

Wynne Health Group Weekly



FRAMING THE WEEK

This week, negotiations over the end-of-year spending package continue as we inch closer to the current Continuing Resolution expiring on December 16. Below, we provide a status update on FY 2023 appropriations and potential policy provisions that could be attached to the year-end package.

Meanwhile, the House will vote on a [slate of bills](#) this week, including several Senate-passed bills on same sex-marriage, maternal health data, early hearing detection, cardiovascular research, and opioid abuse prevention. We expect the House will pass these bills.

- Respect for Marriage Act (Senate-passed version of [H.R. 8404](#))
- Data Mapping to Save Moms' Lives Act ([S. 198](#))
- Early Hearing Detection and Intervention Act of 2022 ([S. 4052](#))
- Cardiovascular Advances in Research and Opportunities Legacy Act (Senate-passed version of [H.R. 1193](#))
- Rural Opioid Abuse Prevention Act ([S. 2796](#))

FY 2023 Appropriations

Congressional leadership and the Chairs and Ranking Members of the Appropriations Committees have been working over the last week to try and reach a deal on a spending package for the year. The current Continuing Resolution expires on December 16. Leadership met with President Biden last Tuesday, and the top Senate Appropriations leadership met last Wednesday and traded proposals, with the goal to reach an agreement on overall spending levels for defense and nondefense programs. Clearing this hurdle would pave the way for talks on the details of a dozen appropriations bills and various policy riders.

Negotiations continued throughout the weekend. All parties agree that a year-long CR is less than ideal, and have heard the same message from Administration officials, particularly Secretary of Defense Austin Lloyd. However, a deal has not yet been reached as Democrats continue to press for parity between Defense and Non-Defense spending and Republicans claim that Defense should be a greater priority. Senate Appropriations Committee top Republican Richard Shelby (R-AL) has said that the Domestic programs already received increased funding in reconciliation bills and did not need to receive increases.

With multiple Senate Appropriations leaders (Chairman Pat Leahy (D-VT), Ranking Member Richard Shelby (R-AL) and Ranking Member on the Labor-HHS Subcommittee Roy Blunt (R-MO)) retiring at the end of the year, there is great incentive for them to come to an agreement. They would all like to see their last appropriations bill enacted, including the Congressionally Directed Funding projects they have secured for their states in the bill. An omnibus must pass in order for the Community Funded Projects included in the House and Senate FY 2023 bills to be funded.

Earmarks are here to stay: Last week, the House Republican Caucus overwhelmingly voted against an amendment that would have banned earmarks. Community Funded Projects, as they are now called, are expected to be a part of the FY 2024 appropriations process, just as they have been for the last two years.

Mental Health

The Senate Finance Committee has published its fifth mental health-related discussion draft on mental health parity ([details](#)), marking the completion of its initial efforts to scope out broad, bipartisan legislation that would address five priorities for addressing mental health. Together with the four other drafts on telemental health, youth mental health, workforce, and behavioral health integration, the Committee can now move to combine these components into a single passage for consideration.

With only a few weeks away before Congress must finalize a spending package, however, it is unlikely the nascent Senate Finance package will be a featured element of any mental health components in the forthcoming omnibus. Instead, stakeholders are expecting Congress to include the House-passed **Restoring Hope for Mental Health and Well-Being Act of 2022** ([details](#)), which would reauthorize several existing federal mental health programs. Some also suspect Congress might include provisions to increase graduate medical education (GME) slots for behavioral health (which, notably, is a feature of the Senate Finance Committee's discussion draft on mental health workforce enhancements).

Medicare

Stakeholders have been pushing for legislators to remedy the Statutory PAYGO and Physician Fee Schedule payment cuts in an end-of-year deal. The American Hospital Association recently sent a [letter](#) to the hill asking Congressional leaders to waive PAYGO. The GOP Doctor's Caucus also met last week and encouraged colleagues to make a deal to stop the spending cuts, including ranking members from the Energy and Commerce and Ways and Means committees, telling them that they need to use the year-end spending package to help providers. While the negotiations hinge on the top-line spending numbers Congressional leaders agree to, we anticipate lawmakers will ultimately waive PAYGO and take steps to reduce the cuts to Medicare physicians in the upcoming spending bill.

