

Wynne Health Group Weekly



FRAMING THE WEEK

Following House passage of the **\$1.9 trillion American Rescue Plan Act of 2021 (H.R. 1319)** along party lines ([219-212](#)) late Friday, Senate Democrats are drafting substitute legislation this week with a primary focus of ensuring the package complies with the budget reconciliation rules. Apart from the \$15 minimum wage requirement, which the Senate parliamentarian ruled violates the Byrd Rule governing this process, the other policy provisions and appropriations are unlikely to dramatically change in the Senate. However, jockeying among senators is going on behind the scenes to secure modest amendments to the bill. Still, Senate Democrats must work swiftly and precisely to pass a budget reconciliation package that the House can quickly approve, likely next week, ahead of the March 14 expiration of federal unemployment benefits.

Senate

With confirmation hearings wrapped up for **Health and Human Services (HHS) Secretary nominee Xavier Becerra**, the Senate Finance Committee (SFC) may vote this week on sending his nomination to the Senate floor, where he is on track to be confirmed. Votes on Becerra in SFC and on Vivek Murthy and Rachel Levine (President Joe Biden's picks for Surgeon General and Assistant Secretary of HHS, respectively) in the Senate Health, Education, Labor and Pensions (HELP) Committee have not yet been scheduled. Senate confirmation of these leadership posts at HHS will make way for the confirmation of key agency positions – including Chiquita Brooks-LaSure, who is anticipated to be confirmed as the Administrator of the **Centers for Medicare and Medicaid Services (CMS)**.

This evening, the Senate is scheduled to vote, and likely confirm, the nominations of Miguel Cardona and Gina Raimondo to serve as **Secretaries of Education and Commerce**, respectively. A slew of Biden's Cabinet picks [await](#) Senate confirmation – including Marcia Fudge (**Department of Housing and Urban Development**), Marty Walsh (**Department of Labor**), and Isabella Casillas Guzman (**Small Business Administration**).

House

Over in the House, Democrats are moving on to other key priorities, including appropriations for fiscal year 2022. On Friday (Feb. 26), House Appropriations Committee Chair Rosa DeLauro (D-CT) released [details](#) on **Community Project Funding (i.e., earmarks)**. Only non-profits and state or local government agencies are eligible for earmarked funding. Each Member of Congress may request up to 10 community projects. Overall funding for earmarked projects is capped at one percent of discretionary spending. Under current

law, per the Bipartisan Budget Act of 2019 ([P.L. 116-37](#)), there are no discretionary spending caps for FY 2022 and beyond.

Today, Democrats are teeing up floor votes on two issues near the top of their legislative agenda – **addressing voter suppression and inequitable campaign finance practices** (For the People Act of 2021, [H.R. 1](#)) as well as **dismantling racist policies and practices in the justice system** (George Floyd Justice in Policing Act of 2021, [H.R. 1280](#)). Both measures are expected to pass in the House along party lines, but as long as the filibuster remains in place, they face an uphill battle in the evenly divided Senate. Without the support of Sens. Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ), Senate Democrats do not have the votes to eliminate the filibuster. Creating an exception to the filibuster for legislation that expands voting rights is one workaround that has been floated on Capitol Hill

The transformational voting and election reforms of H.R. 1, in particular, are viewed as critical to Democratic control of the House in 2022, Biden’s legislative agenda, and the Democratic Party’s future. Absent congressional action, Democrats are expected to face even tougher elections, likely to be exacerbated by the reapportionment of House seats and the subsequent redrawing of congressional districts which tilt in favor of Republicans. The U.S. Census Bureau is [scheduled](#) to deliver new redistricting data to all states by September 30, 2021.

Telehealth

Tomorrow (Mar. 2), the House Energy and Commerce Subcommittee on Health will convene a [hearing](#) to examine **temporary telehealth flexibilities** permitted during the COVID-19 public health emergency (PHE) and discuss long-term measures for improving health. While Congress made telehealth services broadly available to Medicare beneficiaries during the PHE (which were previously only available to rural beneficiaries receiving care in certain provider settings), many question the extent to which these broad flexibilities should be maintained once the pandemic wanes.

Such sentiments are driven largely by the perceived lack of evidence around the effects of telehealth on quality and outcomes for many patient populations and disease states, prompting some experts – including those on the [Medicare Payment Advisory Commission \(MedPAC\)](#) – to call for time-limited expansions of telehealth access in order to better study its impact. The hearing this week will therefore reveal more fully Congress’ current thinking around telehealth and whether it intends to retain broadly expanded access to telehealth for Medicare beneficiaries or take a more measured approach to its expansion.

Medicaid and CHIP

On Thursday (Mar. 4), the **Medicaid and CHIP Payment and Access Commission (MACPAC)** will [examine](#) policy options to expand access to behavioral health services for adults and children, which will be included in the June Report to Congress. MACPAC will continue their discussion on models for the payment and coverage of high-cost specialty drugs (e.g., drugs with accelerated approval, cell and gene therapies). In addition, commissioners will discuss Medicaid policy issues related to COVID-19 vaccine, lessons learned from the Medicaid Innovation Accelerator Program, and concerns among Medicaid programs operating in U.S. territories.

Medicare

At the end of the week (Mar. 4 and 5), **MedPAC** will [discuss](#) draft recommendations for their June Report to Congress regarding:

- Medicare Advantage benchmarks,
- alternative payment models,
- a proposed value incentive program for skilled nursing facilities,
- indirect medical education payments,
- vaccine coverage and payment, and
- separately payable drugs.

