

Impact Health Policy Weekly

Framing the Week

Congress returns this week after a week and a half off for the Thanksgiving holiday. The Senate returns on Monday evening and the House comes into session on Tuesday afternoon. Prior to leaving town for the holiday Congress passed a Continuing Resolution (CR) to keep the government in operation until January 19 (for the Agriculture, Military Construction and Veterans Affairs, Transportation, Housing and Urban Development, and the Energy and Water appropriations bills) and until February 2 for the remaining 8 bills. The CR was passed due to broad Democratic support and was “clean” with no steep spending cuts or controversial policy riders. The CR further included an extension until January 19, for key health programs that would have otherwise expired on November 19, including community health centers, the National Health Service Corps, teaching health centers and graduate medical education programs. The stopgap measure also includes a delay of the Medicaid disproportionate share hospital (DSH) pay cuts until January 19, a temporary extension of the Special Diabetes Program for Type I Diabetes and Special Diabetes Program for Indians, and portions of the Pandemic and All-Hazards Preparedness Act. The bill further includes an extension for programs covered under the Farm Bill until September 20, 2025.

House Freedom Caucus Members were very much in opposition to the CR and have pledged to not support any spending measure that does not contain drastic spending cuts. So far, the House has been unable to pass the Labor-HHS, CJS, Transportation-HUD, Financial Services, or Agriculture bills due to a deep divide within the Republican party. Needless to say, while there may be a reprieve for a short time, finding consensus on a final spending package remains a major challenge.

In the meantime, there are several other bills for Congress to focus on. In a [letter](#) to Senate Democrats, Senate Majority Leader Chuck Schumer outlined the work that needs to be done over the next month including “national security supplemental funding, NDAA reauthorization, and military promotions, among others.” Senator Schumer states he plans to bring the emergency supplemental to the floor for a vote as soon as the week of December 4th though no agreement has been reached on the border security provisions that Republicans insist be included. The health committees of jurisdiction are also expected to use the month of December to try and negotiate a healthcare package that could include legislation focused on increased transparency, prescription drug affordability, provider payment reform, and bolstering the health care workforce. An early 2024 omnibus still seems like the most likely legislative vehicle to move such a package, but with this Congress everything is fluid.

Hearings

House Energy and Commerce

- On Wednesday the House E&C Subcommittee on Health will hold a [hearing](#) titled “Understanding How AI is Changing Health Care.”
- On Thursday the House E&C Subcommittee on Oversight will hold a [hearing](#) titled “Unmasking Challenges CDC Faces in Rebuilding Public Trust Amid Respiratory Illness Season.” CDC Director Dr. Mandy Cohen will testify.

Regulatory Update

The Office of Management and Budget (OMB) has not cleared any new rules. An array of rules are under review.

Medicare, Medicaid, or Both:

- **CMS Enforcement of State Compliance with Medicaid Reporting and Renewal Requirements** – The [interim final rule](#) would establish rules regarding CMS enforcement of states' compliance with reporting requirements and renewal requirements during the period that begins on July 1, 2023 and ends on June 30, 2024. The interim final rule may codify [existing guidance](#) and provide more details on how CMS may enforce the requirements. The interim final rule was not included in the Spring 2023 Unified Agenda.
- **Appeals Process** – The [propose rule](#), pursuant to a court order, would establish new appeals processes for Medicare beneficiaries who have an inpatient hospital admission changed to outpatient by a hospital.
- **Healthcare System Resiliency and Modernization** – The [proposed rule](#) would establish culturally competent and person-centered requirements for all provider and supplier types that participate in Medicare and Medicaid programs.

Other Topics:

- **Conscience Rights in Health Care** – The [final rule](#) would safeguard the rights of federal conscience and religious nondiscrimination while protecting access to care, including abortion.
- **Health Data Interoperability** – The [final rule](#) would implement certain provisions of the 21st Century Cures Act and make several enhancements to the ONC Health IT Certification Program to advance interoperability, improve transparency, and support the access, exchange, and use of electronic health information.

GAO Report

The Government Accountability Office (GAO) released a [report](#) on interagency collaboration and the Dietary Guidelines for Americans (DGA) which provide science-based advice on what to eat and drink to promote health, reduce chronic disease, and meet nutrient needs. The Departments of Agriculture (USDA) and Health and Human Services (HHS) co-chair a committee to identify research priorities that will inform the 2025-2030 guidelines. GAO developed this report to describe how federal agencies promote the 2020-2025 DGA, and examine HHS and USDA efforts to collaborate to identify and prioritize research that may inform future editions.

- **Findings:** GAO found that agencies including HHS, USDA, the Department of Defense (DoD), and the Veterans' Administration (VA) are taking action to promote the DGA as required by statute. GAO says that these actions include web-based resources, incorporating the DGA into USDA and other nutrition programs, nutrition labeling, technical assistance, and partnerships with stakeholders. HHS and USDA also use internal processes and interagency collaboration to identify and prioritize human nutrition research, but have not fully incorporated leading collaboration practices. GAO has previously identified eight leading interagency collaboration practices:
 - Define common outcomes;
 - Ensure accountability;
 - Bridge organizational cultures;
 - Identify and sustain leadership;
 - Clarify roles and responsibilities;
 - Include relevant participants;
 - Leverage resources and information; and
 - Develop and update written guidance and agreements.