- **Statutory PAYGO:** The Statutory Pay-As-You-Go Act of 2010 requires that mandatory spending and revenue legislation not increase the federal budget deficit over a five or ten-year period. The Office of Management and Budget (OMB) is required to implement across-the-board reductions in certain types of mandatory federal spending, including Medicare, if such legislation is enacted without offsets. The CBO estimated that a Statutory PAYGO sequester in FY 2022 resulting from passage of the American Rescue Plan Act of 2021 would cause a 4% reduction in such spending, including Medicare spending. Congress waived these cuts for 2022, but that waiver is set to expire at the end of the year, putting \$38 billion in Medicare spending at risk for FY 2023.
- **Physician Fee Schedule:** Additionally, the Centers for Medicare & Medicaid Services (CMS) finalized a 4.42% payment reduction for Medicare providers under the Physician Fee Schedule for CY 2023. The payment decrease is due to three statutory factors: (1) the expiration of the 3% increase under last year's Protecting Medicare and American Farmers from Sequester Cuts Act on December 31st; (2) the statutorily required 0% payment update; and (3) the statutorily required budget neutrality adjustment of nearly 1.5%.

Public Health

Sens. Patty Murray (D-WA) and Richard Burr (R-NC) are pushing for inclusion of the **PREVENT Pandemics Act (S. 3799)**, their bipartisan bill that takes steps to strengthen the nation's public health and medical preparedness and response systems ([WHG summary](#)). Notably, the duo incorporated ideas from 41 bills and 35 of their Senate colleagues. The Senate Committee on Health, Education, Labor and Pensions (HELP) advanced the bill in March. Burr is retiring this month and Murray will give up the HELP

gavel to chair the Senate Appropriations Committee, following the retirement of Sen. Patrick Leahy (D-VT). The absence of clear legislative champions for the PREVENT Pandemics Act in the next Congress is adding urgency for legislative action this year.

COVID-19 Response

The Biden Administration is [requesting](#) the omnibus spending package include **\$10 in emergency supplemental funding for the COVID-19 response and other public health needs**. The request includes \$9 billion for addressing domestic COVID-19 needs, replenishing the smallpox vaccine supply used during the monkeypox response, and procuring and distributing treatments for hepatitis C and pre-exposure prophylaxis to help prevent HIV. The Biden Administration also requests \$1 billion to support the global COVID-19 response. Congressional Republicans have previously blocked the inclusion of additional COVID-19 funding over concerns of government spending.

Medicaid Coverage

With Republicans set to lead the House in 2023, some Democrats are calling for narrow coverage reforms to chip away at the Medicaid coverage gap.

- **Mandate 12 months of postpartum coverage for Medicaid:** The American Rescue Plan Act of 2021 ([P.L. 117-2](#)) gives states the option to extend the postpartum coverage period from 60 days to 12 months. The option is available through March 31, 2027. As of now, 33 states (including California) and the District of Columbia have [implemented or plan to implement](#) the extension.
- **Provide Medicaid coverage at reentry from incarceration:** Currently, the [law generally prohibits the use](#) of federal Medicaid funding for individuals who are incarcerated. Through the Medicaid Section 1115 waiver, [10 states provide presumptive eligibility](#) to justice-involved individuals, which allows them to get access to Medicaid upon release without having to wait for their applications to be fully processed. The bipartisan [Medicaid Reentry Act of 2021](#) would allow Medicaid to cover health care services for people in the 30 days preceding release from jail or prison.

THIS WEEK IN HEALTH POLICY

Tue. (12/6)

- **10:00am – Hearing: Farm Bill** – The Senate Committee on Agriculture, Nutrition, and Forestry holds a hearing to examine the 2023 Farm Bill, focusing on research programs. [Details](#).

Wed. (12/7)

- **10:00am – CMS Meeting: MEDCAC** – The Medicare Evidence Development and Coverage Advisory Committee (MEDCAC) holds a meeting to examine the general requirements for clinical studies submitted for the Centers for Medicare and Medicaid Services (CMS) coverage requiring coverage evidence development (CED). [Details](#).
- **11:00am – HRSA Meeting: Advisory Committee on Infant and Maternal Mortality** –The Advisory Committee on Infant and Maternal Mortality (ACIMM) holds a meeting to discuss new and continuing priority areas for the Committee and Committee operations.” [Details](#).
- **12:00pm – HHS Webinar: Environmental Justice Index** – The Department of Health and Human Services (HHS) Office of Environmental Justice (OEJ), in conjunction with the Centers for Disease Control and Prevention (CDC)’s Agency for Toxic Substances and Disease Registry (ATSDR) hold a webinar that will teach attendees how to use the new Environmental Justice Index. [Details](#).

