

## HALL RENDER'S THIS WEEK IN WASHINGTON - APRIL 12, 2019

### CONGRESSIONAL LEADERS DISCUSS HEALTH CARE PRIORITIES

Congress' top leaders, Senate Majority Leader Mitch McConnell (R-KY) and House Speaker Nancy Pelosi (D-CA), announced they are not embracing "Medicare for All" as a priority at the American Hospital Association's annual Washington conference. Both leaders reinforced that each chamber will pursue largely separate health care agendas in the coming months. However, there is a possibility of movement on legislation meant to lower the cost of prescription drugs and address the issue of "surprise" medical bills. Sen. McConnell did not detail an ambitious health agenda for the rest of the year but did earn loud applause from the hospital industry attendees when stating that the Senate would not consider a Medicare for All plan if he keeps his position as Senate majority leader in 2021.

Speaker Pelosi acknowledged the split in her party on achieving universal health care coverage but reiterated her belief that it's best for Democrats to build on the Affordable Care Act while others are pushing a single-payer plan. She said Congress should delay cuts to disproportionate share hospital ("DSH") payments that are set to take effect on October 1. Those payments, which go to hospitals that treat a large share of Medicaid and uninsured patients, were set to decrease under the Affordable Care Act but have repeatedly been delayed after numerous states elected not to expand Medicaid. Speaker Pelosi noted these cuts would be especially harmful for rural hospitals. Senate Finance Committee Chairman Chuck Grassley (R-IA) wrote an [opinion piece](#) last week arguing Congress should stop delaying the cuts so that hospitals can improve their financial planning. However, Chairman Grassley's proposal to reformulate DSH is not expected to gain widespread support.

### "PBM WEEK" OCCURS ON CAPITOL HILL

At a Senate Finance Committee hearing on Tuesday, Chairman Chuck Grassley (R-IA) and ranking member Ron Wyden (D-OR) brought in pharmacy benefit managers ("PBMs") executives to question whether they play a role in making drugs more expensive. Lawmakers also questioned whether focusing on PBMs distracts from taking on other issues that would compel drug makers to lower prices themselves. In response, the witnesses emphasized how their negotiations bring costs down overall and offer other valuable services, such as promoting adherence to medication and the use of generic drugs.

The PBM executives argued that instituting point-of-sale rebates would cause premiums to rise, adding that the rule proposed by HHS would force them to change their business practices without requiring similar changes from pharmaceutical companies. Sen. Wyden suggested that Congress consider banning "spread pricing," where PBMs pay a lower price for a drug than the reimbursement they receive from Medicaid. Most of the solutions offered by the witnesses focused on anti-competitive behavior. The PBMs voiced support for a bill introduced by Sen. Patrick Leahy (D-VT), which aims to reduce costs and increase competitiveness in the pharmaceutical market by stopping drug makers from withholding samples of their medicines from generic manufacturers.

On the House side, the Ways and Means Committee approved a bill ([H.R. 2113](#)), requiring drug makers and PBMs to give the government more information about their pricing practices. One provision in the bill would require the HHS secretary to publish online the amount of negotiated rebates, discounts and price concessions achieved by PBMs and the amount of such rebates, discounts and price concessions that are passed through to plan sponsors. Ways and Means Chairman Richie Neal (D-MA) said, "This is important because payors, like large employers and insurance companies who use PBM services, should know which PBM is getting the best discount on the drugs they spend the most on. Transparency makes markets work better."

Chairman Grassley said the committee's next step would be working with members to develop policies that could save money for Medicare and Medicaid patients. Any legislation will likely be included in a broader drug pricing measure and will require bipartisan compromise.

### HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Sen. Elizabeth Warren (D-MA) introduced [S. 1213](#) to provide health insurance reform.

Sen. Bill Cassidy (R-LA) introduced [S. 1209](#) to amend the Federal Food, Drug, and Cosmetic Act with respect to approval of abbreviated new drug applications.

Sen. Edward Markey (D-MA) introduced [S. 1202](#) to amend Title XVIII of the Social Security Act to provide for a permanent Independence at Home medical practice program under the Medicare program.

Sen. Patty Murray (D-WA) introduced [S. 1199](#) to amend the Public Health Service Act to revise and extend the poison center network program.

Sen. Shelley Moore Capito (R-WV) introduced [S. 1190](#) to amend Title XVIII of the Social Security Act to provide for payments for certain rural health clinic and federally qualified health center services furnished to hospice patients under the Medicare program.

Sen. Robert P. Casey (D-PA) introduced [S. 1173](#) to amend the Public Health Service Act to reauthorize the Emergency Medical Services for Children program.

Rep. Raul Ruiz (D-CA) introduced [H.R. 2282](#) to amend Title XVIII of the Social Security Act to modernize the physician self-referral prohibitions to promote care coordination in the merit-based incentive payment system and to facilitate physician practice participation in alternative payment models under the Medicare program.

## NEXT WEEK IN WASHINGTON

Congress will begin its two-week April recess next week. *This Week in Washington* will return on May 3 after Congress is back to work but will publish should health care developments occur.

## THIS WEEK IN WASHINGTON IN HISTORY

**1945, 74 years ago this week:** RIP FDR. President Franklin Delano Roosevelt passes away after four terms in office, leaving Vice President Harry S. Truman in charge of the country. First Lady Eleanor Roosevelt is the one who informs Truman of the President's death. When Truman asked if there was anything he could do for her, the First Lady replied, "Is there anything we can do for you? For you are the one in trouble now."

**1962, 57 years ago this week:** President John F. Kennedy throws out the ceremonial first pitch in Washington D.C.'s new stadium, called simply "D.C. Stadium." In 1969, the D.C. Stadium was renamed the Robert F. Kennedy Memorial Stadium, after President John F. Kennedy's brother and attorney general, who was assassinated in 1968.

For more information, please contact:

- [John Williams III](#) at (202) 370-9585 or [jwilliams@hallrender.com](mailto:jwilliams@hallrender.com);
- [Andrew Coats](#) at (202) 370-9587 or [acoats@hallrender.com](mailto:acoats@hallrender.com);
- [Abby Kaericher](#) at (202) 780-2989 or [akaericher@hallrender.com](mailto:akaericher@hallrender.com); or
- Your regular Hall Render attorney.