

HALL RENDER'S THIS WEEK IN WASHINGTON - NOVEMBER 1, 2019

TALK IS CHEAP: FUNDING NEGOTIATIONS STALL AS SPENDING DEADLINE APPROACHES

This week, the Senate had planned to begin deliberations on a legislative package that includes funding for the Department of Health and Human Services for fiscal year ("FY") 2020. However, when Senate Majority Leader Mitch McConnell (R-KY) offered the motion needed to begin the debate, it only garnered 51 votes instead of the 60 needed for passage. Senate Democrats overwhelmingly objected to beginning debate on this funding package, protesting that Republican leaders have not engaged them in negotiating bipartisan spending levels on the Senate's versions of the funding bills.

The Senate did approve an FDA budget, though funding for the rest of HHS is still in limbo. The Senate version includes \$3.2 billion in discretionary funding for the FDA, which is an increase in the last fiscal year's \$2.97 billion appropriation. Further funding from user fees would bring the FDA's total budget to \$5.8 billion.

Congress has a November 21, 2019, deadline to enact funding for FY 2020. While congressional leadership is hoping to finish all 12 appropriations bills by year's end, the House and Senate have yet to agree on bipartisan, bicameral funding levels for those bills. If funding agreements are not finalized, another continuing resolution will need to pass or the government will be shut down. Lawmakers are indicating that a continuing resolution could extend into early spring of 2020.

CMS RELEASES FINAL RULES FOR CALENDAR YEAR MEDICARE 2020 PAYMENT RATES

On Friday, CMS released the [Physician Fee Schedule Rule](#) and the [Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Rule](#). The Hospital Price Transparency Requirement Rule was broken into a separate rule from the OPPS rule.

HOUSE MOVES MYRIAD OF HEALTH-RELATED BILLS THIS WEEK

This week, the House passed five health-related bills aiming to improve the health care system. The legislation included:

- **R. 2781**, EMPOWER for Health Act of 2019: reauthorizes the Title VII health professions education and training programs from Fiscal Year 2020 through Fiscal Year 2024.
- **R. 728**, Title VIII Nursing Workforce Reauthorization Act of 2019: reauthorizes Title VIII nursing workforce development programs, which support the recruitment, retention and advanced education of skilled nursing professionals from Fiscal Year 2020 through Fiscal Year 2024.
- **R. 647**, Palliative Care and Hospice Education and Training Act: authorizes grants to improve the training of health professionals in palliative care, increases education and awareness about palliative care and enhances research on palliative care through leveraging existing authorities and funds at the National Institutes of Health ("NIH").
- **R. 1781**, Payment Commission Data Act of 2019: provides the Medicare Payment Advisory Commission ("MedPAC") and the Medicaid and CHIP Payment and Access Commission ("MACPAC") with access to drug pricing and rebate data under Medicare Parts B and D, as well as under Medicaid.
- **R. 2115**, Public Disclosure of Drug Discounts Act: increases transparency by requiring HHS to publicly post aggregate rebate data and generic dispensing rates—data Pharmacy Benefit Managers ("PBMs") already report by law as well as encourages the use of real-time benefits tool which will help providers aid in lowering drug prices for consumers.

REGULATORY ROUNDUP: VERMA TALKS BURDEN REDUCTION, INTEROPERABILITY RULE HEADS TO OMB

CMS Administrator Seema Verma reiterated CMS's focus on cutting back administrative burdens for health care providers. Verma said CMS will be setting up an Office of Burden Reduction to push initiatives from the agency's "Patients Over Paperwork" effort. She made it clear that CMS is determined to spread its burden reduction efforts across all of the agency's programs, not just traditional Medicare. In June, the agency asked for feedback on how to further reduce administrative burdens and recently put out a Request for Information on program integrity, which included questions on prior authorization. Additionally, CMS recently introduced a proposed rule to change the Stark (or

physician self-referral) Law to better accommodate value-based care and a proposed rule to revise the Anti-Kickback Statute.

On October 28, the White House Office of Management and Budget ("OMB") began reviewing the Office of the National Coordinator for Health IT's final interoperability rule. OMB began reviewing the counterpart to this rule from CMS in late September. The rule would implement portions of the 21st Century Cures Act on information blocking and other items. Certain stakeholders, such as vendors, providers and hospital groups, have requested the rule be slowed down, urging the Senate Health, Education, Labor, and Pensions Committee to help resolve issues related to the proposal. Stakeholders urged committee leaders to encourage ONC to issue supplemental rulemaking to clarify aspects of the proposal, give providers a reasonable timeframe to implement aspects of the proposed rule and focus on education and corrective action in initial enforcement of data blocking provisions.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Peter Welch introduced [H.R. 4946](#) to amend Title XVIII of the Social Security Act to ensure equal access of Medicare beneficiaries to community pharmacies in underserved areas as network pharmacies under Medicare prescription drug coverage.

Rep. Terri Sewell (D-AL) introduced [H.R. 4938](#) to amend Title XVIII to strengthen ambulance services furnished under Part B of the Medicare program.

Rep. Mike Thompson (D-CA) introduced [H.R. 4932](#) to amend Title XVIII of the Social Security Act to expand access to telehealth services. Sen. Brian Schatz (D-HI) introduced [S. 2741](#) as a companion in the Senate.

Rep. Bill Huizenga (R-MI) introduced [H.R. 4925](#) to require the Secretary of Health and Human Services to award grants to support community-based coverage entities to carry out a coverage program that provides health coverage and educational and occupational training to qualifying individuals.

Sen. Sherrod Brown (D-OH) introduced [S. 2753](#) to amend Title XVI of the Social Security Act to update eligibility for the supplemental security income program.

Sen. John Cornyn (R-TX) introduced [S. 2751](#) to amend Title XVIII of the Social Security Act to improve access to innovative new medical devices furnished to individuals with end-stage renal disease under Part B of the Medicare program by establishing a new device add-on payment adjustment under such part.

Rep. David Roe (R-TN) introduced [H.R. 4900](#) to amend the Public Health Service Act to establish a national telehealth program.

THE WASHINGTON NATIONALS WIN THE WORLD SERIES!

Congratulations to World Series Champs, the Washington Nationals! Washington waited 95 years for another World Series championship.

NEXT WEEK IN WASHINGTON

The Senate is the only chamber back to work next week. The House will return to work on November 12.

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