Thurs. (12/8)

- **9:30am – FDA Meeting: Blood Products Advisory Committee** – The Food and Drug Administration (FDA) holds a meeting of the Blood Products Advisory Committee (BPAC) to hear an overview of research programs. [Details](#).

- **Meeting: MACPAC** – The Medicaid and CHIP Payment and Access Commission (MACPAC) holds a public meeting to discuss Medicaid and CHIP payment and policy issues. [Details.](#)
- **Meeting: MedPAC** – The Medicare Payment Advisory Commission (MedPAC) meets to discuss Medicare issues and policy questions. [Details.](#)

Fri. (12/9)

- **9:00am – CDC Meeting: Infectious Disease Update** – The Centers for Disease Control and Prevention (CDC) holds a meeting of the Board of Scientific Counselors, Deputy Director for Infectious Diseases to discuss recent outbreaks and workgroup updates. [Details.](#)
- **12:00pm – AHP Discussion: Social Determinants of Health** – The Alliance for Health Policy (AHP) holds a discussion titled “Examining the Social Determinants of Health: Measures, Evidence, and Policy Solutions”. [Details.](#)
- **Meeting: MACPAC** – The Medicaid and CHIP Payment and Access Commission (MACPAC) holds a public meeting to discuss Medicaid and CHIP payment and policy issues. [Details.](#)
- **Meeting: MedPAC** – The Medicare Payment Advisory Commission (MedPAC) meets to discuss Medicare issues and policy questions. [Details.](#)

Additional Multi-Day Events

- **December 5-December 6 – 4:00pm – HHS Meeting: President’s Advisory Commission** – The President’s Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders will meet to discuss full and draft recommendations by the Commission’s subcommittees. [Details.](#)
- **December 5-December 6 – 12:00pm – HRSA Meeting: Advisory Council on Blood Stem Cell Transplantation** – The Secretary’s Advisory Council on Blood Stem Cell Transplantation (ACBSCT) holds a meeting to discuss the impact of COVID-19 on blood stem cell donation and transplantation. [Details.](#)
- **December 6-December 7 – 10:00am – NQF Meeting: MUC Review** – The MAP Health Equity Advisory Group holds a Measures Under Consideration (MUC) review meeting. [Details.](#)
- **December 7-December 8 – 9:00am – CDC Meeting: Infectious Disease Update** – The Centers for Disease Control and Prevention (CDC) holds a meeting of the Board of Scientific Counselors, Deputy Director for Infectious Diseases to discuss recent outbreaks and workgroup updates. [Details.](#)
- **December 7-December 8 – 10:00am – HRSA Meeting: Nurse Education and Practice** – The Health Resources and Services Administration (HRSA) holds a meeting of the National Advisory Council on Nurse Education and Practice on the nursing workforce, nursing practice improvement, nursing education, and the response to the COVID-19 pandemic. [Details.](#)

FEATURED WHG ANALYSIS

- **WHG Maternal Health Policy Update: November – December 2022** – In the Policy Hub Insight Bank [here.](#)
- **Blog on Which Issues Warrant Consideration in a Year-End Spending Package** – On Commonwealth Fund’s To the Point [here.](#)
- **Blog on What Recent State Elections Mean for Health Care** – On Health Affairs Forefront [here.](#)
- **WHG 2022 Midterm Election Recap** – In the Policy Hub Insight Bank [here.](#)
- **Blog on Options for CMMI to Make Prescription Drug Affordable** – On Commonwealth Fund’s To the Point [here.](#)
- **WHG Roundup of Recent Reproductive Health Developments** – In the Policy Hub Insight Bank [here.](#)
- **WHG Tracker of Climate Change Provisions in the IRA** – In the Policy Hub Insight Bank [here.](#)

CONGRESSIONAL LOOKBACK

Fri. (12/2)

- **The SFC** [released](#) a discussion draft on mental health parity. [Details.](#)
- **The House** [passed](#) (390-26) the Jackie Walorski Maternal and Child Home Visiting Reauthorization Act of 2022. [Details.](#)