GAO found that of these practices, HHS and USDA's Interagency Committee on Human Nutrition Research (ICNHR) has fully implemented "identify and sustain leadership" but has only partially implemented the other seven practices.

- **Conclusion:** GAO concludes that the ICHNR has been successful at serving as a forum for sharing interagency research priorities and coordination research, but should more fully incorporate leading practices for interagency collaboration and accountability. GAO says that fully incorporating the practices could help inform and prioritize research, make recommendations for future DGA editions, and reduce fragmented or duplicative research efforts. The agencies said that a challenge is the lack of funding for key activities like completing additional studies and creating a tool to track federal human nutrition research.

This Week in Health Policy

Tue. (11/28)

- **10:00am – Hearing: Gun Violence Epidemic** – The Senate Judiciary Committee holds a hearing titled “The Gun Violence Epidemic: A Public Health Crisis.” [Details.](#)
- **3:00pm – Health Affairs Discussion: Opioid Crisis** – Health Affairs holds a discussion with the Director of the National Institute on Drug Abuse (NIDA) at the National Institutes of Health (NIH) on innovative ways for primary care practices to spot and prevent substance use initiation and escalation, and how telemedicine has been shown to increase treatment access and retention for those receiving addiction care. [Details.](#)

Wed. (11/29)

- **9:30am – Axios Summit: AI Regulation** – Axios holds a summit on the path forward for artificial intelligence (AI) policy, regulation, and innovation. Sens. Amy Klobuchar (D-MN) and Todd Young (R-IN) are participating. [Details.](#)
- **10:00am – Fiscal Commission Hearing** – Politico [reports](#) the House Budget Committee will hold a fiscal commission hearing, however it is not on the Committee website yet. According to Politico, the Committee will review: the Sustainable Budget Act of 2022 ([S. 743](#), [H.R. 710](#)), the Fiscal Commission Act of 2023 ([H.R. 5779](#)), and the Fiscal Stability Act of 2023 ([S. 3262](#)). The bills generally task the Fiscal Commission with identifying policies to significantly enhance the long-term fiscal health of the Federal Government, achieve a sustainable ratio of the federal public debt to GDP not exceeding 100 percent by fiscal year 2039, and ensure the solvency of Federal programs with trust funds for at least 75 years.
- **11:30am – Hearing: AI in Health Care** – The House Energy and Commerce Subcommittee on Health holds a hearing to examine the use of artificial intelligence (AI) in the health care sector, including potential guardrails needed to protect people’s privacy. [Details.](#)

Thurs. (11/30)

- **10:00am – Hearing: CDC Public Guidance on Respiratory Illnesses** – The House Energy and Commerce Subcommittee on Oversight and Investigations holds a hearing to examine how the Centers for Disease Control and Prevention (CDC) is applying lessons learned from the pandemic to its public guidance regarding common seasonal illnesses. CDC Director Mandy Cohen will be testifying. [Details.](#)
- **1:00pm – HHS Meeting: COVID-19 Pandemic Lessons/Disaster Preparedness** – The Department of Health and Human Services (HHS) holds a meeting of the National Biodefense Science Board for a discussion and vote on two sets of recommendations related to COVID-19 pandemic lessons, Project NextGen vaccine and therapeutic products, and disaster preparedness training. [Details.](#)
- **1:30pm – CDC Meeting: Recent Health Outbreaks** – The Centers for Disease Control and Prevention (CDC) holds a meeting of the Board of Scientific Counselors, Deputy Director for Infectious Diseases for updates and discussions on recent outbreaks and disease surveillance strategies, as well as updates from the Food Safety Modernization Act Surveillance Working Group. [Details.](#)
- **3:00pm – HITAC Meeting: Annual Report Workgroup** – The Health Information Technology Advisory Committee (HITAC) holds a meeting of the Annual Report Workgroup to discuss program updates. [Details.](#)
- **5:30pm – Maternal Mental Health Leadership Alliance Briefing: Maternal Mental Health Policy** – The Maternal Mental Health Leadership Alliance holds a congressional briefing on maternal mental health policy for civilian and military families. [Details.](#)

Additional Multi-Day Events

- **Nov. 28-Nov. 30 – CMS Meeting: Health Care Common Procedure Coding System** – The Centers for Medicare and Medicaid Services (CMS) holds a meeting to discuss preliminary coding, Medicare benefit category, and payment determinations for new revisions to the HCPCS Level II code set for non-drug and non-biological products. [Details.](#)
- **Nov. 29-Nov. 30 – HHS Meeting: HIPAA Security Rule/AI in Health Care** – The Department of Health and Human Services (HHS) holds a meeting of the National Committee on Vital and Health Statistics to discuss proposed recommendations to HHS to strengthen the Health Insurance Portability and Accountability Act Security Rule and draft language for the committee's 2023 report to Congress. The Committee will also hear from subject matter experts on the use of artificial intelligence in health care. [Details.](#)
- **Nov. 30-Dec. 1 – VA Meeting: Geriatrics, Extended Care, Social Work Services** – The Department of Veterans Affairs (VA) holds a meeting of the Veterans' Family, Caregiver and Survivor Advisory Committee for briefings by the VA Office of Geriatrics and Extended Care, Care Management and Social Work Services to discuss program updates. [Details.](#)

