

## Impact Health Policy Weekly

### Framing the Week

The House left town last week for holiday recess without any further action on the President's emergency foreign aid supplemental request. Senate Majority Leader Chuck Schumer (D-NY) has kept the Senate in town this week filling the floor schedule with nominations in hopes that a deal can be reached to provide additional funds to Ukraine, Israel, Taiwan, and our own Southern border. As of this morning, though progress was made over the weekend, a deal has not yet been reached and Republicans are positioning that it will be January before they will be ready to vote.

January is shaping up to be a very busy month. The House is scheduled to be in recess until January 9<sup>th</sup>, while the Senate is scheduled to come back on January 8<sup>th</sup>. Government funding runs out for agencies included in Military Construction-VA, Agriculture, Energy-Water and Transportation-HUD bills on January 19, as well as several health authorization extenders. Funding for the rest of the federal government runs out on February 2.

Prior to recessing, the House did pass the [Lower Costs, More Transparency Act](#) (HR 5378), the [PREEMIE Reauthorization Act](#) (HR 3226), and the [SUPPORT Act](#) (HR 4531) on suspension votes. The Lower Costs, More Transparency Act will, among other things, increase transparency of hospital prices, clinical diagnostic laboratory test prices, imaging prices, ambulatory surgical center prices, health coverage prices, and pharmacy benefit manager (PBM) practices; create parity in Medicare payments for hospital outpatient department services furnished off-campus; prohibit spread pricing in Medicaid; reauthorize Community Health Centers, the Teaching Health Center GME program, National Health Service Corps; and the Special Diabetes Program; delay the Disproportionate Share Hospital (DSH) reductions under Medicaid; and increasing plan fiduciary access to health data and requiring hidden fee disclosures.

Senators Bernie Sanders (I-VT) and Mike Braun (R-IN) are expected to introduce their own health transparency legislation today, which will include many of the hospital transparency provisions that were included in the Lower Costs, More Transparency Act, but will impose stricter requirements on hospitals and insurance companies. While it is unclear what the next steps are for this legislation, it will likely all be part of a broader health care package early next year.

Impact Health Policy Partners will be closing the office December 20-January 2. We wish you all a very happy holiday season and best wishes in the new year. We look forward to continuing to partner with you all in 2024!

### Regulatory Update

The Office of Management and Budget (OMB) completed reviewing a [final rule](#) that would establish the fees for the Federal independent dispute resolution process. OMB is also reviewing the following rules.

### Medicare

- **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.
- **Alternative Payment Models** – The [proposed rule](#) would implement a new Medicare payment model titled, Increasing Organ Transplant Access (IOTA) Model.
- **Medicare Advantage and Part D** – The [proposed rule](#) would make changes for CY 2025 for MA capitation rates and Part C and Part payment policies. Additionally, the proposed rule would provide draft CY 2025 Part D redesign program instructions.

#### Medicaid

- **Disproportionate Share Hospital Program** – The [final rule](#) would implement requirements under section 203 of the Consolidated Appropriations Act, 2021 (CAA), which relate to Medicaid shortfall and third-party payments.

#### Other Topics:

- **Healthcare System Resiliency and Modernization** – The [proposed rule](#) would revise and update national emergency preparedness requirements for Medicare- and Medicaid-participating providers and suppliers
- **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.
- **Confidentiality of Substance Use Disorder Patient Records** – The [final rule](#) would implement section 3221 of the CARES Act, which establishes protections for the confidentiality of substance use disorder treatment records.

#### GAO Report on Cognitive Assessment Services in Medicare

The Government Accountability Office (GAO) released a [report](#) on utilization of cognitive assessment services in Medicare fee-for-service (FFS). GAO found that overall utilization of the cognitive assessment service by beneficiaries increased between 2018 and 2022, but utilization is low relative to the number of beneficiaries diagnosed with a cognitive impairment. However, GAO notes that similar services can be delivered using other codes which makes it difficult to determine whether beneficiaries are not getting cognitive care services at all or getting them under other codes.

GAO interviewed stakeholders to discuss challenges to delivering and accessing the cognitive assessment service. Providers said the biggest challenges are the amount of time needed to deliver the service, limitations on billing that prevent the use of a team-based care model, and training and resource challenges. Stakeholder groups said that stigma and a lack of awareness are challenges to beneficiary access.

### **GAO Report on Federal Funding for Sexual and Reproductive Health Care Organizations 2019-2022**

GAO released a [report](#) that reviews federal funding for organizations that provide health-related services such as family planning and sexual and reproductive health services from 2019 through 2022.

- Health centers received about \$21.6 billion in HHS grants, about \$53.12 billion in payments from public health coverage programs, including Medicare and Medicaid, and \$2.47 billion in Paycheck Protection Program loans.
- Planned Parenthood Federation of American affiliates received about \$148 million in HHS grants or cooperative agreements, \$1.4 billion in Medicare, Medicaid, and CHIP payments, and \$89 million in Paycheck Protection Program loans.
- Four privately owned providers of health services received about \$108 million in Medicare, Medicaid, and CHIP payments.
- The International Planned Parenthood Federation received about \$2.03 million from the U.S. Agency for International Development (USAID).
- MSI Reproductive Choices received about \$1.35 million from USAID.