REGULATORY LOOKBACK

Fri. (12/2)

- **HHS** [further built out](#) its strategy to promote behavioral health integration in the primary care setting. [Details.](#)
- **HHS OCR** [issued](#) an informational bulletin on requirements under HIPAA to protect the privacy of health information when using online tracking technologies. [Details.](#)
- **HHS** [announced](#) the progress the nation has made since the release of agency's Overdose Prevention Strategy one year ago. [Details.](#)
- **The NQF** is [seeking](#) comment on 52 quality measures. Comments are due December 7. [Details.](#)

Thus (12/1)

- **CMS** [issued](#) an RFI seeking feedback on issues related to the Essential Health Benefits. Comments are due January 30. [Details.](#)
- **CMS** is [seeking](#) nominations for a TEP to develop a patient safety structural measure. Nominations are due December 21. [Details.](#)
- **The CDC** [released](#) a grant opportunity for research programs to assess the effectiveness of programs, policies, or practices that affect SDOH. Applications are due February 9. [Details.](#)

Weds. (11/30)

- **AHRQ** [released](#) the 2022 National Healthcare Quality and Disparities Report. [Details.](#)
- **PCORI** [released](#) a draft report on their systemic review on postpartum care for women up to one year after birth. Comments are due December 31. [Details.](#)

Tues. (11/29)

- **HHS** [issued](#) an NRPM to revise the current 340B administrative dispute resolution final rule. Comments are due January 24. [Details.](#)

Mon. (11/28)

- **HHS OCR and SAMHSA** [released](#) a proposed rule that would modify the Confidentiality of Substance Use Disorder (SUD) Patient Records under 42 CFR Part 2. [Details.](#)
- **CMS** [released](#) a Quality, Safety & Oversight memo on workplace violence in hospitals. [Details.](#)
- **FNS** [announced](#) an investment of \$59.4 million for the Gus Schumacher Nutrition Incentive Program (GusNIP) Produce Prescription and Nutrition Incentive programs. [Details.](#)

COMMENT & APPLICATION DEADLINES

- **December 6:** CMS [issued](#) an RFI on the current state of health care provider directories. [Details.](#)
- **December 7:** The FDA [issued](#) revised draft guidance on general clinical pharmacology considerations for pediatric studies of drugs. [Details.](#)
- **December 8:** AHRQ is [seeking](#) scientific information submissions from the public to inform AHRQ's review on *Respectful Maternity Care*. [Details.](#)
- **December 13:** The FDA [issued](#) a request for public comments on a recently released [discussion paper](#) on areas associated with Distributed Manufacturing (DM) and Point-of-Care (POC) manufacturing. [Details.](#)
- **December 20:** The FDA [issued](#) draft guidance on proposed select updates for the Breakthrough Devices Program Guidance. [Details.](#)
- **December 29:** The CDC is [seeking](#) nominations for membership on the Advisory Committee on Breast Cancer in Young Women (ACBCYW). [Details.](#)

- **December 31:** AHRQ [issued](#) a supplemental solicitation for nominations of members from Populations Underrepresented in Medicine (URIM) to serve on the Initial Review Group (IRG). [Details.](#)
- **December 31:** PCORI [released](#) a draft report on their systemic review on postpartum care for women up to one year after birth. [Details.](#)
- **January 8:** HHS [issued](#) a proposed rule to adopt updated versions of the retail pharmacy standards for electronic transactions.. [Details.](#)
- **January 9:** AHRQ announced a challenge competition to explore the resources and infrastructure needed to integrate real-world data from healthcare systems into systematic review findings. [Details.](#)
- **January 24:** HHS [issued](#) an NRPM to revise the current 340B administrative dispute resolution final rule. [Details.](#)
- **January 30:** CMS [issued](#) an RFI seeking feedback on issues related to the Essential Health Benefits. [Details.](#)
- **February 9:** The CDC [released](#) a grant opportunity for research programs to assess the effectiveness of programs, policies, or practices that affect SDOH. [Details.](#)
- **February 12:** CMS [issued](#) a request for nominations to fill vacancies on the Advisory Panel on Hospital Outpatient Payment. [Details.](#)
- **February 13:** HHS [issued](#) a request for public comment on new indicator targets for the National Action Plan to Prevent Health Care-Associated Infections. [Details.](#)

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