Featured Analysis

- **Impact Artificial Intelligence Policy Round Up** – In the Policy Hub Insight Bank [here.](#)
- **Impact Regulatory Outlook: 2023 Unified Agenda** – In the Policy Hub Insight Bank [here.](#)
- **Impact Updated Chart: PBM Legislation Under Consideration** – In the Policy Hub Insight Bank [here.](#)
- **Impact Tracker of COVID-19 PHE Flexibilities** – In the Policy Hub Insight Bank [here](#)
- **Impact Health Policy Guide to the 118th Congress** – In the Policy Hub Insight Bank [here.](#)

Congressional Lookback

Weds. (11/15)

- **The E&C Health Subcommittee** convened a [markup](#) for 21 bills that address an array of health-related topics. [Details.](#)
- **The SFC Subcommittee on Health Care** convened a [hearing](#) to explore telehealth and what it would mean to potentially make certain provisions permanent to ensure continued access to telehealth services for Medicare beneficiaries. [Details.](#)

Regulatory Lookback

Fri. (11/17)

- **CMS** released the Medicare Part D Manufacturer Discount Program [final guidance.](#) [Details.](#)

- HHS released [several resources](#) aimed at improving health and well-being by addressing social determinants of health (SDOH). [Details.](#)
- HHS announced the establishment of the Secretary's [Advisory Committee on Long COVID](#) and invites nominations for the Committee. Nominations are due January 16. [Details.](#)

Thurs. (11/16)

- CMMI released the [NOFO](#) for the Ahead Model. LOIs are due February 5. [Details.](#)
- SAMHSA announced [notice of funding opportunities](#) totaling \$74.4 million across four programs to help prevent substance use and behavioral health challenges. [Details.](#)
- SAMHSA released a new [report](#) exploring the potential of value-based payment (VBP) models to improve the delivery of behavioral health services. [Details.](#)
- HHS unveiled a [comprehensive Language Access Plan](#) aimed at enhancing access to health care and services for individuals with Limited English Proficiency (LEP) and disabilities. [Details.](#)

Weds. (11/15)

- CMS issued a [final rule](#) to require the disclosure of certain ownership, managerial, and other information regarding Medicare SNFs and Medicaid nursing facilities. [Details.](#)
- CMS released the HHS Notice of Benefit and Payment Parameters for [2025 proposed rule](#). Comments are due January 8. [Details.](#)
- CMMI released an [RFA](#) for the GUIDE model. Applications are due January 30. [Details.](#)

Tues. (11/14)

- The USDA announced [an investment](#) of more than \$52 million to improve dietary health and access to fresh fruits and vegetables through the Gus Schumacher Nutrition Incentive Program. [Details.](#)
- SAMHSA released the [results](#) from its annual National Survey on Drug Use and Health. [Details.](#)

Mon. (11/13)

- The USPSTF released [two final recommendation statements](#) concluding that evidence is insufficient to assess the balance of benefits and harms of routine screening and preventive interventions performed by primary care clinicians for oral health conditions. [Details.](#)

Comment & Application Deadlines

- **November 30:** CMMI released a [Request for Application](#) detailing payment, care delivery, quality, and other policies for the Making Care Primary (MCP) Model. [Details.](#)
- **December 2:** The FDA issued a [proposed rule](#) to make explicit that LDTs are devices. [Details.](#)

- **December 4:** CMS released [new Medicaid information](#) and questions for public comment on mental health parity. [Details.](#)
- **December 4:** The Tri-Departments issued an [RFI](#) regarding commercial coverage of over-the-counter (OTC) preventive products. [Details.](#)
- **December 11:** The FDA announced the creation of the [Digital Health Advisory Committee.](#) [Details.](#)
- **January 2:** CMS and the ONC released a [proposed rule](#) to establish disincentives for providers who are determined to have committed information blocking. [Details.](#)
- **January 5:** CMS released the CY 2025 Policy and Technical Changes to the MA and Part D Programs [proposed rule.](#) [Details.](#)
- **January 8:** CMS released the HHS Notice of Benefit and Payment Parameters for [2025 proposed rule.](#) [Details.](#)
- **January 12:** The USDA announced [two new grant opportunities](#) and a training and technical assistance partnership to help schools continue to invest in nutritious school meals. [Details.](#)
- **January 16:** HHS announced the establishment of the Secretary's [Advisory Committee on Long COVID](#) and invites nominations for the Committee. [Details.](#)
- **January 30:** CMMI released an [RFA](#) for the GUIDE model. [Details.](#)
- **February 5:** CMMI released the [NOFO](#) for the Ahead Model. [Details](#)
- **March 6:** CMMI announced the [State Advancing AHEAD Model](#) to address unsustainable health care cost growth, poor population health, and disparities in health outcomes. [Details.](#)