

**Wynne Health Group Weekly**



**FRAMING THE WEEK**

After a very busy March, Congress is now out on a two week spring recess. Over the last two weeks, HHS Secretary Becerra testified before five separate Congressional Committees selling the President's fiscal year (FY) 2024 budget proposal. He highlighted priorities including: increases to enhance Medicare benefits, Medicaid and CHIP investments to support equity and sustainability, investments in pandemic preparedness, and expanding mental and behavioral health services. Though the Secretary faced some less than friendly Republican talking points, there was bipartisan support for several initiatives including expanding the telehealth flexibilities of the Public Health Emergency (PHE), strengthening the health care workforce, and investments at the National Institutes of Health.

In addition to the budget hearing, the House Energy & Commerce Committee Health Subcommittee held a [hearing](#) last week on ways to promote transparency and competition in health care. Members presented a largely bipartisan front, focusing on asking witnesses ways to improve the [Hospital Price Transparency Final Rule](#) and the [Transparency in Coverage](#) Final Rule and how to address provider consolidation.

The Senate Finance Committee also held a [hearing](#) to examine pharmacy benefit manager (PBM) practices and their impact on patients and taxpayers. Witnesses spoke to how PBMs have contributed to the rise in prescription drug prices, through rebates, direct and indirect remuneration (DIR) fees, and formulary placement, and how these practices have had a negative impact on beneficiary out-of-pocket (OOP) costs.

COVID-19 Response

President Biden is expected to sign [H.J.Res.7](#) – a joint resolution to terminate the COVID-19 national emergency order issued by President Trump in March 2020. The COVID-19 national emergency will end on the date that the President signs the resolution, and the COVID-19 PHE will end May 11, 2023. The joint resolution does not affect the planned May 11 expiration of the federal public health emergency (PHE) for COVID-19 or any related unwinding plans. "Even if the COVID-19 National Emergency were to end, any existing waivers currently in effect and authorized under the 1135 waiver authorization for the pandemic, would remain in place until the end of the federal PHE for COVID-19," [explains](#) the Centers for Medicare and Medicaid Services (CMS).

Medicaid continuous coverage requirements end on March 31, meaning all states have started the redetermination process for all Medicaid enrollees. The eight states that initiate renewals in February can begin disenrollments for procedural reasons, such as non-response to a renewal, in April (Arizona, Arkansas, Idaho, Iowa, New Hampshire, Ohio, South Dakota, and Wyoming). The enhanced FMAP has been phased down from 6.2 percentage points to 5 percentage points and will continue to base phased-down (2.5 percentage points for July-September, 1.5 percentage points from October through December). See [state timelines](#) for initiating unwinding-related renewals.

Litigation Update

Last week, Judge Reed O'Connor of the US District Court for the Northern District of Texas blocked the Affordable Care Act (ACA) requirement for commercial health plans to cover preventive services [recommended](#) by the U.S. Preventive Services Task Force. Judge O'Connor's decision applies to preventive services recommended by USPSTF after 2010, including HIV pre-exposure prophylaxis (PrEP). The ruling is not expected to impact coverage, because health plan contracts are in place for the calendar year, [explains](#) the Kaiser Family Foundation. The Department of Justice and Department of Health and Human Services are reviewing the decision, [said](#) White House Press Secretary Karine Jean-Pierre. The Biden Administration is expected to appeal the decision, and the case will likely reach the U.S. Supreme Court.

### Regulatory Update

As soon as today, the Biden Administration may release a slate of annual regulatory updates to Medicare payments, final policy and technical changes to Medicare Advantage (MA) and Part D, and a proposed rule on health IT and interoperability. The Office of Management and Budget (OMB) completed their review at the end of last week.