Later this month, MedPAC is slated to release their annual March Report to Congress with payment update recommendations for the **Medicare fee-for-service payment systems**. At the January meeting, commissioners voted to recommend:

- increased payments in 2022 for inpatient and outpatient hospitals and long-term care hospitals;
- payment cuts for home health agencies and inpatient rehabilitation facilities; and
- no payment updates (i.e., maintain current rates) for physicians and other health professionals, ambulatory surgery centers, skilled nursing facilities, outpatient dialysis facilities, and hospices.

THIS WEEK IN HEALTH POLICY

Tue. (3/2)

- **10:30am – Hearing: Telehealth** – The House Energy and Commerce Subcommittee on Health convenes a hearing titled, “The Future of Telehealth: How COVID-19 is Changing the Delivery of Virtual Care.” [Details](#).

Thurs. (3/4)

- **10:00am – Hearing: FDA** – The House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies convenes a hearing titled, “FDA'S Foreign Drug Inspections Program.” [Details](#).
- **10:30am-4:45pm – MACPAC** – The Medicaid and CHIP Payment and Access Commission (MACPAC) convenes a virtual public meeting to discuss Medicaid and CHIP payment and policy issues. [Details](#).
- **TBD – MedPAC: Day 1** – The Medicare Payment Advisory Committee (MedPAC) convenes a virtual public meeting to discuss Medicare payment and policy issues. [Details](#).

Fri. (3/5)

- **TBD – MedPAC: Day 2** – MedPAC convenes a virtual public meeting to discuss Medicare payment and policy issues. [Details](#).

FEATURED WHG ANALYSIS

- ***NEW* WHG Catalogue of COVID-19 Government Response** – February Edition – In the Policy Hub Insight Bank [here](#).

- **WHG Issue Brief: No Surprises Act Implementation** – In the Policy Hub Insight Bank [here](#).
- **WHG: Implementation Timeline of the Omnibus Package** – In the Policy Hub Insight Bank [here](#).
- **WHG Legislative and Regulatory Outlook for 2021** – In the Policy Hub Insight Bank [here](#).
- **WHG: Regulatory Freeze: Key Policies and Dates** – In the Policy Hub Insight Bank [here](#).
- **WHG: Materials Related to COVID-19 Vaccine Confidence** – In the Policy Hub Insight Bank [here](#).

CONGRESSIONAL LOOKBACK

Wed. (2/24)

- **The House Appropriations Subcommittee on LHHS** [convened](#) a hearing to examine how emergency supplemental appropriations have been used to bolster the federal, state, and local response to the COVID-19 pandemic and discuss ongoing and long-term challenges. [Details](#).
- **The Senate Finance Committee** [convened](#) a hearing to discuss the nomination of Xavier Becerra to serve as Secretary of the U.S. Department of Health and Human Services (HHS). [Details](#).

Tue. (2/23)

- **The Senate HELP Committee** [convened](#) a hearing to consider the nomination of Xavier Becerra to serve as the HHS Secretary. [Details](#).

REGULATORY LOOKBACK

Fri. (2/26)

- **The DOL, Treasury, and HHS** [issued](#) guidance that requires plans to cover COVID diagnostic testing of asymptomatic patients without known exposure. [Details](#).
- **The EBSA** [issued](#) Guidance on Continuation of Relief for Employee Benefit Plans and Plan Participants and Beneficiaries Due to the COVID-19 (Novel Coronavirus) Outbreak. [Details](#).

Wed. (2/24)

- **President Biden** [announced](#) new actions to deliver masks to communities disproportionately impacted by the COVID-19 pandemic. [Details](#).
- **President Biden** [signed](#) an executive order aimed at strengthening critical supply chains, including those for pharmaceuticals and active pharmaceutical ingredients. [Details](#).

Tue. (2/23)

- **HRSA** [announced](#) a maternal and child health-focused Notice of Funding Opportunity (NOFO) – Sickle Cell Disease Newborn Screening Follow-up Program. Applications are due April 19. [Details](#).
- **HHS** issued a [Notification of Enforcement Discretion](#) stating that the HHS OCR will not impose penalties for noncompliance with regulatory requirements under the HIPAA rules for scheduling individual appointments for COVID-19 vaccination. [Details](#).
- **The FDA** [announced](#) a request for comment seeking input on topic areas for an upcoming disease progression modeling workshop. Comments are due Mar. 26. [Details](#).
- **The FDA** [issued](#) new guidance on vaccines, diagnostics, and therapeutics to address emerging COVID-19 variants. [Details](#).

COMMENT & APPLICATION DEADLINES

- **March 4:** The HHS Office of Minority Health is seeking nominations of qualified candidates for appointment to the Advisory Committee on Minority Health. [Details](#).
- **March 10:** CMS requests comment on proposed changes to the Quality Rating System (QRS) and Qualified Health Plan (QHP) Enrollee survey program. [Details](#).
- **March 12:** CDC released a [request for nominations](#) for membership to the Advisory Committee on Breast Cancer in Young Women.
- **March 15:** HRSA announced a maternal and child health-focused Notice of Funding Opportunity (NOFO) – Early Childhood Comprehensive Systems: Health Integration Prenatal-to-Three Program. [Details](#).
- **March 15:** The USPSTF [issued](#) a draft recommendation statement in favor of screening for gestational diabetes mellitus (GDM) in asymptomatic pregnant persons at 24 weeks of gestation or after. [Details](#).
- **March 15:** USPSTF [announced](#) a request for nominations to serve on the task force. Selected members will serve a four-year term. [Details](#).
- **March 26:** The FDA [announced](#) a request for comment seeking input on topic areas for an upcoming disease progression modeling workshop. [Details](#).
- **April 19:** HRSA [announced](#) a maternal and child health-focused Notice of Funding Opportunity (NOFO) – Sickle Cell Disease Newborn Screening Follow-up Program. [Details](#).

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