### **Medicaid**

The Medicaid and CHIP Payment and Access Commission (MACPAC) released the 2023 edition of the [MACStats: Medicaid and CHIP Data Book](#), with updated data on national and state Medicaid and State Children's Health Insurance Program (CHIP) enrollment, spending, benefits, and beneficiaries' health, service use, and access to care. As of July 2023, 91.5 million people were enrolled in Medicaid and CHIP. While enrollment is higher than in the same period the prior year, it has been decreasing from its peak following the end of the continuous coverage requirement.

### **This Week in Health Policy**

#### **Mon. (12/18)**

- **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](#).

#### **Wed. (12/20) – Impact Health Closed for Winter Holiday through January 2, 2024**

- **9:00am – HHS Meeting: Antimicrobial Resistance** – The Department of Health and Human Services (HHS) holds a meeting of the Presidential Advisory Council on Combating Antibiotic-

Resistant Bacteria (PACCARB) to discuss current global U.S. federal efforts to combat antimicrobial resistance in response to a task from the secretary given to the PACCARB in 2023. [Details.](#)

### Featured Analysis

- **Impact Mental Health Legislative Update** – In the Policy Hub Insight Bank [here](#).
- **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 118<sup>th</sup> Congress** – In the Policy Hub Insight Bank [here](#).

### Congressional Lookback

#### Fri. (12/15)

- **MACPAC** convened virtually for Day Two of its [December 2023 public meeting](#) and held sessions on Medicaid-Medicare plan transition monitoring. All Impact session summaries are available on Policy Hub [here](#).

#### Thurs. (12/14)

- **The Senate HELP Committee** convened a [hearing](#) to discuss the diabetes epidemic and the contributing factors, including unhealthy foods and obesity, as well as access and affordability of diabetes treatments. [Details.](#)
- **MACPAC** convened virtually for Day One of its [December 2023 public meeting](#) and held sessions on data collection, Medicaid financing, DSH allotments, unwinding continuous coverage, and potential comments on D-SNP proposals. All Impact session summaries are available on Policy Hub [here](#).

#### Tues. (12/12)

- **The House of Representatives** passed the [Lower Costs, More Transparency Act](#) by a vote of 320-71. [Details.](#)
- **The House of Representatives** passed the [Support for Patients and Communities Reauthorization Act](#) by a vote of 387-37. [Details.](#)
- **The Senate** convened a [markup](#) of four bipartisan bills on addressing substance use disorder, early detection in cancer screening, and high-quality educational research. [Details.](#)

## Regulatory Lookback

### Fri. (12/15)

- **CMMI** [announced \(model website\)](#) it is planning to test a new model to improve maternal health and birth outcomes for pregnant and postpartum women and their infants, called the Transforming Maternal Health (TMaH) Model. [Details.](#)
- **HHS OIG** released a [toolkit](#) to help MA organizations identify and evaluate high-risk diagnosis codes to ensure proper payments and provide better care for enrollees. [Details.](#)

### Thurs. (12/14)

- **CMS** released revised guidance ([Part B Guidance](#) and [Part D Guidance](#)) for the Medicare Prescription Drug Inflation Rebate Program. [Details.](#)
- **CMS** [sent a letter](#) to pharmacy benefit manager (PBMs), Medicare Part D plans, Medicaid Managed Care plans, and private insurance plans to address pharmacy sustainability. [Details.](#)
- **CMMI** released a [blog post](#) detailing several forthcoming changes to the Medicare Advantage Value-Based Insurance Design (VBID) Model for 2025. [Details.](#)
- **The USDA** released a [final rule](#) to revise race and ethnicity data collection and reporting in SNAP. [Details.](#)

### Weds. (12/13)

- **The ONC** released a [final rule](#) to implement certain provisions of the ONC Health IT Certification Program. [Details.](#)
- **The CMS Office of the Actuary** [released \(fact sheet; Health Affairs article\)](#) the 2022 National Health Expenditures Report. [Details.](#)

### Tues. (12/12)

- **The USPSTF** is [requesting comments](#) on a draft recommendation statement and draft evidence review on interventions for high body mass index (BMI) in children and adolescents. [Details.](#)
- **HHS ONC** announced that the Trusted Exchange Framework and Common Agreement ([TEFCA](#)) is now operational with the recognition of the first Qualified Health Information Networks (QHINs). [Details.](#)

### Mon. (12/11)

- **HHS ASPE** released a [report](#) on competition in prescription drug markets from 2017 to 2022. [Details.](#)

### Comment & Application Deadlines

- **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 3:** The USPSTF released a [draft research plan](#) on screening for HIV in asymptomatic, nonpregnant adolescents and adults age 15 years or older and in asymptomatic pregnant persons not known to be HIV positive. [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 2:** CMS released an [interim final rule](#) with a comment period regarding the unwinding of continuous coverage requirements. [Details.](#)
- **February 5:** CMMI released the [NOFO](#) for the Ahead Model. [Details.](#)
- **February 6:** HHS and NIST released a [Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights](#), which reviews the factors that an agency may consider when deciding whether to exercise march-in rights. [Details.](#)
- **February 14:** The USDA FNS announced [two research-based funding opportunities](#) to develop a subgrant program related to the WIC Program. [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.](#)