- **Medicare Payments** – We anticipate CMS will soon release proposed fiscal year (FY) 2024 regulatory updates for [inpatient rehabilitation facilities](#), [skilled nursing facilities](#), and [inpatient psychiatric facilities](#). The proposed rule on Medicare payment updates for [inpatient hospitals and long-term care hospitals](#) is pending review at OMB.
- **MA and Part D** – CMS is also expected to soon issue [final revisions](#) to regulations governing MA, the Medicare Prescription Drug Benefit for calendar year (CY) 2024. The proposed rule included proposals intended to enhance beneficiary protections, advance health equity, and improve access to behavioral health and prescription drugs in MA and Part D plans ([WHG summary](#)).
- **Health IT and Interoperability** – The Office of National Coordinator for Health Information Technology (ONC) will release a [proposed rule](#) implementing certain provisions of the 21<sup>st</sup> Century Cures Act, including:
  - Electronic Health Record Reporting Program condition and maintenance of certification requirements under the ONC Health IT Certification Program;
  - Process for health information networks that voluntarily adopt the Trusted Exchange Framework and Common Agreement (TEFCA) to attest to such adoption of the framework and agreement;
  - Enhancements to support information sharing under the information blocking regulations.

The rule will also propose new standards and certification criteria under the Certification Program related to the United States Core Data for Interoperability, real-time benefit tools, electronic prior authorization, and potentially other revisions to the Certification Program.

## **THIS WEEK IN HEALTH POLICY**

### **Tue. (4/4)**

- **9:00am – FDA Meeting: Pharmaceutical Adverse Events Reporting** – The Food and Drug Administration holds a meeting on the electronic submission of adverse event reports to the FDA Adverse Event Reporting System using International Council of Harmonization E2B standards, to provide the pharmaceutical industry with updated information on the electronic submission standards for drugs and biological products. [Details](#).

- **10:00am – NIH Meeting: Autism Research** – The National Institutes of Health (NIH) holds a meeting of the Interagency Autism Coordinating Committee (IACC) to discuss updates from the CDC on autism prevalence data and racial equity and disparities in autism. [Details.](#)
- **3:00pm – BPC Discussion: Early Head Start** – The Bipartisan Policy Center holds the second meeting of its discussion on Early Head Start/Child Care Partnerships (EHS-CCP) to learn how states can build EHS-CCP and align state systems with the holistic Head Start model. There will also be a third meeting later this summer. [Details.](#)

#### Fri. (4/7)

- **2:00pm – NIH Webinar: OUD Treatment in the ER** – NIH holds a webinar of the Helping to End Addiction Long-Term (HEAL) Initiative to explore ways to overcome barriers to treatment in the emergency department for people with opioid use disorder (OUD) and children with pain. [Details.](#)

#### Additional Multi-Day Events

- **April 5-April 6 – VA Meeting: Rehabilitation** – The Department of Veterans Affairs (VA) holds a meeting of the Veterans' Advisory Committee on Rehabilitation to discuss transition services, outreach efforts and potential recommendations for the Committee's next report. [Details.](#)
- **April 6-April 7 – NIH Meeting: Sleep Research** – NIH holds a meeting of the National Heart, Lung, and Blood Institute to discuss the progress of sleep and circadian research activities across NIH. [Details.](#)

#### **FEATURED WHG ANALYSIS**

- **WHG Tracker of COVID-19 PHE Flexibilities** – In the Policy Hub Insight Bank [here](#)
- **WHG Health Policy Guide to the 118<sup>th</sup> Congress** – In the Policy Hub Insight Bank [here.](#)
- **WHG Roundup of Surprise Billing and Transparency Updates**– In the Policy Hub Insight Bank [here.](#)
- **WHG Maternal Health Policy Update: November – December 2022** – In the Policy Hub Insight Bank [here.](#)

#### **CONGRESSIONAL LOOKBACK**

##### Thurs. (3/30)

- **The SFC [held](#)** a hearing to examine PBM practices and their impact on patients and taxpayers. [Details.](#)
- **The House Appropriations Labor-HHS Subcommittee [held](#)** a hearing with HHS Secretary Becerra on the President's FY 2024 budget request. [Details.](#)

##### Weds. (3/29)

- **The W&M Committee [held](#)** a hearing with HHS Secretary Becerra on the President's FY 2024 budget request. [Details.](#)
- **The E&C Health Subcommittee [held](#)** a hearing with HHS Secretary Becerra on the President's FY 2024 budget request. [Details.](#)
- **The E&C Health Subcommittee [held](#)** on ways to promote transparency and competition in health care. [Details.](#)

