

## HALL RENDER'S THIS WEEK IN WASHINGTON - MAY 10, 2019

### ADDRESSING "SURPRISE" MEDICAL BILLS HIGH PRIORITY FOR ADMINISTRATION AND CONGRESS

Yesterday, President Trump held an address at the White House where he emphasized that Congress should act to "hold insurance companies and hospitals totally accountable" for surprise medical bills. A surprise medical bill, more commonly known as balance billing, occurs when patients, through no fault of their own, receive care at an emergency room outside their health plan's network or are unexpectedly seen by an out-of-network doctor even though they're at an in-network hospital. Passing legislation addressing surprise medical billing is a top priority of both Congress and the administration. Top leaders from the House Energy and Commerce Committee, Reps. Frank Pallone (D-NJ) and Greg Walden (R-OR), issued a joint statement stating they are working together on a bipartisan solution hoped to be announced soon.

Sens. Bill Cassidy (R-LA) and Maggie Hassan (D-NH) are leading a bipartisan effort to introduce legislation laying out exactly how insurers and providers can reach agreement on out-of-network bills without involving patients. The legislation will be unveiled in the next few weeks, seeking to limit hospital charges and improve transparency. Legislation will likely include a process known as "baseball-style arbitration" to settle billing disputes between insurers and health providers. Sen. Hassan proposed this method in previous legislation where a third party collects two figures, what the doctor is charging and what the insurer is agreeing to pay, and decides which figure is the most fair. While the senators tout arbitration as an effective and proven method, White House officials disagree and don't favor arbitration, which they've dubbed as an "unnecessary distraction."

### HOUSE COMMITTEE GRILLS PHARMA/PBM EXECS IN MARATHON HEARING

On May 9, the House Energy and Commerce Health Subcommittee extensively questioned executives from Pharmaceutical and PBM companies throughout a **four-hour hearing**. The bulk of the questions focused on why pharmaceutical leaders didn't incorporate rebates into their list prices. Some of the most combative questioning came from Reps. Ben Ray Lujan (D-NM) and Markwayne Mullin (R-OK). Both members urged drug makers to lower list prices rather than offering post-sale rebates. The hearing comes as House Speaker Nancy Pelosi (D-CA) is preparing a drug-price negotiation bill that would use an arbitration process if necessary in price negotiations between HHS and drug makers on high cost drugs. The Speaker's office intends to release a summary of the plan prior to releasing legislative text.

### HEALTH APPROPRIATIONS BILL APPROVED BY COMMITTEE

The House Appropriations Committee approved (30 to 23) the fiscal year 2020 Labor, Health and Human Services, Education, and Related Agencies bill. This measure includes \$189.9 billion in base discretionary funding for programs within the Departments of Labor, Health and Human Services, Education and other related agencies, including the Social Security Administration. The full text of the bill can be found [here](#).

The measure includes \$99 billion for HHS, which is significantly more than the \$87.5 billion the Administration asked for in its budget. It is an \$8.5 billion increase from FY 2019. The bill provides \$4 billion for CMS administrative expenses, an increase of \$315 million above the 2019 enacted level and \$405 million above the administration's budget request. This funding level includes an increase of \$10 million for State Survey and Certification activities to "ensure that beneficiaries receive care at facilities that meet health, safety and quality standards required by CMS." It also includes funding for several critical research initiatives such as Alzheimer's and HIV/AIDS research and funding for public health workforce initiatives.

The House Appropriations committee is expected to pass all of their funding bills in the next few weeks so the full House can pass all of them by the end of June. The Senate Appropriations Committee has yet to schedule any markups for fiscal 2020 bills.

### HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Sen. John Cornyn (R-TX) introduced **S. 1416** to amend the Federal Trade Commission Act to prohibit anticompetitive behaviors by drug product manufacturers.

Sen. Jeff Merkley (D-OR) introduced **S. 1399** to amend Title VIII of the Public Health Services Act to revise and extend nursing workforce development programs.

Sens. Tammy Baldwin (D-WI) and Mike Braun (R-IN) introduced [S. 1391](#) to require reporting regarding certain drug price increases. Drug companies must price increases for products that are more than 10 percent in a year or more than 25 percent over three years.

Sen. Mitt Romney (R-UT) introduced [S. 1384](#) to reform prescription drug pricing and reduce out-of-pocket costs by ensuring consumers benefit from negotiated rebates.

Rep. Ayanna Pressley (D-MA) introduced [H.R. 2602](#) to amend Titles XIX and XXI of the Social Security Act to improve Medicaid and the Children's Health Insurance Program for low-income mothers. Sen. Cory Booker (D-NJ) introduced the version in the Senate, [S. 1343](#).

Rep. Derek Kilmer (D-WA) introduced [H.R. 2552](#) to direct the Secretary of Health and Human Services to prevent certain payment reductions for clinic visit services furnished at excepted off-campus outpatient departments of a provider under the Medicare program.

## NEXT WEEK IN WASHINGTON

Congress returns for a full work week. On Wednesday, the House Ways and Means Committee will have a hearing on the Economic/Health Issues of Climate Change. Also on Wednesday, the House Energy and Commerce Health Subcommittee holds a hearing on "FY 2020 Department of Veterans Affairs Budget Request for the Veterans Health Administration."

The House will vote next week on a combined package of bills to lower drug prices and bolster the Affordable Care Act ("ACA") marketplaces. Included in the new package is the CREATES Act, [H.R. 965](#), which would penalize pharmaceutical companies that withhold samples from generic manufacturers; [H.R. 1499](#), which would ban pay-for-delay agreements; and [H.R. 938](#), which would limit first-approved generic makers' ability to stall other rivals' launch. Legislation marked up regarding the ACA include: [H.R. 1385](#), giving states \$200 million annually in federal funding to establish state-based marketplaces and [H.R. 1386](#), providing \$100 million to a marketplace navigator program. Additional bills marked up include [H.R. 1010](#) to reverse the Trump administration's expansion of short-term health plans as an ACA alternative, and [H.R. 987](#) to restore ACA outreach and enrollment funding that the Trump White House cut.

## THIS WEEK IN WASHINGTON IN HISTORY

**1877, 142 years ago this week:** President Rutherford B. Hayes has the White House's first telephone installed. President Hayes embraced the new technology, though he rarely received phone calls. The Treasury Department possessed the only other direct phone line to the White House at that time.

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.