

Impact Health Policy Weekly

Framing the Week

Happy New Year! Welcome back to what will be a frantic couple of weeks on Capitol Hill. The Senate comes back into session today and the House will return tomorrow. Over the weekend House Speaker Mike Johnson (R-LA) and Senate Majority Leader Chuck Schumer (D-NY) reached a deal ([Republican statement/Democratic statement](#) and [outline](#)) on top line spending which includes \$772.7 billion for non-defense discretionary funding and \$886.3 billion in defense funding. This amount would adhere to what was included in the Fiscal Responsibility Act, plus the “side” deal made between President Biden and then-House Speaker Kevin McCarthy that would add an additional \$69 billion in non-defense discretionary funding. The Senate Appropriations Committee added an additional \$14 billion in “emergency spending” to their FY 2024 bills, which was not included in the final deal. Speaker Johnson reported an additional \$16 billion in cuts from funding modifications made to the “side deal”, \$6.1 billion in rescissions of already appropriated COVID relief funding, as well as an increased timeline for cuts to the IRS that was included in the Inflation Reduction Act. All in all, the DOD will have an approximate 3% increase over last year and the nondefense discretionary programs will have less than a 1% cut.

Decisions on Subcommittee allocations will need to be made in the coming days as the Appropriations Committees have less than two weeks to finalize their bills before funding for agencies included in Military Construction-VA, Agriculture, Energy-Water and Transportation-HUD bills runs out on January 19 and the rest of the federal government on February 2. Authorization extenders will also expire on the 19th for several health programs including the 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.

Democrats further made it clear in the deal that they would not accept any poison pill policy riders in any appropriation bill put before the Congress. As many House Republicans favored more drastic cuts in spending, as well as policy provisions, including immigration reforms, that the Democrats will not accept, a final measure will require a bipartisan vote.

Meanwhile, negotiations on a health care package will heat up in order to attach it to the final budget package. At this point no decisions have been made, but prior to the break, the House did pass the [Lower Costs, More Transparency Act](#) (HR 5378), on a suspension vote. In addition to reauthorizing the expiring Community Health Centers, National Service Health Corps, and other health programs, this bill will, among other things, increase transparency of hospital prices, clinical diagnostic laboratory test prices, imaging prices, ambulatory surgical center prices, health coverage prices, and PBM practices; create parity in Medicare payments for hospital outpatient department services furnished off-campus; prohibit spread pricing in Medicaid; and increasing plan fiduciary access to health data and requiring hidden fee disclosures. The Senate has passed PMB legislation and some transparency pieces through the HELP and Finance Committees but has not come together on any kind of cohesive package.

Hearings

House Education and The Workforce Committee: On Thursday the Subcommittee on Health, Employment, Labor and Pensions will hold a [hearing](#) titled “Lowering Costs and Increasing Access to Health Care with Employer-Driven Innovation.”

Regulatory Update

The Office of Management and Budget (OMB) completed reviewing a [final rule](#) intended to strengthen protections against conscience and religious discrimination for certain federally funded health care entities and providers ([proposed rule](#)). The proposal partially rescinds a [Trump-era final rule](#) that was held unlawful by three federal district courts. OMB also completed reviewing a [final rule](#) that would implement section 3221 of the CARES Act, which establishes protections for the confidentiality of substance use disorder treatment records.

OMB is also reviewing the following rules.

Medicare

- **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.
- **Eligibility and Enrollment** – The [final rule](#) would implement changes to align enrollment and renewal requirements for most individuals in Medicaid and promote maintenance of coverage.
- **Managed Care** – The [final rule](#) is intended to improve access to care and quality outcomes for Medicaid and CHIP beneficiaries enrolled in managed care delivery systems.

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
- **Prior Authorization** – The [final rule](#) would place new prior authorization requirements on Medicare Advantage organizations, Medicaid managed care plans, CHIP managed care entities, state Medicaid and CHIP fee-for-service programs, and qualified health plan issuers on the federal Exchange. This rule also adds a new measure for eligible hospitals and critical access hospitals

under the Medicare Promoting Interoperability Program and for Merit-based Incentive Payment System (MIPS) eligible clinicians under the Promoting Interoperability performance category of MIPS.

