B RULES

The American Hospital Association, the Association of American Medical Colleges, America's Essential Hospitals, 340B Health and three hospital systems sued HHS for what they believe to be an unreasonable delay implementing a rule laying out 340B ceiling prices and penalties for manufacturers. The hospital groups asked the court to force the Health Resources and Services Administration, which oversees the 340B program within HHS, to take action within 30 days of a court ruling.

The rule lays out how ceiling prices in the 340B Drug Discount Program should be calculated and how the "penny-pricing policy" will be part of the formula for calculating discounts and civil monetary penalties for manufacturers who "knowingly and intentionally" overcharge providers. The rule has been delayed five times from the effective date of the rule, which was set by Congress in 2010. The latest delay pushes the rule back until July 2019.

ENERGY AND COMMERCE COMMITTEE ADVANCES FIVE HEALTH MEASURES

On September 13, the House Energy and Commerce Committee advanced five bills aimed to improve patient care and reduce health care fraud. These will now be advanced to the full House of Representatives for consideration.

The committee approved a bipartisan bill ([H.R. 6733](#)) aimed at getting patients the lowest possible price on prescription drugs. This bans "gag clauses" that prevent pharmacists from telling customers if they could save money by paying out of pocket for drugs instead of using insurance benefits. A similar bill ([S. 2554](#)) in the Senate, introduced by Sen. Susan Collins, will likely be up for a vote next week.

Also passed was [H.R. 3891](#), introduced by Rep. Tim Walberg (R-MI) to clarify the authority of State Medicaid fraud and abuse control units used to investigate cases of Medicaid patient abuse and neglect in any setting. The Committee passed [H.R. 6753](#), introduced by Chairman of the Committee Rep. Greg Walden (R-OR) and Ranking Member Rep. Frank Pallone (D-NJ), to direct the HHS Secretary to establish a public-

private partnership for purposes of identifying health care waste, fraud and abuse.

The Ensuring Medicaid Provides Opportunities for Widespread Equity, Resources and Care Act ([H.R. 5306](#)) was also passed. This measure will extend the Money Follows the Person Demonstration Program in Medicaid for an additional year, which provides resources to state Medicaid programs to help transition individuals with chronic conditions and disabilities from institutions back to local communities. [H.R. 3325](#), or the Advancing Care for Exceptional Kids Act, introduced by Rep. Joe Barton (R-TX) also passed to improve delivery of care for children with complex medical conditions.

HOUSE PASSES MEDICARE-RELATED LEGISLATION

On September 12, the House of Representatives approved four Medicare-related measures. One bill ([H.R. 6690](#)) establishes a three-year pilot program for testing smart card technology to combat Medicare fraud and protect beneficiary identity.

Additional legislation approved would codify a regulation allowing non-deemed Medicare Cost Plan enrollees to take advantage of the special enrollment period offered to deemed enrollees ([H.R. 6662](#)) and would codify the process for Medicare administrative contractors to make local coverage determinations for the regions ([H.R. 3635](#)). Lastly, the Comprehensive Care for Seniors Act of 2018 ([H.R. 6561](#)) was passed to direct HHS to finalize regulations this year for the Program of All-Inclusive Care for the Elderly.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Suzan DelBene (D-WA) introduced [H.R. 6781](#) to amend Title XVIII of the Social Security Act to provide for coverage under the Medicare program of certain mental health telehealth services.

Rep. Mark DeSaulnier (D-CA) introduced [H.R. 6808](#) to provide payment for patient navigator services under Title XIX of the Social Security Act.

NEXT WEEK IN WASHINGTON

The Senate returns, but the House will be out of session until September 25. The Senate will likely vote next week on its version of an omnibus bill to address the opioid crisis. Votes such as the one for the opioid package were canceled this week in anticipation of Hurricane Florence's landfall on the East Coast. Additionally, on Tuesday, the Senate Health Committee will hold a [hearing](#) on "Reducing Health Care Costs: Examining How Transparency Can Lower Spending and Empower Patients."

THIS WEEK IN WASHINGTON IN HISTORY

1901, 117 years ago this week: At 3 PM on September 14, Vice President Theodore Roosevelt is sworn in as the 26th President of the United States. The impromptu ceremony would take place at the Ansley Wilcox House in Buffalo, New York following the death of President William McKinley earlier that day. McKinley had been shot in Buffalo eight days earlier and never recovered.

1789, 229 years ago this week: Alexander Hamilton is appointed as the first Secretary of the Treasury. President George Washington signed a Treasury Act creating the Department of Treasury and it immediately became the biggest department in the executive branch with 39 employees.

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