#### **REGULATORY LOOKBACK**

##### Fri. (3/31)

- **CMS [announced](#)** the CY 2024 Rate Notice for MA and Part D. [Details.](#)
- **CMS [released](#)** the FY 2024 hospice payment rate update proposed rule. Comments are due May 30. [Details.](#)

- **The Medicare Trustees** [released](#) their latest report on the status of the Hospital Insurance (HI) and Supplemental Medicare Insurance (SMI) trust funds. [Details.](#)
- **The NAM Action Collaborative on Clinician Well-Being and Resilience** [announced](#) the next phase of its work with a new “Change Maker” campaign. [Details.](#)

#### **Thurs. (3/30)**

- **HHS** [announced](#) the approval of the first nonprescription, over-the-counter (OTC) naloxone nasal spray, Narcan. [Details.](#)

#### **Weds. (3/29)**

- **The EBSA** [released](#) FAQs explaining how the end of the PHE group health plan requirements for COVID-19 testing and vaccines. [Details.](#)

#### **Tues. (3/28)**

- **SAMHSA** announced two funding opportunities, worth \$123.6 million, for Certified Community Behavioral Health Clinics (CCBHCs) expansion. Applications are due May 22. [Details.](#)

#### **Mon. (3/27)**

- **The AHRQ** [issued](#) a request for nominations for new members of the National Advisory Council for Healthcare Research and Quality. Nominations are due May 26. [Details.](#)

#### **COMMENT & APPLICATION DEADLINES**

- **April 3:** HHS [proposed new rules](#) to expand access to contraceptive services under the ACA. [Details.](#)
- **April 12:** The OMB [requests](#) comments on initial proposals to improve the quality and usefulness of race and ethnicity data collected and reported across federal agencies. [Details.](#)
- **April 14:** CMS [issued](#) a proposed rule to require the disclosure of certain ownership, managerial, and other information regarding Medicare SNFs and Medicaid nursing facilities. [Details.](#)
- **April 14:** The CDC [is seeking](#) nominations for membership on the Board of Scientific Counselors, Deputy Director for Infectious Diseases. [Details.](#)
- **April 24:** The FCC released both a [proposed rule](#) and a [final rule](#) for the Rural Health Care Program. [Details.](#)
- **April 25:** CMS [issued](#) a proposed rule to implement requirements under section 203 of the Consolidated Appropriations Act, 2021 (CAA), which relate to Medicaid shortfall and third-party payments. [Details.](#)
- **April 27:** HRSA [announced](#) a funding opportunity through its Nurse Education, Practice, Quality and Retention (NEPQR)-Pathway to Registered Nurse Program (PRNP). [Details.](#)
- **April 28:** CMS [issued](#) a proposed rule that seeks to further clarify the treatment of inpatient days associated with Medicaid Section 1115 demonstrations in the calculation of Medicare disproportionate share hospital (DSH) payments. [Details.](#)
- **May 1:** The NIH [announced](#) a number of grants to address health disparities and advance health equity. Applications are due May 1. [Details.](#)
- **May 1:** The NTIA [issued](#) a request for comments on the Digital Equity Act of 2021 Program. [Details.](#)
- **May 8:** SAMHSA [released](#) grant opportunity for cooperative agreements to implement the Zero Suicide intervention and prevention model in health systems. [Details.](#)
- **May 22:** The AHRQ [issued](#) a request for nominations for new members of the National Advisory Council for Healthcare Research and Quality. [Details.](#)
- **May 24:** The FNS [released](#) a proposed rule to support online ordering in WIC. [Details.](#)
- **May 26:** The AHRQ [issued](#) a request for nominations for new members of the National Advisory Council for Healthcare Research and Quality. [Details.](#)
- **May 30:** CMS [released](#) the FY 2024 hospice payment rate update proposed rule. [Details.](#)

- **September 6:** The FDA [issued](#) a proposed rule to establish tobacco product manufacturing practice (TPMP) requirements. [Details](#).

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