OIG Report

The Department of Health and Human Services (HHS) Office of the Inspector General (OIG) released a [report](#) on Medicare Part B spending on clinical diagnostic laboratory tests. Key findings include:

- Total Part B spending in 2022 on clinical diagnostic laboratory tests decreased by ten percent from spending in 2021 due to decreased COVID-19 testing;
- Spending grew between 2014 and 2021 when it peaked at \$9.3 billion then dropped to \$8.4 billion in 2022.
- There was a 14 percent decrease in COVID-19 tests in 2022 compared to 2021.
- Genetic testing accounted for \$1.4 billion in laboratory diagnostic testing in 2022, a \$500 million decrease from 2021.
- Total spending for the top 25 lab tests decreased in 2022 with decreases in volume for 15 tests and increases for the other ten tests.

This Week in Health Policy

Wed. (1/10)

- **10:00am – Hearing: AI and Government Services** – The Senate Homeland Security and Governmental Affairs Committee holds a hearing titled “Harnessing AI to Improve Government Services and Customer Service.” [Details.](#)

Thurs. (1/11)

- **10:00am – Hearing: Communications Networks Cybersecurity** – The House Energy and Commerce Subcommittee on Communications and Technology holds a hearing to explore how to strengthen network resiliency and leverage the expertise of federal agencies and industry to address cyberattacks on communications infrastructure. [Details.](#)
- **10:15am – Hearing: Employer-Driven Health Care Innovation** – The House Education and the Workforce Subcommittee on Health, Employment, Labor, and Pensions holds a hearing titled “Lowering Costs and Increasing Access to Health Care with Employer-Driven Innovation.” [Details.](#)
- **1:00pm – BPC/Commonwealth Fund Discussion: Integrated Care Workforce** – The Bipartisan Policy Center (BPC), in partnership with The Commonwealth Fund, hold a discussion on federal policy solutions to support and grow the existing integrated care workforce to deliver mental health and substance use services through primary care providers. [Details.](#)
- **Meeting: MedPAC** – The Medicare Payment Advisory Commission (MedPAC) meets to discuss Medicare issues and policy questions. [Details.](#)

Fri. (1/12)

- **Meeting: MedPAC** – The Medicare Payment Advisory Commission (MedPAC) meets to discuss Medicare issues and policy questions. [Details](#).

Additional Multi-Day Events

- **Jan. 10-Jan. 11 – NIH Meeting: Diabetes/Digestive/Kidney Disease Issues** – The National Institutes of Health (NIH) holds a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council to discuss the NIH Strategic Plan for Data Science and other program updates. [Details](#).

Featured Analysis

- ***NEW* Impact Regulatory Outlook: Fall 2023 Unified Agenda** – In the Policy Hub Insight Bank [here](#).
- **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](#).

Regulatory Lookback

Fri. (1/5)

- **The FDA [approved](#)** Florida's Section 804 Importation Program (SIP) [application](#), which will allow the state to import certain prescription drugs from Canada. [Details](#).
- **CMS released [summaries](#)** of state spending plans to strengthen Medicaid HCBS. [Details](#).

Thurs. (1/4)

- **The GAO released a [report](#)** on the cybersecurity of medical devices as directed by the Consolidated Appropriations Act of 2023. [Details](#).

Weds. (1/3)

- **The USPSTF issued a [request for nominations](#)** to serve as members of the Task Force. Nominations are due March 15. [Details](#).
- **HHS is seeking [public input](#)** on issues being discussed at World Health Organization (WHO) negotiations concerning pandemic response strategies. Comments are due January 22. [Details](#).
- **The FDA released a set of [questions and answers \(Q&As\)](#)** relevant to the DTC Prescription Drug Advertisements: Presentation of the Major Statement in a Clear, Conspicuous, and Neutral Manner final rule. [Details](#).
- **The FNS released an [interim final rule](#)** to establish a permanent summer EBT and to allow states the option to provide non-congregate summer meal service in rural areas. [Details](#).

Comment & Application Deadlines

- **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 22:** HHS is seeking [public input](#) on issues being discussed at World Health Organization (WHO) negotiations concerning pandemic response strategies. [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](#).
- **February 18:** The DOL released a [proposed rule](#) to completely rescind the Trump-era policy, "Definition of Employer – Association Health Plans," that expanded the definition of association health plans. [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](#).
- **March 15:** The USPSTF issued a [request for nominations](#) to serve as members of the Task Force. [Details](#).